

## Chapter 4 - Juvenile Traffic and Misdemeanor Traffic Procedures

### Introduction

In Virginia, most traffic offenses are classified as “traffic infractions” rather than as criminal offenses because of the relatively minor nature of most traffic violations. This classification simplifies processing minor offenses and allows the court to focus on the more serious traffic offenses. Many traffic infractions can be prepaid. The chief judge may provide by rule that any juvenile licensed to operate a motor vehicle who has been charged with a traffic infraction may waive court appearance and admit to the infraction or infractions charged if he or she and a parent, legal guardian, or person standing in loco parentis to the juvenile appear in person at the court or before a magistrate or sign and either mail or deliver to the court or magistrate a written form of appearance, plea and waiver, provided that the written form contains the notarized signature of the parent, legal guardian, or person standing in loco parentis to the juvenile. For more serious traffic offenses, the court appearance may not be waived and prepayment of a fine is not an option.

This section of the manual presents a narrative description of the basic traffic case process. The sections following the narrative description present, in more detail, the major steps in processing a traffic case such as case initiation, pre-trial procedures, court processing, disposition, case closure, and disposition reporting.

### Narrative Description

The traffic case process is initiated when an officer cites a motorist for a traffic violation. For traffic infractions or traffic misdemeanors, the officer will either issue a summons or have a petition issued. If a summons is issued, the juvenile is released on his written promise to appear. For certain traffic violations and all Class 1 and Class II traffic misdemeanors, the juvenile will require a hearing for his/her attorney advisement.

A clerk assigns a case number, indexes the case, and files the case papers by the next court date. The court should issue the proper hearing summons to the juvenile and one parent or responsible person when the case is initiated by a petition. The court appearance date is usually determined simply by the officer’s next scheduled court day.

For prepayable traffic infractions, the juvenile may choose to waive trial, enter a guilty plea and pay the fine and court costs prior to his scheduled court date. See JUVENILE & DOMESTIC RELATIONS DISTRICT COURT MANUAL, “Fees & Prepayments”. To waive the court appearance and prepay the fine, the juvenile defendant appears in person in the clerk’s office and requests information on the amount of fines and costs to be paid. The clerk verifies that the offense allows waiver of court appearance and determines the appropriate fines and costs. The juvenile defendant signs a waiver of court appearance and guilty plea, a parent also signs in front of a clerk or notary

public, and the juvenile pays the fines and costs. The clerk collects the fines and costs and issues a receipt. If the transaction is handled by mail, the defendant must send the appropriate amount for fines and costs; juveniles must include a properly executed waiver of court appearance and guilty plea with a notarized parent's signature.

Prior to a court date, the clerk retrieves all of the cases from the file for that court date and prepares the docket. Prepaid cases are entered on the docket with the disposition and fines and costs paid. On the trial day, the case files and the docket are sent to court.

In court, all court actions are recorded in JCMS and on the summons or if in the case of petition, a DC-570, ORDER. Those juveniles charged with traffic infractions that do not prepay and who fail to appear for court are tried in their absence and a notice of the verdict and the fine and costs imposed is sent to their residence. Those charged with traffic misdemeanors may be tried in their absence at the judge's discretion and the notice is sent to them as above; if there is no trial *in absentia*, a "failure to appear" warrant, bench warrant, or rule to show cause may be issued. These may also be issued when the juvenile is tried *in absentia*.

The obligation for payment of fines and costs to the court accrues upon conviction and is due within thirty days of trial, but deferred or installment payment agreements shall be established by the court for those unable to make immediate payment. Each district court must accept payment by personal checks, credit/debit cards, cash, money orders, or cashier's checks.

The juvenile is allowed ten days from the conviction date in which to file an appeal to the circuit court. Upon appeal, the clerk refunds any fines or costs paid to the court, requires the juvenile to post an appearance bond as set by the court, if any, and transfers the case papers to the circuit court. If there is no appeal, the record of conviction is forwarded to the [Department of Motor Vehicles](#).

## Pre- Trial Procedures

### Case Initiation

A law enforcement officer issues the VIRGINIA UNIFORM SUMMONS to motorists violating state and local traffic laws. If the motorist is a resident of Virginia or a state with a reciprocal agreement with Virginia, then:

- The officer may issue a VIRGINIA UNIFORM SUMMONS for traffic infractions and misdemeanors. If a prepayable traffic infraction is charged, the officer may, or in the case of an accident which results in a prepayable traffic infraction charge shall,

also give the motorist a copy of DC-217, VIRGINIA PREPAYABLE OFFENSES INFORMATION SHEET which the officer may obtain through the clerk's office.

**Note:** The juvenile is required to sign the summons and thus promise to appear for trial.

- For HOV (high-occupancy vehicle lanes) violations the charging officer may execute the summons by mailing it to the registered owner of the automobile used in the violation, and it shall be a rebuttable presumption that the registered owner was the motorist who violated the HOV statutes. [Va. Code § 33.1-46.2](#).
- The officer forwards the summons to the clerk's office together with any subpoenas for witnesses issued by the officer. If a prepayable offense results in an accident, the clerk should issue subpoenas for witnesses only upon receipt of a request for a court hearing contained on DC-217, VIRGINIA PREPAYABLE OFFENSES INFORMATION SHEET.

The officer should take the juvenile before an intake officer from the court service unit if:

- The juvenile is a motorist from Virginia or a reciprocal state and:
  - has refused to sign a summons, or
  - is believed by the arresting officer to be likely to disregard a summons, or
  - is subject to administrative impoundment of his motor vehicle or administrative suspension of his driver's license or privilege to drive;
  - The juvenile is a motorist from a reciprocal state and is charged with:
    - an offense for which a conviction or forfeiture of cash deposit requires a revocation of the juvenile's driver's license under Virginia law, or
    - an offense for which the issuance of a citation (summons) in lieu of a hearing or the posting of collateral (cash deposit) or bond is prohibited by Virginia law.
- The juvenile is a motorist from a non-reciprocal state.

Parking violations are normally settled without a court case being initiated. If the motorist has not complied with the fine payment provisions of the parking citation, an authorized person in the county, city or town whose traffic laws were violated mails by first class mail a notice to the motorist that a traffic case will be initiated against him or her if the parking fine is not paid within five days from the date of receipt of the notice. If the motorist fails to comply within the five-day period, then the county, city or town may initiate a traffic case in the appropriate district court by requesting the clerk or magistrate to issue a DC-319, SUMMONS.

See [Va. Code §§ 19.2-76.2, 19.2-76.3](#) and [46.2-941](#). Certain violations of disabled parking regulations are also prosecuted as misdemeanors and initiated on a summons or warrant. [Va. Code §§ 46.2-1240, -1259](#).

Regardless of how a traffic case is commenced, all traffic cases (including violations of the Juvenile Restraint Devices Act, [Va. Code §§ 46.2-1095](#) through 46.2-1100) are returnable to either the general district court or juvenile and domestic relations district court that has jurisdiction over the driver (based on his or her age).

