

Deferred, DSC, and Other Dismissals

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Williamson County,
Pct. 3

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Resources

www.statutes.capitol.texas.gov

- Texas Constitution and Statutes

www.tjctc.org (The Training Center's website)

- Deskbooks, including Criminal Deskbook and Fines, Fees, and Costs Deskbook
- Legal question board, forms, webinars, recordings for credit, self-paced modules, Charts & Checklists

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Agenda

- Overview
- Deferred Disposition Activity & Scenarios
- DSC Activity & Scenarios
- Deferred vs. DSC Game
- Compliance Dismissals Scenarios

Note: For detailed, step-by-step procedures, see Ch. 5 of TJCTC's Criminal Deskbook.

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Overview

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Criminal Cases Only

- This presentation covers the various ways ***criminal*** cases can be dismissed.
- For information on dismissals for civil cases, see TJCTC's Civil Deskbook.

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Reminder: CCP Renumbering

- Effective 1/1/25, the CCP was renumbered in Ch. 45A.
- The changes are not substantive, but some things have moved around and everything has new citations.

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Types of Dismissals

- For lack of jurisdiction
 - Court can do this on its own or in response to a motion
- Motion from prosecutor
- Explicit statutory authority for court to dismiss. Main examples:
 - Parent Contributing to Nonattendance Dismissal (*CCP Art. 45A.403; Education Code Sec. 25.094/CCP Art. 45.0531(b)*)
 - Deferred Disposition (*CCP Ch. 45A, Subchapter G*)
 - DSC Dismissal (*CCP Ch. 45A, Subchapter H*)
 - Compliance Dismissals (*various statutes*)

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No Motion or Statute = No Dismissal

- If the court has jurisdiction and there is **not** a motion from the prosecutor or explicit authority in a statute allowing dismissal, then the court **cannot** dismiss a criminal case.
- It will need to be processed and disposed of.
- If the prosecutor does not appear, that does not result in a dismissal!
 - The court can either continue the case, proceed to trial and defendant must be acquitted, or appoint a prosecutor pro tem to represent the state.
 - More info in Ch. 6, Section I of TJCTC's Criminal Deskbook).

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Motion from Prosecutor

- The court should almost always grant these motions.
 - The prosecutor generally has discretion to dismiss cases.
 - Refusal to grant a motion to dismiss should be based on a specific ethical or legal objection. (And this will be rare!)
- If statute of limitations (SOL) has lapsed (generally, if no complaint has been filed within 2 years of the offense), the court should send those cases to the prosecutor so they can do a motion to dismiss.
 - They can do one motion for multiple cases if there are a lot.
 - Court cannot dismiss a case on its own due to SOL having passed!

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Parent Contributing – Optional Dismissal

- The judge **may** dismiss if they find that the dismissal is in the best interest of justice, because:
 - there is a low likelihood of repeating the offense; or
 - there was ‘sufficient justification’ for the underlying failure to attend school.
- *CCP Art. 45A.403.*

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Parent Contributing – Mandatory Dismissal

- The judge **must** dismiss a Parent Contributing to Nonattendance charge if the offense occurred after September 1, 2023, and the parent enters into and completes the terms of a written agreement under Education Code § 25.094 between the parent and the school within 30 days of the filing of the complaint (or within a time period specified in the agreement).
- The court may extend the time period to comply with the agreement if the school district agrees.
- *Education Code § 25.094/CCP Art. 45.0531(b)*

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Deferred Disposition Activity & Scenarios

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Deferred Disposition Flowchart Activity

- Some boxes on the flowchart have been left blank and are identified as A, B, C, etc. Possible options to fill in these blank boxes can be found to the side of the flowchart and are identified as 1, 2, 3, etc.
 - In each lettered box, write the number of the box to the side that belongs in that spot on the flowchart.
 - Note that there are more options than blanks, so not every numbered option will be used.
- In the large box in the middle and the purple box at the bottom, fill in the blanks with the correct word(s).

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Deferred Disposition Scenario #1

A defendant has requested deferred disposition for a speeding ticket (they were going 28 miles over the speed limit). They have never had a CDL and the offense did not occur in a work zone. They also did deferred disposition on a different case a few months ago.

- Are they eligible for deferred disposition?
- If so, does the court have to allow them to do it?

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Deferred Disposition Scenario #2

A justice court granted deferred disposition on a case and allowed the defendant to set up a payment plan. The maximum fine for the offense is \$200. In the deferral order, they assessed an initial fine of \$200, a deferral fee of \$150, court costs, and a time payment reimbursement fee of \$30 because the payment plan would result in the defendant paying later than 30 days after the order.

- Any issues with this?

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Deferred Disposition Scenario #3

A 21-year-old defendant is placed on deferred disposition for the offense of public intoxication. They have already been convicted of public intoxication once before.

- What conditions could be reasonable for the court to include?
- Are the community service and alcohol awareness course orders that must be ordered on Alcoholic Beverage Code offenses required in this deferral order?
- What if the court wanted to order community service, but the defendant didn't have transportation or had work hours that would make doing regular community service impossible? What creative options could the court consider?

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Deferred Disposition Scenario #4

A 17-year-old defendant is placed on deferred disposition for going 78 mph when the speed limit was 65 mph. This is their 3rd traffic offense this year.

- Are any specific conditions required?
- What other conditions might be reasonable?
- What are examples of conditions that would **not** be reasonable?

