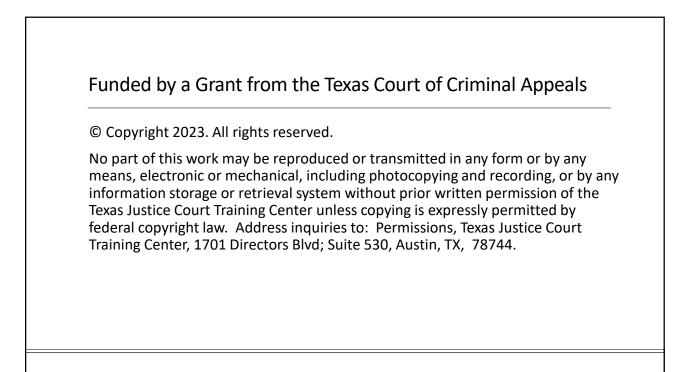
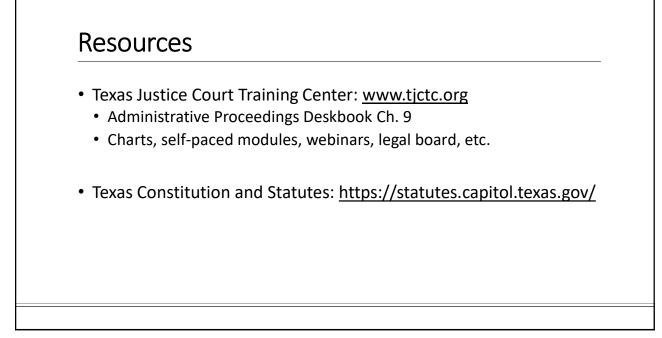
## ODL Update: Application & Orders

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## Agenda

- 2023 Legislative Changes Related to ODL Procedures
- Scenarios and Discussion

## **Flowchart Activity**

In groups, look at the newly updated ODL flowcharts and list as many changes as you can find from the 2023 legislative session.

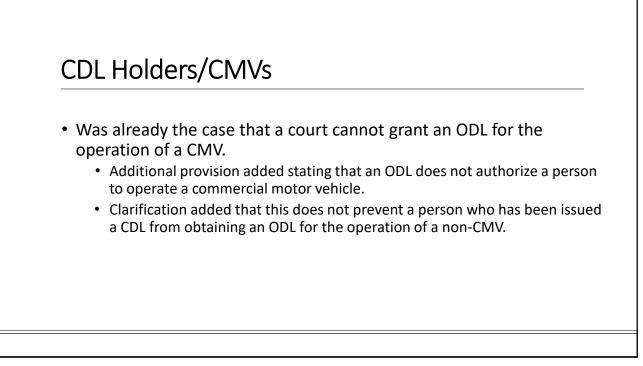
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## Legislative Changes

- 2023 legislative changes to Transportation Code Ch. 521, Subchapter L
  - Multiple changes to the ODL procedures discussed on the following slides.
  - "Occupational license" changed to "occupational driver's license"

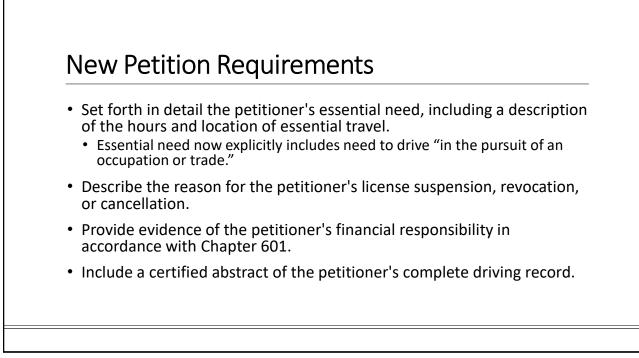
## Eligibility

- Can now get an ODL if license is revoked or canceled, not just suspended.
- Not eligible if revoked/canceled/suspended due to physical or mental disability/impairment or if DPS determines under Transportation Code § 521.294 that the person is incapable of safely operating a motor vehicle.
- Now explicitly eligible if the person does not hold a DL and is unable to get one due to a suspension order.
- Now explicitly eligible if can't obtain a DL because out of state DL was suspended, revoked, or canceled for a cause other than physical/mental disability/impairment.



## Where to File

- Location of general filing: used to say "precinct or county," now just "county" in which they reside or in which the incident leading to the suspension/revocation/cancellation occurred.
- Have always had to file in convicting court if automatic suspension. Now clarifies that this refers to automatic suspension, revocation, or cancellation due to a conviction as provided by Transportation Code Ch. 521, Subchapters O or P.
- If suspension/revocation/cancellation is due to a court order, may apply either to any court in the county where they reside/the incident occurred for which the license was suspended, or to the court that issued the order.



## Jurisdiction

- If a court lacks jurisdiction over a petition filed under this section, the court shall dismiss the application.
- The court may hold a hearing to determine if the court has jurisdiction over the petition.
- If the petition is dismissed, the petitioner may submit a written request for reinstatement within 14 days of the dismissal, stating the reason the court has jurisdiction over the petition.