## General Provisions

Upon receipt of the summons, warrant or petition, the clerk in the traffic court must perform several functions prior to the court date to prepare the case for court. To complete the case indexing and filing functions, the clerk's office will:

- Assign a case number and write the number and the court date on the charging document. The court date is usually determined by the arresting officer's next scheduled court date. If necessary, the clerk will schedule a date for advisement of attorney and send notice or summons to all necessary parties to such advisement, including the juvenile and at least one parent. After such advisement, the clerk will then issue notices or summons to all parties involved and required by statute to be present at time of trial.
- Enter case in JCMS.
- File the case by court date. Staple to the case papers any driver's license seized by the arresting officer and surrendered to the court pursuant to [Va. Code § 46.2-346](#).
- Issue subpoenas for witnesses in cases where an accident occurred and the juvenile has returned the DC-217, VIRGINIA PREPAYMENT OFFENSES INFORMATION SHEET informing the court of his or her intent to plead not guilty.
- Include witness subpoena returns of service, if any. See, e.g., [Va. Code § 19.2-73.2](#).

The clerk's office will normally prepare the docket as follows:

- Retrieve all cases from the files for a given court date.
- Arrange the cases in the order preferred by the court, e.g., by arresting officer, by case number or alphabetically by juvenile's name.
- Print docket via JCMS.
- Add additional cases to the docket as they come to the clerk's office.
- Properly store certificates of analysis of the blood sample. [Va. Code §§ 18.2-268.7](#) and [46.2-341.26:7](#).

## Accident Offenses Allowed by Statute to Be Prepayable

In order to avoid inconveniencing those who will be subpoenaed as witnesses to an accident, it is important to determine, if possible, prior to the date set for hearing the offense whether the person charged intends to plead not guilty thereby requiring the presence of witnesses for a trial. To further this goal, the following procedures are recommended for use when a district court processes prepayable violations that result in accidents.

- Local law enforcement and state police should give any driver involved in an accident, where a summons is being issued for prepayable offenses, a copy of Form DC-217, VIRGINIA PREPAYABLE OFFENSES INFORMATION SHEET that includes a check box for the juvenile to indicate that he or she intends to plead guilty.
- When the clerk receives the DC-217, VIRGINIA PREPAYABLE OFFENSES INFORMATION SHEET from the juvenile with the block marked indicating that he or she intends to plead not guilty, the clerk's office would then issue any request for a DC-326, [SUBPOENA FOR WITNESSES](#).
- If there is not sufficient time to allow for reasonable notice to the witnesses, the clerk would reschedule the juvenile's case for the next available date of the charging officer, enter the new date on the DC-326, [SUBPOENA FOR WITNESSES](#) and have the witnesses served with the new date. The clerk would also generate from the Case Management System (JCMS) the DC-346, NOTICE OF NEW TRIAL DATE that would advise the juvenile of the new court date. The clerk would also notify the charging law enforcement officer of the new court date when a continuance is required. The court should encourage law enforcement officers to set accident cases far enough in the future to allow for the juvenile to respond within seven days of receiving the Virginia Uniform Summons regarding his intent to enter a plea of not guilty and also to provide sufficient time for the clerk to complete and have service made on the subpoena for witnesses and give the witnesses adequate notice of the court date. It is suggested that thirty days should be sufficient time to accommodate these actions.
- On the original court date, if the juvenile has not sent in the DC-217, VIRGINIA PREPAYABLE OFFENSES INFORMATION SHEET indicating his intent to appear and plead not guilty, one of the following courses should occur:
  - The juvenile has prepaid his charge and the case is completed.
  - The juvenile does not appear; the court tries the juvenile in his absence based on the law enforcement officer's testimony and evidence.
  - The juvenile appears and pleads guilty; the case is tried and concluded.
  - The juvenile appears and pleads not guilty. If witnesses are essential to the prosecution's case, the case is continued to the officer's next available date so that the DC-326, [SUBPOENA FOR WITNESSES](#) attached to the juvenile's Virginia

Uniform Summons can be completed and served on the appropriate witnesses in reasonable time to secure their appearance.

## Dismissal by Compliance with Law Prior to Trial

### General

A juvenile may avoid being convicted of failing to carry a vehicle registration card, an operator's license, a chauffeur's license, or a learner's permit by presenting a proper license or permit or registration card duly issued to him to the court prior to the time of demand to the clerk of the court of the city or county in which the summons was issued before the return date of the summons (if permitted by the judge).

Having satisfied this condition, the juvenile will be deemed to have complied with the law and the case should be dismissed upon its appearance on the docket and upon payment of court costs. [Va. Code § 46.2-104](#).

Pursuant to [§ 16.1-69.48:1](#), the court may, in its discretion, dismiss a violation for failure:

- to notify DMV of change of address ([§ 46.2-324](#));
- for failing to register, title ([§ 46.2-613](#));
- expiration of vehicle registration ([§ 46.2-646](#))
- for improper display of license plates ([§§ 46.2-711, 46.2-715, 46.2-716](#));
- for failure to pay local licensing fees or taxes ([§ 46.2-752](#));
- for failure to have certain safety equipment or having unsafe or defective equipment ([§§ 46.2-1000, 46.2-1003](#));
- or for improper tinting ([§§ 46.2-1052, 46.2-1053](#)),

if the person can prove compliance with the law after the traffic summons was issued and payment of court costs.

### Procedure

The presentation of the license, permit or registration card to the clerk should be recorded in writing for verification by the court; also the required court costs must be receipted. While no statutory procedure has been specified, it is recommended that:

- Either the district court form DC-216, COMPLIANCE WITH LAW CERTIFICATE or a photocopy of the permit is attached to the case papers.

- If payment of court costs is tendered, collect and record the costs and issue a receipt. See the DISTRICT COURT FINANCIAL ACCOUNTING SYSTEM USER'S GUIDE for financial procedures.

**Note:** Do not use this procedure if a copy of the summons (either the juvenile's or the court's) is not available for verification purposes.

## Prepayment of Fines and Court Costs

A major function performed by clerks or magistrates prior to trial of a case is the collection and recording of prepayments. The Supreme Court designates by rule the traffic infractions for which a pre-trial waiver of appearance, plea of guilty, and fine/costs payment can be accepted. The prepayable offenses are listed in the [RULES OF SUPREME COURT](#), Rule 3B:2, the Uniform Fine Schedule.