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DSC Activity & Scenarios

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DSC Flowchart Activity

- Some boxes on the flowchart have been left blank and are identified as A, B, C, etc. Possible options to fill in these blank boxes can be found to the side of the flowchart and are identified as 1, 2, 3, etc.
 - In each lettered box, write the number of the box to the side that belongs in that spot on the flowchart.
 - Note that there are more options than blanks, so not every numbered option will be used.
- In the four blue boxes at the top and the purple box at the bottom, fill in the blanks with the correct word(s).

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DSC Scenario #1

A defendant requests DSC dismissal. They have a driver's license, but it is currently suspended. They are otherwise eligible.

- Are they eligible to do DSC dismissal?
- What if they have Occupational Driver's License? Are they eligible to do DSC dismissal?

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DSC Scenario #2

A defendant requests DSC dismissal. The defendant does not have a car insurance policy but is otherwise entitled to DSC dismissal. At the time of the offense, they were driving a friend's car with the friend's permission (and were thus covered by the friend's insurance at that time).

- Are they eligible for DSC dismissal?

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Deferred vs. DSC Game

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Deferred vs. DSC Game Instructions

- For this game, you will be in teams at your tables (combine/move if you don't have anyone/many people at your table).
- Nominate someone on your team to keep track of how many points you get.
- For each quiz question, there is an answer for Deferred and an answer for DSC (each category is worth 100 points – you must answer in full, but the Instructor decides if the answer is close enough to get the points).
- On each question, the first team to shout out “DISMISSALS” gets to answer for Deferred. If they get it wrong, the next team to shout out “DISMISSALS” gets to try. After the Deferred answer is correctly given, the process repeats for the DSC answer.
- The winning team gets not only the knowledge of a job well done, but also...
CANDY!

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Compliance Dismissals Scenarios

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Use the *Compliance Dismissals Chart* and the *Parks & Wildlife Offense Dismissal Chart* handouts to answer the following scenarios.

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Compliance Dismissal Scenario #1

A defendant gets a ticket for failing to have their driver's license on them when they were pulled over.

- Is there a compliance dismissal option in this situation?
- If so, what are the requirements that must be met?

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Compliance Dismissal Scenario #2

A defendant gets a ticket for not having insurance. They show the court that they purchased an insurance policy the very next day after they got pulled over.

- Is there a compliance dismissal option in this situation?
- If so, what are the requirements that must be met?

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Compliance Dismissal Scenario #3

A defendant gets a ticket for not having the required hunter's education certificate. They show the court the proper document that was valid at the time of the offense.

- Is there a compliance dismissal option in this situation?
- If so, what are the requirements that must be met?

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What if I think an offense is a compliance dismissal or the defendant/their attorney says it is, but it isn't on the chart?

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The charts are not exhaustive!

- You may have to check in the statute for the particular offense.
- Does it say anything about dismissal? If so, what requirements does it say must be met and what procedures does it say the court must follow?

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Example: Finding Compliance Dismissal Language in the Statute

- Let's pretend it isn't in the chart and we're trying to find if there is a compliance dismissal option for a "No Insurance" ticket.
- First, we have to find where the offense is in the law. You can search on the Texas Constitution and Statutes website (*see the resources slide and TJCTC's Legal Research & Resources self-paced module*).
- But a good shortcut is to just google something like: "Texas statutes no insurance offense."
 - You'll always need to verify it on the official website. But doing this, we quickly discover that Transportation Code Sec. 601.191 is the statute for the offense of "Operation of Motor Vehicle in Violation of Motor Vehicle Liability Insurance Requirement"
- So our next step is to read Sec. 601.191...

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Sec. 601.191. OPERATION OF MOTOR VEHICLE IN VIOLATION OF MOTOR VEHICLE LIABILITY INSURANCE REQUIREMENT; OFFENSE.

(a) A person commits an offense if the person operates a motor vehicle in violation of Section 601.051.

(b) Except as provided by Subsections (c) and (d), an offense under this section is a misdemeanor punishable by a fine of not less than \$175 or more than \$350.

(c) If a person has been previously convicted of an offense under this section, an offense under this section is a misdemeanor punishable by a fine of not less than \$350 or more than \$1,000.

(d) If the court determines that a person who has not been previously convicted of an offense under this section is economically unable to pay the fine, the court may reduce the fine to less than \$175.

(e) A citation issued for an offense under this section must include an affirmative indication that the peace officer was unable at the time of the alleged offense to verify financial responsibility for the vehicle through the verification program established under Subchapter N.

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So what if there's nothing about dismissal in the section that lists the offense??

- You're not done yet!
- Next, you need to use Ctrl + F to search in the whole chapter for other mentions of Section 601.191.
 - Because sometimes the dismissal provision will be in another section, but it should refer back to the section that states the offense.
- When you search "601.191" in Ch. 601, there are 8 hits. You just have to go through and read them all. And when you do, you find that the third hit is what we're looking for – in section 601.193.

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Sec. 601.193. DEFENSE: FINANCIAL
RESPONSIBILITY IN EFFECT AT TIME OF
ALLEGED OFFENSE.

- (a) It is a defense to prosecution under Section **601.191** or 601.195 that the person charged ***produces to the court one of the documents listed in Section 601.053(a) that was valid at the time that the offense is alleged to have occurred.***
- (b) After the court verifies a document produced under Subsection (a), ***the court shall dismiss the charge.***