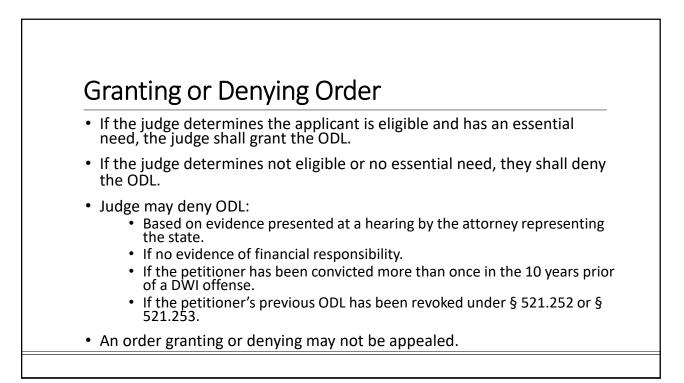
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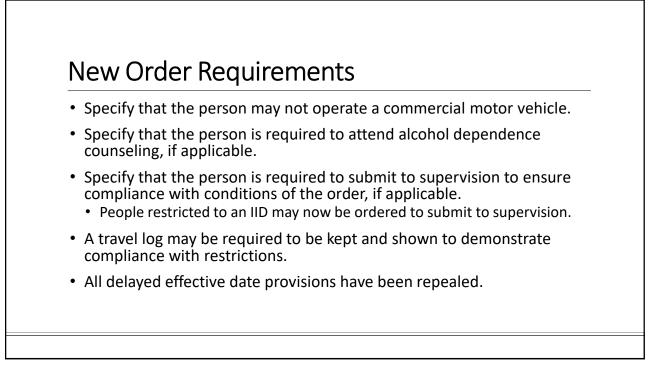
## Costs and Forms

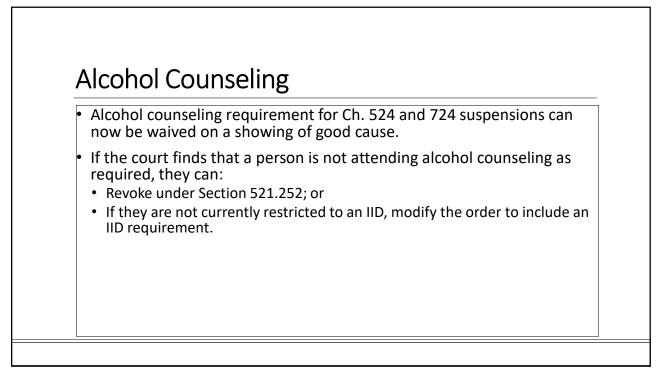
- Clarifies that regular civil filing fee or Statement of Inability is required.
- If petition is dismissed for lack of jurisdiction, court shall refund the filing fee.
- The court may hold a hearing on a Statement of Inability, either at the time the Statement is filed or at the time of the hearing to determine the petitioner's essential need.
- If the court determines the petitioner is able to afford the filing fee, the court may not grant an occupational driver's license until the petitioner pays the fee.
- A court shall make the forms required for petitioning for an ODL and for the Statement of Inability available at no cost.

## Hearing

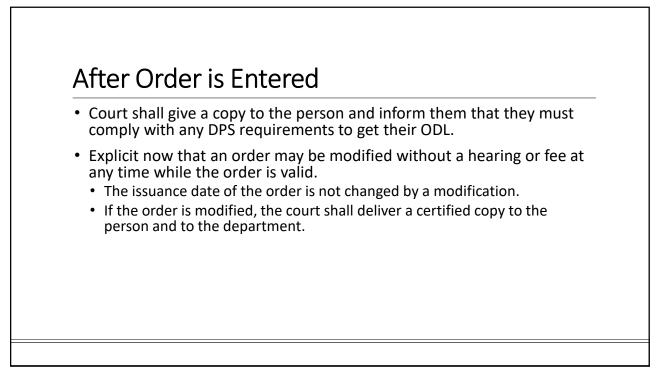
- A JP court may hold a hearing on the petition or may make a determination of essential need based on the petition. A hearing is never required in JP courts.
- If a hearing is held, a JP court can choose to give a hearing notice to a prosecutor, but this is never required in JP courts (hearing may be ex parte).
  - A prosecutor who gets a notice can offer evidence for or against granting the application.
- Hearing may be held using electronic or telephonic means.



