

1755 NORTH  
BROWN RD NW  
SUITE 200  
LAWRENCEVILLE,  
GA 30043  
770.338.2338  
CLARKTOWNE.COM

# CLARK & TOWNE ATTORNEYS

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"A positive attitude may not solve all your problems, but it will annoy enough people to make it worth the effort."

— **Herm Albright**

## First Offender, Explained

Under Georgia law, someone can avoid being convicted of a crime by entering a plea under the First Offender Act. This means the judge puts off the conviction (in legal terms “defers adjudication”) until you complete your sentence, usually probation with no jail. While on probation, you must meet with a probation officer who makes sure you are obeying the terms of your sentence as imposed by the judge. Other than that, while on probation you enjoy all your civil rights, except for carrying guns. If you complete your sentence with no further arrests, then you are never convicted of the crime (in legal terms you stand “discharged and acquitted” of the original charge). Of course, the down side is that if you violate the terms of your sentence, such as by being arrested, you could be brought back to court, re-sentenced for your original crime and then you stand convicted.

In my opinion, you should never use First Offender on a misdemeanor charge; you never know when you will be in the wrong place at the wrong time and need it for a felony charge.

Also in my opinion, you should never use First Offender treatment if you are under the age of 25, for the same reasoning. You only get one First Offender plea!

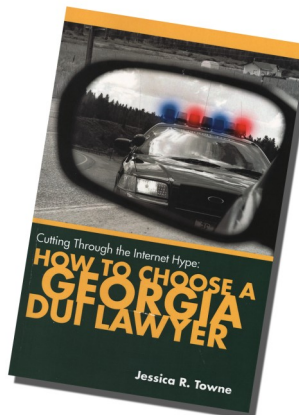
If you look up the statute (O.C.G.A. §42-8-3), you'll learn that certain crimes are not included under this Act: serious violent felonies (murder, armed robbery, kidnapping, rape, aggravated sex offenses, false imprisonment), or certain other sex offenses and offenses related to “adult” computer images. The other crime not included in this act is...DUI.

That's right: if you're charged with a DUI, and you've never been convicted of any other crime anywhere, you can't even ask the judge to sentence you as a first offender.

## Do You Have Your Copy Yet?

All you have to do is ask – send an email, call my office, or comment via Facebook – and I'll send you a FREE copy of my book “How to Choose a Georgia DUI Lawyer.”

I guarantee that by reading my book you will learn at least six new things that you didn't already know about Georgia DUI laws. Things such as the ten question you must ask every lawyer. And the twenty ways lawyers who are “asleep at the wheel” of a DUI trial can lose a winnable case.



Get informed and learn all that you can! Choose your attorney carefully. Only by learning about DUI laws in Georgia can you make the right choice to help yourself and your family in this situation.

Good luck to you in your quest for justice, and if you have questions, I urge you to send me an email ([jtowne@clarktowne.com](mailto:jtowne@clarktowne.com)). I'll do my best to answer your legal questions.

## Driving Safety Tip of the Month



Have you checked your tire pressure lately?

Studies show that 30% of us are driving around in cars with dangerously inflated tires. Tires naturally lose air over time, making cars less fuel efficient and compromising handling and safety. Sooner or later, your tires will need re-inflating. Follow these steps to check your tire pressure this month and every month.

1. Check tire pressure when your car is cold for the most accurate readings.
2. Check your owner's manual to find out the proper tire pressure for your car.
3. Use a tire gauge to read the tire pressure of all tires.
4. If the tire pressure is too high in any of the tires, slowly release air by gently pressing on the tire valve with the edge of your tire gauge until you get to the correct pressure.
5. If the tire pressure is too low, note the difference between the measured tire pressure and the correct tire pressure. These "missing" pounds of pressure are what you will need to add.
6. At a service station, add the missing pounds of air pressure to each tire that is underinflated.
7. Check all the tires to make sure they have the same air pressure (except in cases in which the front and rear tires are supposed to have different amounts of pressure).

### CHECK YOUR TIRE PRESSURE

## Internet Postings Can Affect Your Case

Facebook and Twitter are entertaining ways to keep up with friends and family. And I'm sure by now you've heard that some companies check out prospective employees' social networking sites over the Internet.

Some of the red flags companies look for are the same ones law enforcement officials look for when they check up on someone in the legal system. Prosecutors and probation officers check Facebook to see if a defendant is shown in photos using drugs or acting intoxicated. It goes further than just embarrassing or foolish pictures — I've seen police officers verify a suspect's identification using Facebook! Prosecutors and law enforcement officials now also keep tabs on sites that encourage users to post questions to lawyers, hoping to find a posting where a person unwisely wrote too much.