### In Person or by Telephone

Upon receiving an inquiry about the waiver of trial and prepayment or receipt of a completed waiver and prepayment either in person or by telephone, the clerk or magistrate will:

- Determine the proper jurisdiction (court type and locality where case will be tried) from the summons.
- Determine whether the juvenile is an adult or a juvenile. Juveniles may prepay such offenses only if the chief juvenile and domestic relations district court judge authorizes prepayments for the district.
- Determine whether the fine may be prepaid for the offense charged.
- If the juvenile is inquiring in person in the clerk's office, examine the charge described in juvenile's copy of the summons; if juvenile's copy is not available, examine court copy in case files after verification of the juvenile's or juvenile parent's identity.
- If the juvenile is inquiring by telephone, regarding costs and fines, have the juvenile read charges on the warrant or summons verbatim, including statutory citations before giving any information. Calculations of fines and costs based on the statutory citations are allowed to be provided by phone for prepayments by mail.

- If any of these types of offenses are charged, the violation is not prepayable and a court appearance is required. Indictable offenses include:
  - Driving while intoxicated
  - Reckless driving
  - Leaving the scene of an accident
  - Driving while driver's licenses are suspended or revoked
  - Driving without being licensed to drive
  
- Determine if the case has been tried by ascertaining the return date. If so, advise the juvenile of the judgment of the court after verifying the juvenile's identity. If not, continue with this process.
  
- Instruct the juvenile to read the "Waiver of Trial" on the front and the "Notice" section on the back of the juvenile's copy of the Virginia Uniform Summons. Then the juvenile, if he wishes to plead guilty and prepay, should sign the "Waiver of Trial" section. A parent, guardian or legal custodian must also sign the form before a clerk or notary public, who must attest the signature of the parent, guardian or legal custodian under "Procedure if motorist is a Juvenile." However, if the juvenile is emancipated, only the juvenile's signature is required on the waiver if the juvenile provides a notarized sworn statement detailing the facts supporting the claim of emancipated status, together with the signed "Waiver of Trial" and payment of the fine and costs. Return prepayment if there is not compliance with either option. See [Va. Code § 16.1-302](#). If the juvenile's copy is not available, use the DC-324, [NOTICE - APPEARANCE, WAIVER AND PLEA](#).
  
- Advise the juvenile that payment by personal checks or credit/debit cards is acceptable.
  - The clerk may refuse acceptance of checks or charge cards of individuals (i) convicted of a violation of Chapter 6 ([§ 18.2-168](#) et seq.) of Title 18.2 in which a check, credit card, or credit card information was used to commit the offense, (ii) who previously tendered to the court a check which was not ultimately honored or a credit/debit card or credit/debit card information which did not ultimately result in payment by the credit card issuer, (iii) if authorization of payment is not given by the bank or credit card issuer, (iv) if the validity of the



check or credit/debit card cannot be verified, or (v) if the payee of the check is other than the court.

- If a personal check or a credit/debit card is not to be accepted, require payment by cash, U.S. Postal Service money order, or cashier's check.

**Note:** Court personnel are not liable for any sums that are uncollected due to a returned check or an invalid credit/debit card payment.

- Determine prepayment deadline.
  - Persons planning to prepay by mail should be told that the prepayment is effective only on the date of receipt by the clerk's office, not the date of mailing by the juvenile, and that the juvenile assumes the risk in using the mail for delivery.
  - Determine the amount of prepayable fine and costs from the UNIFORM FINE SCHEDULE (Rule 3B:2 of the [RULES OF SUPREME COURT](#)). Advise the juvenile that this amount will constitute full payment only if received in the clerk's office prior to trial (to encourage timely prepayment).
- If prepayment is tendered, collect and record the fines and costs on the summons and issue a receipt (See the DISTRICT FINANCIAL ACCOUNTING SYSTEM USER'S GUIDE for financial procedures). Mail the receipt if the juvenile requests mailing.
- Overpayments (in person):
  - Certified check or money order - Refund by court check is permitted where an overpayment is made by certified check or money order.
  - Personal check - Immediate refund not permitted. Refund may be sent only after juvenile's personal check clears the bank. However, the juvenile should be required to write a check for the correct amount. Third-party checks should not be accepted.
- Underpayment (in person)
  - Partial prepayments should not be accepted. Instead, the juvenile should be requested to mail or deliver the proper amount together with the signed guilty plea and waiver of trial before the cut-off date for accepting prepayments.

- Make credit/debit card payments only for the correct fine and costs plus convenience fee.

### By Mail

Inquiries concerning prepayments:

- If prepayable (use same steps for this determination as described above), provide the appropriate information (including cut-off dates) by letter or note.
- If not prepayable, send inquiry back with a pre-printed letter that the offense is not prepayable and that the juvenile must come to court if offense charged requires a court appearance.

Prepayment by mail:

Upon receipt by mail of a prepayment:

- Determine if prepayment has been sent to the right court. If not, return to sender.
- Determine if the case has been tried. If so, apply payment to fine and costs imposed by the court (see below). If not, continue to the next step.
- Apply payment to the prepayable fine and costs.
- Apply payment to the fine and costs indicated by the Uniform Fine Schedule. If there is an overpayment, apply it to the fine and costs, issue the receipt, and then issue a refund only if the amount paid exceeds the amount due by \$5. Receipt amounts under \$5.00 to Revenue Code 442. Refunds under \$5 should be issued upon the juvenile's request. If payment by the juvenile is by personal check, hold the court's refund check until the juvenile's payment check clears the bank.
- If there is an underpayment, issue a receipt for the amount paid and send a notice to the juvenile of the underpayment. If the unpaid balance is not paid by the trial date, conduct the trial *in absentia* (described below), if Judge allows and issue DC-225, NOTICE TO PAY as the bill for the unpaid balance.
- If payment is correct, issue receipt.

Non-standard prepayments:

- Guilty plea is not signed but payment is tendered and a copy of the arrest document is included.

- Reject and return with the proper explanation. No statutory exception exists for requirement of a proper written waiver and plea by a juvenile. [Va. Code § 16.1-302](#).
- Payment is sent, but no arrest document and no guilty plea is signed.
  - Reject and return to the sender with the explanation that a proper written guilty plea is required by statute. [Va. Code § 16.1-302](#).
- Signed guilty plea but no payment is sent.
  - Return to the sender with a note that prepayment is required to accompany a written plea.
- Unsigned guilty plea without payment is sent.
  - Return to the sender with an explanation that the form was returned for lack of payment and proper written waiver and plea.

### Withdrawal of Guilty Plea

In the situation where a juvenile arrested on a summons and released on a written promise to appear has prepaid the fine and costs but wants to withdraw their guilty plea, the clerk's office will:

- Require the juvenile to provide the court with a written statement withdrawing the guilty plea;
- Refund the fine and costs (hold refunds on personal checks until the check clears);
- Inform the juvenile and a parent to appear on the original trial date.

In all cases, advise the juvenile withdrawing a guilty plea that he must appear for trial as originally scheduled. Note that magistrates cannot accept a withdrawal of a guilty plea, but must refer all withdrawal of guilty pleas to the clerk's office of the court where the case is scheduled for trial.

### Case Disposition

If prepayment is made, then the disposition section should be marked to show that the case was handled as a prepayment with a guilty plea and finding of guilt.