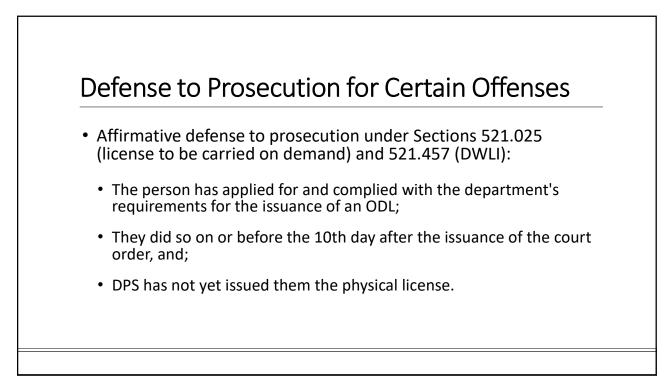


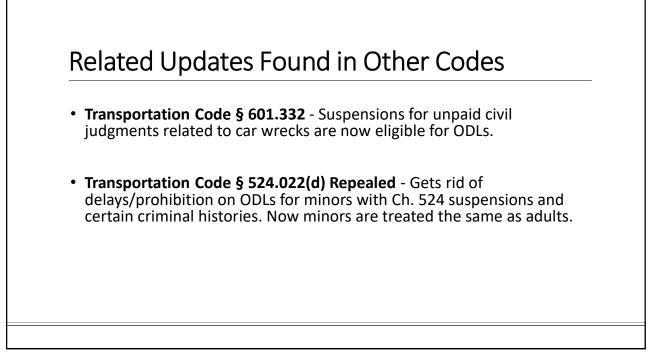


# Ignition Interlock Device Explicit now that an IID shall be required if there is a current order requiring it (but this can be waived if court finds the requirement is not necessary for the safety of the community and the waiver is in the best interest of justice). Judge may now also require IID even if no existing order (on a finding of good cause). If ordered, the IID must stay on all vehicles driven by the person for the duration of the suspension unless the § 521.246(e) work vehicle exception applies or good cause for removal and not necessary for safety. If the person violates their IID requirement, the court that issued the ODL must issue an order revoking it.



## Conviction of § 521.253 (Violating Restriction or Not Having Court Order in Possession) Convicting court shall now: Issue an order revoking the occupational driver's license; and Deliver the revocation order to the person, the court that issued the order granting the occupational driver's license, and DPS.





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## Scenarios

Use Your ODL Flowcharts to Help Answer the Questions

A defendant fails to satisfy a criminal judgment and the court places them in Omni. When their license expires and they are unable to renew it, they file an application for an ODL in your court.

 Assuming the applicant is otherwise eligible and shows an essential need to drive, could the court issue an order granting an ODL?

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## Scenario #2

A 15-year-old with a learner's permit has had their permit suspended due to a truancy remedial order. They live in the county where your court is located, but in a different precinct. They have shown an essential need to drive and proof of financial responsibility.

• Are they eligible for an ODL? If so, can your court grant it?

An applicant's license was suspended due to a Driving While License Invalid (DWLI) conviction in the county where your court is located. They have shown an essential need to drive and proof of financial responsibility.

• Are they eligible for an ODL? If so, can your court grant it?

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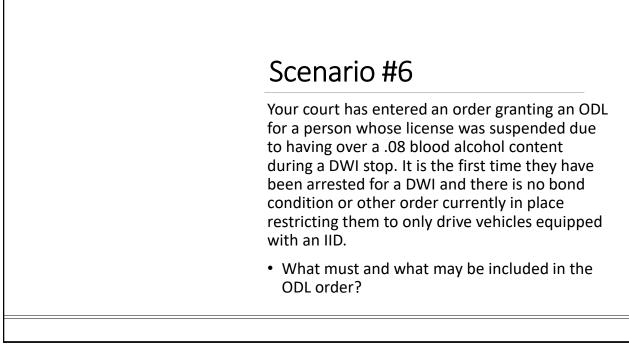
## Scenario #4

An applicant files an ODL in your court. Their license was suspended due to a DWI conviction. They have provided a certified abstract of their complete driving record and shown an essential need to drive and proof of financial responsibility.

• What should the court do?

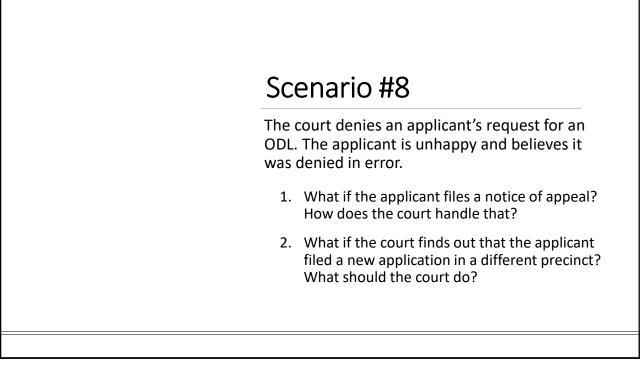
The court holds a hearing on an application for an ODL and sends a notice to the prosecutor. The prosecutor attends and provides evidence that the defendant has had numerous traffic offenses and states that they do not support the granting of the ODL. The applicant is otherwise eligible and has demonstrated an essential need to drive and evidence of financial responsibility.

- 1. Should the court grant or deny the application?
- 2. What if no prosecutor attended, but the court had the same information from the applicant's driving record?



Your court has entered an order granting an ODL for a person whose license was suspended due to an unpaid civil judgment against them for a car accident that they caused. Alcohol/drugs were not involved. Their work requires travel throughout the state and their work hours change from week to week.

• What must and what may be included in the ODL order? How can the order address the person's work needs?



## Thank You!