

ODL Hot Topics

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1

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2

Texas Justice Court Training Center: www.tjctc.org

- Administrative Proceedings Deskbook Ch. 9
- Charts, self-paced modules, forms, webinars, legal board, etc.

Texas Constitution and Statutes: <https://statutes.capitol.texas.gov/>

- Transportation Code Chapter 521, Subchapter L

DL Eligibility Website

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

Resources

**Ignition Interlock
Device (IID)**

Mandatory IID Requirement in ODL

- **Must include** if there is an existing court order requiring the person to have an IID installed on any vehicle they drive:
- Bond condition (most common).
- Required under Penal Code Sec. 49.09(h) after a suspension has ended and then license is suspended again for an unrelated reason.
- Condition of community supervision that has been imposed after a conviction of an offense under Penal Code Sec. 49.04-49.08 (and there was no automatic suspension requiring them to go to the convicting court).
- **Unless** the judge makes a finding that the requirement is not necessary for the safety of the community and the waiver is in the best interest of justice.

5

- **May include** for good cause.
- *Example:* First time DWI, IID bond condition isn't mandatory, and magistrate didn't choose to require it. (Data shows IID's are beneficial on first time DWI's).

Optional IID Requirement in ODL

6

IID Question #1

- Is there still a law that if the person doesn't agree to have the IID and there is no existing order requiring it, the judge can't include it in the ODL order?

7

IID Question #2

- If there is no existing order requiring an IID, but the person wants one instead of travel limits, is the judge required to honor this request and put it in the order?

8

IID Question #3

Your court has entered an order granting an ODL for a person whose license was suspended due to refusing a breath test during a DWI stop. There is a history of alcohol related offenses on their driving record. They currently have a bond condition requiring an Ignition Interlock Device (IID) on any vehicle that they drive, but they say they're pretty sure the magistrate is going to remove the condition because they can't afford the IID.

- *Should the IID requirement be included in the ODL order?*

9

Hot Topic Scenarios and Discussion

10

Scenario #1

A defendant fails to satisfy a criminal judgment and is placed 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?*

11

Scenario #2

An applicant's license was suspended due to a Driving While License Invalid (DWLI) conviction in a different county than where your court is located. They live 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?*

12

Scenario #3

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?

What if the DWI conviction was from another state? Does that change anything?

What if the DWI stop happened in Texas, but the case is still pending and there isn't a conviction yet? Do they have to go to the court that will hear the DWI case?

13

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.

Scenario #4

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

14

Scenario #5

At the time of filing the petition with the court, does an SR-22 also have to be filed with the petition?

15

Your court has entered an order granting an ODL for a person whose license was suspended due to having over a .08 blood alcohol content during a DWI stop. It is the first time they have been arrested for a DWI and there is no bond condition or other order currently in place restricting them to only drive vehicles equipped with an IID.

- *What must and what may be included in the ODL order?*

Scenario #6

16

Scenario #7

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?*

17

Scenario #8

The court denies an applicant's request for an ODL. The applicant is unhappy and believes it was denied in error.

- *What if the applicant files a notice of appeal? How does the court handle that?*
- *What if the court finds out that the applicant filed a new application in a different precinct? What should the court do?*

18

Scenario #9

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?

19

- What if the applicant has had their license revoked for failure to pay child support? Are they eligible for an ODL?

Scenario #10

20

Scenario #11

- After being granted an ODL, an applicant comes back in and requests that the court issue a modified ODL order, or grant an extension to the 45-day period that the order serves as a license.
- Can the court do this?