## Trial Procedures

The discussion of trial procedures to follow includes traffic infractions and some misdemeanors such as driving while intoxicated, but does not cover all procedures for traffic cases. To the extent that they do not conflict with traffic procedures, the procedures used in criminal cases are also used in traffic cases.

Traffic offenses are classified generally as either traffic infractions (which are treated as misdemeanors for arrest purposes and most trial procedural purposes, but not for punishment purposes) or as criminal violations (which are tried in the same manner generally as other criminal cases). A juvenile charged with a traffic infraction may plead guilty, not guilty, or *nolo contendere* (no contest). In all cases, the burden of proof is beyond a reasonable doubt. Judges may impose on juveniles only those penalties that may be imposed on adults for the same offense, except that any incarceration shall be governed by [Va. Code §§ 16.1-226 to 16.1-361](#).

The following additional information about the trial should be noted on the warrant or summons so that the abstract of conviction may be completed properly as required by [Va. Code § 46.2-386](#):

- Was the juvenile present or absent at trial?
- What was the juvenile's "right to counsel" status?
  - Waived counsel (includes "certificate of refusal-breath 2<sup>nd</sup> or subsequent offenses" cases)
  - Represented by privately-retained counsel
  - Represented by public defender
  - Represented by other court-appointed lawyer
  - Not represented and did not waive counsel

## Trial in Juvenile's Absence

### Traffic Infraction

A juvenile, arrested or summoned for a traffic infraction, may be tried in his/her absence and notified by first class mail of the fine and costs to be paid. An additional fee of \$35 is charged when the juvenile is tried *in absentia* for a traffic or criminal offense, unless the trial *in absentia* was by request of the juvenile. This fee is not assessed against a juvenile who requests trial *in absentia* in writing prior to his court date. A warrant of arrest cannot be issued for the juvenile's failure to appear for trial on a traffic infraction. [Va. Code § 19.2-128](#).

**Note:** The DC-360, SHOW CAUSE SUMMONS (CRIMINAL) or DC-361, CAPIAS may not be used to charge offenses of failure to appear for a traffic infraction pursuant to [Va. Code § 19.2-128](#).

### Traffic Misdemeanors

For traffic violations punishable as misdemeanors, the judge may choose to try the juvenile in his/her absence if there is no potential of a jail sentence, or if the court determines that a jail sentence will not be imposed. Otherwise, a DC-529, DETENTION ORDER/CAPIAS PURSUANT TO § 16.1-247(K) for failure to appear, or a DC-360, SHOW CAUSE SUMMONS (CRIMINAL) charging contempt for failure to appear pursuant to [Va. Code § 18.2-456](#), may be issued.

Whenever the juvenile is convicted in his absence, the DC-225, NOTICE TO PAY shall be mailed by the clerk to the juvenile within five business days. Certification of the mailing is required. The DC-225, NOTICE TO PAY informs the juvenile that he was found guilty, indicates the fine and costs, provides information for payment of the fine and costs by check or credit/debit card.

### Parking Violations

Two methods are available for the issuance of a DC-319, SUMMONS for parking violations pursuant to [Va. Code §§ 19.2-76.2](#) and [19.2-76.3](#). The first method is to give the summons to the local law-enforcement agency for personal service of process; upon service of process, the juvenile may be tried whether or not he or she appears at trial. The second method requires the issuance of up to three summonses:

- The first summons is prepared and a copy is mailed to the juvenile.
- If the juvenile fails to appear at the trial, then a second summons is prepared and is served by the sheriff as set out in [Va. Code § 8.01-296](#) for service of process in civil cases.
- If the juvenile fails to appear at trial after service of the second summons, then a third summons is prepared and served in the manner set out in [Va. Code § 19.2-76](#). If the case is processed under this second method, no proceeding for contempt or arrest of the juvenile shall be instituted unless the juvenile has been personally served with a summons and has failed to appear on the return date contained therein.

### Order to Complete Traffic School or Driver Improvement Clinic

If the judge orders the juvenile to successfully complete a traffic school or a driver improvement clinic in lieu of a finding of guilt, no fine is imposed but all other costs are charged even though the case will be dismissed without adjudication of guilt. [Va. Code § 16.1-69.48:1](#). If this procedure is used, the summons should be marked either “Dismissed - traffic school - § 16.1-69.48:1” or “Dismissed - driver improvement clinic - § 16.1-69.48:1.” All applicable costs should be assessed at time of deferral.

## Suspension of License

### Misdemeanors

The court may suspend the juvenile's operator's license for misdemeanors where suspension is part of the sentence as permitted by statute.

When the judge suspends or revokes a juvenile's operator's license, steps should be taken to ensure that the juvenile has adequate legal notice of the suspension or revocation, which is a required element to be proven if the juvenile is later prosecuted for driving on a suspended or revoked license. To avoid duplicate suspension by the courts and DMV and to provide adequate documentation of the fact that the juvenile received actual notice of the suspension, the following procedures should be followed:

- If the juvenile appears at trial and is convicted, the judge should require the juvenile to execute the DC-210, ACKNOWLEDGMENT OF SUSPENSION OR REVOCATION OF DRIVER'S LICENSE with the judge or clerk returning a copy to the juvenile while he or she is still in court;
- If the suspension period exceeds thirty days, the license should be forwarded to DMV after the period for appeal has passed.

**Note:** In some cases, the court is informed that the driver's license of the juvenile has been suspended or revoked in connection with some other case in the trial court or some other court or by DMV administrative action, but that notice of the suspension or revocation has not been properly served on the juvenile. In such situations, the Court may require the juvenile to execute the DC-210, ACKNOWLEDGMENT OF SUSPENSION OR REVOCATION OF DRIVER'S LICENSE with an authenticated copy being sent to DMV.

## Restricted Driver's License (RDL) Upon a Conviction of Reckless Driving or Aggressive Driving

The court may, in its discretion, and for good cause shown, grant an RDL to a juvenile who has been convicted of reckless driving or aggressive driving and whose driver's license is ordered suspended as a result. [Va. Code §§ 46.2-392](#) and [46.2-393](#). As a condition of the RDL, the court may require the juvenile to participate in an alcohol safety action program if he or she is convicted under [Va. Code §§ 46.2-868](#) or [46.2-868.1](#). The purposes for which the RDL may be granted are:

Travel to and from the place of employment and for travel during the hours of such person's employment, if the operation of a motor vehicle is a necessary incident of such employment;

- Travel to and from the Program named on the first page of this Order and such other locations designated in writing by the Program;
- Travel to and from school if such person is a student, upon proper written verification to the court that such person is enrolled in a continuing program of education;
- Travel to and from visitation with a juvenile of such person; or
- Travel for health care services including medically necessary transportation of an elderly parent or any person residing within the person's household with a serious medical problem upon written verification of need by a licensed health professional;
- Travel necessary to transport a minor juvenile under the care of such person to and from school, day care and facilities housing medical service providers;
- Travel to a screening, evaluation and education program entered pursuant to [Va. Code § 18.2-251](#) or [Va. Code § 18.2-258.1 \(H\)](#).
- Travel to and from court appearances in which he is a subpoenaed witness or party and appointments with a probation officer and to and from any programs required by the court or as a condition of probation;
- Travel to and from a place of religious worship;
- Travel to and from appointments approved by the Division of Child Support Enforcement of the Department of Social Services as a requirement of participation in an administrative or court-ordered intensive case monitoring program for child support for which you have with you written proof of the appointment, including written proof of the date and time of appointment;
- Travel to and from jail to serve a jail sentence that is to be served on weekends or on non-consecutive days;
- Travel to and from a job interview for which he/she maintains on their person written proof from the prospective employer of the date, time and location of the job interview;
- Travel to and from the offices of the Virginia Employment Commission for the purpose of seeking employment.