These free legal sites, such as Avvo.com and Lawyers.com, provide fabulous services to people looking for answers to legal questions, but can comprise a future case. Be extremely careful about revealing the details of your arrest or situation to anyone who is not an attorney or on any public site. You can still get good information without revealing too many details.

The bottom line is, if you, or someone you care about, are facing criminal charges, be wary about posting photographs to a website that are inconsistent with your presumption of innocence. Don't admit to guilt when asking questions on legal sites. Take down that photo of you in your favorite beer T-shirt.

The prosecutors, probation officers, and police are looking for information on you. Be aware and on your guard online.



"BE CAREFUL  
HOW MUCH YOU  
REVEAL ABOUT  
YOUR ARREST OR  
SITUATION WHEN  
YOU POST!"



## Ask Jessica Does using First Offender get a conviction off my record?

**Long Answer:** If a person completes his or her sentence successfully (i.e. completes probation with no violations and fulfills any other requirements the judge stipulates, such as paying fines and attending classes, ), the First Offender Act requires the Clerk of Court to stamp the person’s file with the statement: *“Discharge filed completely exonerates the defendant of any criminal purpose and shall not affect any of his or her civil rights or liberties, except for registration requirements under the state sexual offender registry and except with regard to employment providing care for minor children or elderly persons; and the defendant shall not be considered to have a criminal conviction. O.C.G.A. 42-8-62.”*

Supposedly, a background check done for employment purposes will not turn up a First Offender sentence. Anyone in the FBI, CIA, military or law enforcement will always see the complete history.

Remember, you should never use First Offender on a misdemeanor charge; you never know when you will be in the wrong place at the wrong time and need this for a felony charge.

**Short Answer:** NO!

## From Our Blog How Do I Win My DUI Case?

The number one thing you can do to assure the best outcome of your DUI case is not to discuss the facts of your case with anyone except an attorney.

Anyone who learns facts about your case could become a witness against you, whether that person wants to testify or not. This includes posting facts about your situation online. See “How Internet Postings Can Affect Your DUI,” opposite page. (An attorney has a privilege with you and cannot be required to give evidence against you, even if you don’t hire that attorney.)



The second thing you should do is to give your attorney the resources needed to thoroughly defend you. Tell your attorney everything about you and your case. Listen to and follow your attorney’s advice. If your attorney suggests meeting with your physician to discuss potential medical issues, do everything you can to arrange this (it’s probably just a telephone conversation). If your attorney suggests hiring an expert witness to testify at trial, discuss any financial limits you may have to impose, since you will have to pay the expert’s bill. While no attorney wins 100% of his or her cases, your attorney stands the best chance if you explain your goals and define “win” as a realistic resolution of your unique case.

“DON’T DISCUSS THE FACTS OF YOUR CASE WITH ANYONE EXCEPT AN ATTORNEY.”

## Thank You!

My Staff and I welcome the new clients who’ve joined the Clark & Towne family this past month, and we send our personal thanks to all those who referred friends and family and went out of their way to send notes of appreciation. Thanks also to all of you who took the time to request topics they would like to see addressed in this newsletter and on the clarktowne.com blog. Thank you and please, feel free to call the Office if we can be of help.

# CLARK & TOWNE ATTORNEYS

PO Box 2224  
LAWRENCEVILLE, GA 30046  
770.338.2338  
JTOWNE@CLARKTOWNE.COM

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*We strongly believe that education is the first step in the prevention of any type of legal crisis. We've proudly worked to resolve our clients' dilemmas since 1990. We are in your community, have the experience and resources required to work toward your goals, and we're here to help. We also accept a limited number of injury cases each year resulting from serious auto, truck or motorcycle accidents.*

### **Do you need a referral?**

Chances are we can refer you to an excellent local attorney outside our area of practice: Call us at 770.338.2338 or email [jtowne@clarktowne.com](mailto:jtowne@clarktowne.com).

### **VOLUNTEER SPOTLIGHT: HANDS ON ATLANTA**

Hands On Atlanta is a non-profit organization that helps individuals, families and corporate and community groups find flexible volunteer opportunities at more than 400 service organizations and schools.

Contact: [www.handsonatlanta.org](http://www.handsonatlanta.org)

600 Means Street Northwest #100  
Atlanta, GA 30318  
(404) 979-2800

