

ODL & Understanding DPS Driver History Reports

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Funded by Grants from the Texas Court of Criminal Appeals
and Texas Department of Transportation

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Resources

www.tjctc.org

- Administrative Proceedings Deskbook Ch. 9
- Forms
- Charts
- Legal question board
- Self-Paced Modules

<http://www.statutes.legis.state.tx.us/>

- Transportation Code Ch. 521, Subchapter L

<https://txapps.texas.gov/txapp/txdps/dleligibility/login.do>

- DPS Driver's License Eligibility Site

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Agenda

For additional details or information on other ODL topics, please see Ch. 9 of TJCTC's Administrative Proceedings Deskbook.



Eligibility & Where to File



Reading and Understanding
DPS Driver History Reports



Contents of an ODL order

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Eligibility and Where to File

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Grab Your "Eligibility for an ODL" Charts

(Found at the back of your handouts)

Eligibility for an ODL

(Transportation Code § 521.242; 521.001(a)(6))

For a person to be eligible for an ODL, their license (including a permit, a privilege to operate a motor vehicle, and a non-resident's operating privilege) has to first be suspended.

[Note: All citations below are to the Transportation Code.]



Reason Does Not Have License	Eligible for an ODL?
License expired or was never issued and they just haven't gone to the DMV to get it.	No! There has been no "suspension." They could just go to the DMV, so that's what they need to do.
License or privilege suspended due to a physical or mental disability or impairment.	No! This is an exception in the law – suspensions for this reason are not eligible.
License or privilege automatically suspended or canceled for a conviction of an offense. <ul style="list-style-type: none"> Offenses where conviction results in automatic suspension are listed in Subchapters O & P of Ch. 521. 	Yes! BUT must file application in the court where they were convicted, which will almost never be a justice court. [And applicant must not have been issued more than one ODL after an automatic suspension upon conviction in the past 10 years.]
License or privilege suspended for a reason other than an automatic suspension upon a conviction (so administratively suspended by DPS on its own or as a result of a court order). Includes: <ul style="list-style-type: none"> Refusal to submit to a breath or blood test following a DWI stop (Ch. 724). Providing a breath/blood sample with over .08 BAC following a DWI stop (Ch. 524). Any cause for suspension listed under 521.292. 	Yes! Must file application in a justice, county, or district court in the precinct or county in which: <ul style="list-style-type: none"> The person resides; or The offense occurred for which the license was suspended.
License cannot be renewed because of placement in OMNI.	No! This is not a suspension. This is a non-renewal. The remedy is for them to do what is necessary to remove themselves from OMNI.
License revoked for failure to pay child support.	No! This is not a suspension. This is a revocation. A person whose license has been revoked due to non-payment of child support is not eligible for an ODL.

But What If....?	Eligible for an ODL?
The applicant's license has EXPIRED, and they now can't renew it for a reason listed above that would allow them to get an ODL?	Yes! The applicant's privilege has been suspended, so they are eligible.

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Eligible and Can File in Justice Court

In general, an applicant is eligible for an ODL and can file their application in a justice court (in the county where they live or where the incident occurred) if they:

- Show that they have an essential need to drive;
- Provide proof of financial responsibility (SR-22 **or other**) and a certified abstract (Type AR) of their driving record; and
- Have had their license (includes a permit or out of state license) **suspended** for a reason **other than**:
 - a physical or mental disability or impairment; or
 - an **automatic** suspension upon conviction.

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Ok, So What If the Applicant...

- Can just go get a license from DPS?
- Is suspended due to a DWI conviction? What if the DWI case is pending, but there is no conviction yet?
- Is unable to renew their license due to Omni?
- Has had their license revoked for failure to pay child support?

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But What About...

What if the applicant would otherwise be eligible, but...

- Their license has expired?
- They never had a license?
- They are a minor?
- They are a CDL holder?

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Reading and Understanding DPS Driver History Reports

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Example #1- Walkthrough of a Driving Record

Find Example #1 in your handouts and let's look at it together!

Best practice: Driving records should be Type AR Certified Abstracts and no older than 30 days.

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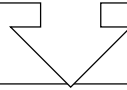
Example #2 - Make Sure to Read Records Completely and Carefully!

Find Example #2 in your handouts and let's look at it together!

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Let's Practice!

We will do one example at a time, starting with Example #3. For each example, you will discuss at your tables and then share with the whole group.



Discussion Question:

Assume that the applicant is filing in the correct county and is able to show essential need and financial responsibility.

Will they be eligible for an ODL from a justice court?

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Contents of an ODL Order

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What Goes in an ODL Order?

- **Travel limits:**

- Hours/days when may operate
- Reasons that may operate
- Areas or routes of travel permitted
- (Travel log is optional)

If order IID, do NOT order travel limits or supervision.

- **If restricted to:** Operation of a vehicle with an IID

- **If ordered to attend:** Alcohol counseling program (may require them to report periodically to court to verify attendance).

- **If ordered to get:** Periodic testing for alcohol/drugs

- **If ordered to submit to:** Supervision

- CSCD: Court must assess \$25-60 fee
- Personal bond office: Office may collect \$25-60 fee

Only if Ch. 524 or 724 suspension Counseling is required & testing is allowed

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IID Required if Another Court Order Already Requires It

Bond Condition

Example: IID Bond condition imposed after DWI arrest and defendant is seeking an ODL pending trial.

Order Under PC 49.09(h)

Example: IID required after DWI conviction suspension has ended and then license is suspended again for no insurance.

Condition of Community Supervision or Installed IID Under 42A.407(g)

Example: License isn't suspended after DWI conviction when placed on community supervision, but is suspended later for no insurance.

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□ If an IID Order Doesn't Already Exist

If no order already exists, the court may only order an IID restriction if:

- Ch. 524 or 724 suspension; AND
- Applicant *voluntarily* submits proof that IID has been installed on every vehicle they own or operate

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□ Effective Date Options

- If it is not a Ch. 524/724 suspension, it is effective immediately.
- If it is a Ch. 524/724 suspension, there are three options depending on the circumstances:
 - Immediately
 - 91 days after suspension date
 - 181 days after suspension date

See Ch. 9, Section H of the Administrative Deskbook for more info.

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Questions?