**Note:** This RDL is ordered using a DC-260, DRIVER'S LICENSE FORFEITURE/SUSPENSION AND RESTRICTED DRIVING ORDER, reckless driving option.

### **Dismissal by Compliance with Law at Trial**

If the juvenile is charged with failing to have a driver's license or vehicle registration card with him/her while driving, the judge shall dismiss the case by entering on the summons "complied with law" if the juvenile produces at trial the missing operator's or chauffeur's

license or vehicle registration card, such document bearing an issuance date prior to the arrest. ([§ 46.2-104](#))

Pursuant to [§ 16.1-69.48:1](#), the court may, in its discretion, dismiss the summons, where proof of compliance with the following sections is provided to the court on or before the court date:

- Fail to notify DMV of change of address ([§ 46.2-324](#));
- Failing to register, title ([§ 46.2-613](#));
- Improper display of license plates ([§§ 46.2-711, 46.2-715, 46.2-716](#));
- Failure to pay local licensing fees or taxes ([§ 46.2-752](#))
- Failure to have certain safety equipment or having unsafe or defective equipment ([§§ 46.2-1000, 46.2-1003](#));
- Improper tinting ([§§ 46.2-1052, 46.2-1053](#))
- Expiration and renewal of registration ([§ 46.2-646](#)).

Payment of court costs is required.

### Local License Violations

If the juvenile is convicted of violating a local license tag ordinance and, by its own terms, the local ordinance requires proof of obtaining a local tag before discharging the violation the juvenile should be so notified in court at the time of conviction.

### Right to Counsel

See “Juvenile Delinquency Procedures, Right to Counsel” in this manual.

### Return of Vehicle - Parking in a Space Reserved For Persons with Disabilities

The owner or agent of a parking space designated as reserved for the use of persons with disabilities may have towed any unauthorized vehicle which parks in the space. [Va. Code § 46.2-1246 \(A\)](#). The owner of the vehicle, on notice, may petition the general district court in the jurisdiction where the parking occurred for the return of the vehicle, and for an immediate determination as to whether the removal of the vehicle was lawful. If the court finds that the towing was unlawful, it may award the costs of removal to the owner of the vehicle, as well as ordering its return.

### Appeals

Appeals must be noted within ten days of conviction date using DC-580, NOTICE OF APPEAL - CRIMINAL. For step-by-step procedures for appeals, see appendix on “Appeals”. In



addition, if the juvenile, as part of the sentence, surrendered his driver's license and there is no other license suspension or revocation in effect which required the juvenile to surrender his driver's license, then the driver's license is returned upon the noting of the appeal. If the appeal is withdrawn and the driver's license was suspended originally, have the juvenile surrender his driver's license and execute a new DC-210, ACKNOWLEDGMENT OF SUSPENSION OR REVOCATION OF DRIVER'S LICENSE together with his written notice withdrawing his appeal.

If a juvenile prepays the fine and costs on a traffic infraction and then advises the court of a desire to "appeal" prior to the return day, the request should be treated as a request to withdraw a guilty plea (See "Withdrawal of Guilty Plea" in this section of the manual) and the collected funds refunded.

## Payment Procedures

A juvenile convicted of a traffic violation is required to pay the fine and court costs within thirty days. If the juvenile is unable to make payment within the thirty days, the court shall place the juvenile on a written deferred, modified deferred or installment payment plan using a DC-210, Acknowledgment of Suspension or Revocation of Driver's License. The court shall establish a community service work program to allow discharge of all or part of the fine or costs.

### Payment Procedures for Payment within Thirty Days of Sentencing

For those convicted of traffic offenses who desire to pay fines and costs immediately, or within thirty days of sentencing, the clerk's office will:

- Determine amount of fine and costs from case papers.
- Collect fines and court costs.
- Prepare and issue a receipt and record of payment on appropriate form.
- Deposit and account for money collected (See DISTRICT FINANCIAL ACCOUNTING SYSTEM USER'S GUIDE for details).

### Deferred, Modified Deferred, Installment Payments or Community Service

Where the juvenile is unable to make payment within thirty days of sentencing, an installment payment plan, deferred payment or modified deferred plan is required. [Va. Code § 19.2-354](#). If the court allows a deferred payment plan, the juvenile must pay the fine and court costs in a lump sum by a certain date. If a modified deferred plan is allowed, the juvenile agrees to make his/her best efforts to make scheduled payments however there is a certain date set out as in a deferred payment plan. In an installment payment plan, the juvenile pays a portion of the total of fine and court fees and costs on a periodic basis (e.g., weekly or bi-weekly) until the total is paid.

The procedures for establishing and maintaining partial payment agreements require that the clerk's office will:

- Establish an installment plan. If non-payment:
  - The juvenile may be required to show cause.
  - If excusable, the juvenile may be granted further extension of time for payment. (See procedures Claims of Inability to Pay Fines and Costs)
- Complete the DC-210, ACKNOWLEDGMENT OF SUSPENSION OR REVOCATION OF DRIVER'S LICENSE with a payment schedule established by the judge or by the clerk, if the court has authorized the clerk to establish deferred, modified deferred and installment payment plans. [Va. Code § 19.2-354](#).
- The DC-225, NOTICE TO PAY will also be sent to a juvenile on a delayed or partial payment plan ten days before the due date of his final payment as an early reminder notice.

The court may, assess a one-time fee of ten dollars to cover the costs of management of the juvenile's account, pursuant to [Va. Code § 19.2-354 \(A\)](#) for all agreements to pay exceeding ninety days.

Another option for satisfying the fine and costs is for the juvenile to perform community service pursuant to [Va. Code § 19.2-354 \(C\)](#). In placing a juvenile into a community service program, the court's records should show:

- the name of the entity for whom the service is to be performed
- the type of service to be performed if specified by the judge
- the number of hours of service to be performed
- the hourly rate at which credits will be earned for discharging fines and costs

When the juvenile completes his service, the entity for whom the services were performed must report to the court that the juvenile has completed his community service and the number of hours worked. For auditing purposes, the clerk should file the report with the case papers.

### **Claims of Inability to Pay Fines and Costs**

The court shall offer any defendant who is unable to pay in full the fines and costs within 30 days of sentencing the opportunity to enter into a deferred, modified deferred or installment payment agreement.

The court shall not deny a defendant the opportunity to enter into a payment agreement solely (i) because of the category of offense for which the defendant was convicted or found not innocent, (ii) because of the total amount of all fines and costs, (iii) because the defendant previously defaulted under the terms of a payment agreement, (iv) because the fines and costs have been referred for collections pursuant to [§ 19.2-349](#), (v) because the defendant has not established a payment history or (vi) because the defendant is eligible for a restricted driver's license under subsection E of [§ 46.2-395](#).

In determining the length of time to pay under a deferred, modified deferred, or installment payment agreement and the amount of the payments, a court shall take into account the defendant's financial resources and obligations, including any fines and costs owed by the defendant in other courts. In assessing the defendant's ability to pay, the court shall use a written financial statement, DC-211, PETITION FOR PAYMENT AGREEMENT FOR FINES AND COSTS OR REQUEST TO MODIFY EXISTING AGREEMENT, setting forth the defendant's financial resources and obligations or conduct an oral examination of the defendant to determine his financial resources and obligations. The length of a payment agreement and the amount of the payments shall be reasonable in light of the defendant's financial resources and obligations and shall not be based solely on the amount of fines and costs. The court may offer a payment agreement combining an initial period during which no payment of fines and costs is required followed by a period of installment payments.

A court may require a down payment as a condition of a defendant entering a deferred, modified deferred, or installment payment agreement. Any down payment shall be a minimal amount to demonstrate the defendant's commitment to paying the fines and costs. In the case of an installment payment agreement, the required down payment may not exceed (i) if the fines and costs owed are \$500 or less, 10 percent of such amount or (ii) if the fines and costs owed are more than \$500, five percent of such amount or \$50, whichever is greater. A defendant may make a larger down payment than what is provided by statute.

All fines and costs that a defendant owes for all cases in any single court may be incorporated into one payment agreement, unless otherwise ordered by the court in specific cases. A payment agreement shall include only those outstanding fines and costs for which the limitations period set forth in [§ 19.2-341](#) has not run.

Any payment received within 10 days of its due date shall be considered to be timely made.

At any time during the duration of a payment agreement, the defendant may request a modification of the agreement in writing on a form provided by the Executive Secretary of the Supreme Court, and the court may grant such modification based on a good faith showing of need.

A court shall consider a request by a defendant who has defaulted on a payment agreement to enter into a subsequent payment agreement. In determining whether to approve the request for a subsequent payment agreement, the court shall consider any change in the defendant's circumstances. A court shall require a down payment to enter into a subsequent payment agreement, provided that the down payment required to enter into a subsequent payment agreement shall not exceed (i) if the fines and costs owed are \$500 or less, 10 percent of such amount or (ii) if the fines and costs owed are more than \$500, five percent of such amount or \$50, whichever is greater. When a defendant enters into a subsequent payment agreement, a court shall not require a defendant to establish a payment history on the subsequent payment agreement before restoring the defendant's driver's license.

The filing of a DC-211, PETITION FOR PAYMENT AGREEMENT FOR FINES AND COSTS OR REQUEST TO MODIFY EXISTING Agreement does not require a hearing by statute, and the motion should not be indexed, however, if local policy requires a hearing for initial or additional time-to-pay the following apply:

- If the case is still pending, enter a hearing with the hearing type of **MO**-Motion.
- If the case is finalized, use an **AH** hearing type.

### Local License Violations - Special Conditions

Local motor vehicle license ordinances may provide that violations may not be discharged by payment of a fine except upon presentation of satisfactory evidence that the required local license has been obtained, [Va. Code § 46.2-752 \(G\)](#). However, clerks should accept payments tendered for fines and costs for such violations, even in the absence of proof of obtaining the required local license. Juveniles may not have their driver's license suspended solely for failure to obtain the locally required license; a failure or refusal to pay fines and/or costs must also take place. See Attorney General Opinion to Morrison, dated 11/20/96; *court may not suspend the driving privileges of a person who has paid in full the fines and costs, but has failed to provide evidence that a local license has been obtained.*

### Post-Trial Procedures

#### Notices to the Department of Motor Vehicles (DMV)

The [Department of Motor Vehicles](#), because of its power to revoke, suspend, or restrict motor vehicle registrations or operator's licenses, receives notices from the clerk's office concerning traffic cases.

- Convictions are reported to DMV by JCMS/DMV interface. The abstract of conviction provides disposition information to DMV on disposed traffic cases.
- The court does not have the authority to take an out-of-state driver's license on any conviction or deferral. [Va. Code § 46.2-398](#)

If there is a finding by the court that the offense involved a "commercial motor vehicle" or a "commercial motor vehicle" hauling hazardous materials or the prepaid offense contains such allegations in the charge portion of the summons, then include such information in JCMS.

- Amended Abstract of Conviction - Amended abstracts (Form DI-18C) should be sent to DMV to report changes in conviction data.
- Corrected abstracts should be made to report:
  - Correction of errors in the original abstract.
  - Court verdict on rehearing a case after the original abstract has been sent, including changes in the sentence.

### Unpaid ("Bounced") Checks or Dishonored Credit/Debit Card Payments

If a check tendered for payment of fines and costs is returned unpaid by the bank or notice is received from the credit/debit card issuer that payment will not be made on a credit/debit card charge, the following steps are to be taken:

**Note:** Following a dishonored check or credit/debit card charge, payment shall be made by cash, certified check, cashier's check or money order only.

- Send a DC-215, NOTICE OF DISHONORED CHECK OR CREDIT/DEBIT CARD CHARGE, to the juvenile to notify him of dishonored payment and to assess penalty of \$50 for the return of the check or unpaid credit/debit card charge.
- Make correct accounting entries, See DISTRICT FINANCIAL ACCOUNTING SYSTEM USER'S GUIDE.
- Records Management

As cases are closed in traffic court, certain administrative tasks must be completed to assure that cases are properly recorded. Upon disposing of a case, the clerk's office will:

- Record the disposition in JCMS on the Hearing/Disposition Update Tab.
- Ensure that the judge has recorded the disposition on the summons or warrant.
- Ensure the abstract of conviction will be sent via interface to DMV, if not manually send one.
- Juvenile traffic cases, once completed, are filed in the juvenile's master file folder.

## Driving While Intoxicated (DWI)

### Administrative Suspension of Driver's License

If a driver submits to a breath or blood test which shows an alcohol concentration of 0.08%, or more, if he refuses to submit to a blood or breath test, or if a driver under 21 years of age submits to a blood or breath test which shows an alcohol concentration between 0.02%, or more, he is subject to an immediate administrative suspension of his driver's license. [Va. Code § 46.2-391.2](#). Upon issuance of a warrant by a magistrate or upon issuance of a petition or summons in the case of a juvenile or issuance of a summons by the law enforcement officer at a medical facility pursuant to [Va. Code § 18.2-268.3](#), the arresting officer shall take possession of any Virginia driver's license held by the driver. If the driver does not have a Virginia driver's license, that person's privilege to drive in the Commonwealth shall be suspended. The period of suspension is seven days for a first offense; sixty days, or until the trial, whichever is first, if charged with a second offense; or until trial if charged with a third or subsequent offense.

After issuance of a petition or a summons by the law enforcement officer at a medical facility pursuant to [Va. Code § 18.2-268.3](#) the arresting law enforcement officer shall personally serve a DC-201, NOTICE OF ADMINISTRATIVE SUSPENSION OF DRIVER'S LICENSE/DRIVING PRIVILEGE on the juvenile. The officer shall then take possession of any Virginia driver's license held by the driver and deliver it to the magistrate. The magistrate shall forward to the clerk of the juvenile and domestic relations district court, the driver's license, the DC-201, NOTICE OF ADMINISTRATIVE SUSPENSION OF DRIVER'S LICENSE/DRIVING PRIVILEGE, and a sworn report by the officer identifying the driver and stating the basis for the arrest, along with the petition or summons and breath or blood test results. This report may be prepared using a DC-311, CRIMINAL COMPLAINT.

The officer will transmit a copy of the NOTICE OF ADMINISTRATIVE SUSPENSION to the [Department of Motor Vehicles](#). This transmission may be done by electronic means.

Immediately upon receipt of the license and accompanying information, the clerk of the court assigns a juvenile case number to the DC-201, NOTICE OF ADMINISTRATIVE SUSPENSION OF DRIVER'S LICENSE/DRIVING PRIVILEGE and set a "hearing" date upon which the first business day after the applicable period expires (even though no hearing may be held). The case should be entered in the delinquency division using the **ST** case type and **OT** as the final

disposition. The suspension period is calculated from the date and time noted by the law enforcement officer on the DC-201, NOTICE OF ADMINISTRATIVE SUSPENSION OF DRIVER'S LICENSE/DRIVING PRIVILEGE. The driver is entitled to the return of his license upon the expiration of the applicable suspension period.

Therefore, if a license is administratively suspended on Monday October 1, at 10:00 a.m., a seven-day suspension period would end on the next Monday, October 8, at 10:00 a.m. Should the suspension period end on a holiday, weekend, or after business hours, the person is entitled to have his license returned when the clerk's office is next open for regular business.

The suspended license shall be returned in person to the driver, or the driver may request that the license be returned through the mail. On the reverse of the DC-201, NOTICE OF ADMINISTRATIVE SUSPENSION OF DRIVER'S LICENSE/DRIVING PRIVILEGE there is a space for the driver to note his election to have the license returned by mail and to indicate the address to which the license shall be mailed. If the license administratively suspended and taken into possession has been otherwise suspended or revoked, the clerk will not return the license.

### **Clerk's Office Processing of the Administrative Suspension**

Upon receipt of the case papers from the magistrate or law enforcement, the clerk's office must complete these case indexing and filing functions:

- Assign a new case number.
- Record the case number on the summons.
- Enter the case in the delinquency division.
- Case type **ST**.
- Enter the expiration date as the hearing date.
- Enter the hearing time on an administrative docket after the time the person is entitled to have the license returned.
- Finalize the case in JCMS using the disposition code of **OT**.
- Attach the license to the summons and file in the appropriate hearing date.
- Upon return of the license file the summons with the closed files.

Any person whose license or privilege to drive has been administratively suspended may request that the juvenile and domestic relations district court review the suspension. The driver shall file a DC-202, [MOTION FOR REVIEW OF ADMINISTRATIVE SUSPENSION OF DRIVER'S LICENSE/DRIVING PRIVILEGE](#) with the clerk of the appropriate court. No fee shall be assessed for the motion.

The clerk should provide the driver with a copy of the motion with the hearing date and time noted. The court must review the motion within the same time period as for an appeal from an order denying bail or fixing terms of bail or terms of recognizance, giving this proceeding precedence over all other matters on the court's docket. If court is not held each day, the motion should be docketed on the next day the court sits. If the driver fails to appear at the hearing without just cause, his right of review will be waived. If the court is not scheduled to sit within the seven-day suspension period, then it is recommended that arrangements be made for the judge to hear the motion in another location where he/she will be sitting.

The court shall rescind the suspension if the driver proves by a preponderance of the evidence that either the officer did not have probable cause for the arrest or that there was not probable cause to issue the petition or rescind that portion of the suspension that exceeds seven days if there was not probable cause to charge a second offense or sixty days if there was not probable cause to charge a third or subsequent offense. If the court orders the suspension to be rescinded, the license shall be promptly returned to the driver, unless the license has been otherwise suspended or revoked. The clerk shall give to the driver a certified copy of the order rescinding or reducing the suspension (use Form DC-202, [MOTION FOR REVIEW OF ADMINISTRATIVE SUSPENSION OF DRIVER'S LICENSE/DRIVING PRIVILEGE](#)) and transmit the order to the [Department of Motor Vehicles](#). Also, it is recommended that the clerk caution the driver to carry the certified copy of the order of rescission or reduction with him for the remainder of the rescinded suspension period.

If the driver is tried and acquitted of the underlying charge after the period has expired, or the charge is dismissed either during that period or at trial, the administrative suspension is immediately rescinded and the clerk should notify DMV, as previously noted by certifying a copy of the case papers itemizing charge and disposition to DMV.

The rescission occurs when there is a "dismissal or acquittal of all the charges under [Va. Code §§ 18.2-51.4](#), [18.2-266](#) and [18.2-268.3](#) or any similar ordinances, for the same offense for which a person's driver's license or privilege to operate a motor vehicle was suspended under [Va. Code § 46.2-391.2](#)." [Va. Code § 46.2-391.4](#). Unless the juvenile is found not innocent of the initial charge for which his license was administratively suspended, he is entitled to a rescission of the expired administrative suspension. For example, if a juvenile was arrested for a first violation of [Va. Code § 18.2-266](#) because his breath test revealed a BAC of 0.08% or higher, resulting in the immediate seven-day suspension, but later pleads guilty to and is found guilty of reckless driving and the original charge under [Va. Code § 18.2-266](#) is dismissed, the expired administrative suspension is rescinded. In this context, the court does not actually rescind the suspension or order its rescission. Rather, since the statute provides that the acquittal or dismissal "shall result in the immediate rescission of the suspension," the rescission occurs simply by operation of law and the role of the court is merely to reflect in the disposition that the rescission has occurred. [Va. Code § 46.2-391.4](#). This means that the court is without the discretion to



refuse to rescind the suspension. When a rescission occurs under these conditions, courts should follow the same procedure as when the acquittal or dismissal takes place during the suspension period. Thus, the judge should reflect, as a part of the disposition, that the suspension is rescinded, provide a copy of the disposition to the juvenile and also transmit a copy to DMV. As in the case of acquittals or dismissals within the suspension period, the DMV copy should be sent to the "Court Suspension Work Center." Since DMV deletes the record of a rescinded administrative suspension from the version of a driver's transcript that is provided in response to the inquiries of insurance companies and employers, the rescission of an expired suspension may be a significant result for the driver.

If the driver is tried and convicted of a violation of [Va. Code § 18.2-266](#), or a similar ordinance, within the administrative suspension period and the court decides to issue a restricted driving permit under [Va. Code § 18.2-271.1](#), the permit shall not be issued prior to the expiration of the first seven days of the administrative suspension period.

### Trial Matters

Five different offenses are contained in the driving while intoxicated statute ([Va. Code § 18.2-266](#)) or driving a commercial vehicle while intoxicated ([Va. Code § 46.2-341.24](#)), making it unlawful to drive or operate a motor vehicle when any one of the following occurs:

- While such person has a blood alcohol concentration of .08 percent or more by weight by volume as indicated by a chemical test administered in accordance with the provisions of [Va. Code §§ 18.2-268.1](#) or [46.2-341.26:1](#), or
- While such person is under the influence of alcohol, or
- While such person is under the influence of any narcotic drug or any other self-administered intoxicant or drug of whatsoever nature, or any combination of such drugs, to a degree which impairs his ability to drive or operate any motor vehicle, engine or train safely, or
- While such person is under the combined influence of alcohol and any drug or drugs to a degree which impairs his ability to drive or operate any motor vehicle, engine or train safely.
- While such person has a blood concentration of any of the following substances at a level that is equal or greater than: (a) 0.02 milligrams of cocaine per liter of blood, (b) 0.1 milligrams of methamphetamine per liter of blood, (c) 0.01 milligrams of phencyclidine per liter of blood, or (d) 0.1 milligrams of 3,4-methylenedioxymethamphetamine per liter of blood.

When a blood sample has been taken, the sample will be divided between two vials and sent to the [Department of Forensic Science](#). The juvenile may, within ninety days after the blood sample is taken, move the court for an order directing the [Department of Forensic](#)

[Science](#) to transmit the remaining sample to an independent laboratory retained by the juvenile for analysis. Such a motion would be made through DC-303, [MOTION FOR TRANSMISSION OF BLOOD SAMPLE](#). The [Department of Forensic Science](#) will retain the second vial for ninety days and destroy the vial unless notice is received that the juvenile has requested a court order requesting transmission of the remainder of the blood sample. The juvenile is responsible for providing notice to the Department that he has filed this motion. Following disposition of the motion, the clerk should send the order of the court disposing of that motion to the Department. The order may be transmitted via facsimile to the Department (804.786.6857). The DC-303, [MOTION FOR TRANSMISSION OF BLOOD SAMPLE](#) contains a vehicle for the judge to enter his/her order disposing of the motion. The juvenile “retains” the independent laboratory, so he would directly bear the costs for that testing, as well as bearing the responsibility for notice to the [Department of Forensic Science](#).

At the adjudicatory hearing, the certificate of analysis shall be admissible without the presence of the person preparing the certificate. [Va. Code §§§ 17.1-275.5, 19.2-183 or 19.2-187.1](#). The defendant or defendant’s counsel may object to the certificate in writing. The objection may be noted using district court form DC-305, OBJECTION TO ADMISSION OF CERTIFICATE/VIDEO TESTIMONY or by any other written document.

## Sentencing Options

[Virginia Code § 16.1-278.8 \(A \(12\)\)](#) states, “In case of traffic violations, impose only those penalties that are authorized to be imposed on adults for such violations. However, for those violations punishable by confinement if committed by an adult, confinement shall be imposed only as authorized by this title.”

Upon conviction of driving while intoxicated or driving a commercial vehicle while intoxicated, the following sentencing options are available for juveniles under [Va. Code §§ 18.2-270, 18.2-270.1, 18.2-271 and 18.2-271.1](#)

In addition, the defendant may also be responsible for expenses incurred by responding emergency vehicles, in the form of restitution. The locality must have adopted a local ordinance in order for agencies to request repayment of expenses. The agency can bill per minute or submit a bill for a flat fee of \$250.00. If assessed, receipt under account code 520.

### First DWI Conviction

There is a mandatory minimum fine of \$250, which shall not be suspended by the court. The maximum fine is \$2500. [Va. Code § 46.2-341.28](#).

Virginia Alcohol Safety Action Program (VASAP) participation shall be ordered, unless, after an evaluation by VASAP, the assessment by VASAP

indicates that intervention is not appropriate for such person, the court, for good cause shown, may decline to order such participation.

Driver's license suspended for one year by operation of law.

Second DWI Conviction (the offense must be charged as a second violation) committed within five to ten years of a first offense

There is a mandatory minimum fine of \$500, which shall not be suspended by the court.

There is an additional mandatory minimum fine of \$500 if the blood alcohol content is .15 or above.

A payment of \$50 to the Trauma Fund must be ordered.

VASAP (Virginia Alcohol Safety Action Program) participation shall be ordered, unless, after an evaluation by VASAP, the assessment by VASAP indicates that intervention is not appropriate for such person, the court, for good cause shown, may decline to order such participation

Driver's license revoked for three years by operation of law.

In addition, if a person is convicted of driving while under the influence (for either a first or subsequent offense) and the offense is committed while a person under seventeen years of age is in the vehicle; the juvenile shall be fined an additional \$500 to \$1000.

Offenses charged as a third or subsequent offense are felonies and would, therefore, be tried in the Circuit Court

All juveniles must surrender their licenses to the court, if so ordered, to be forwarded to the [Department of Motor Vehicles](#) together with the abstract of conviction.

When the driver of any motor vehicle not licensed to drive in Virginia, but who has a valid driver's license from another jurisdiction, is convicted in Virginia of a violation for which license suspension and issuance of a restricted license is authorized, the court may issue a restricted driving privilege in Virginia upon the same conditions as if the person held a valid Virginia license.

Delinquent Juvenile ([Va. Code § 16.1-278.9](#))

If a court has found facts which would justify a finding that a juvenile at least thirteen years of age at the time of the offense is delinquent and such

finding involves a violation of [Va. Code § 18.2-266](#) or of a similar ordinance of any county, city or town or a refusal to take a blood or breath test in violation of [Va. Code § 18.2-268.2](#), the court shall order that the juvenile be denied a driver's license. In addition to any other penalty authorized by this section, if the offense involves a violation of [Va. Code § 18.2-266](#) and the juvenile was transporting a person seventeen years of age or younger, the court shall impose the additional minimum fine of \$500.00 and not more than \$1000.00, and order community services as provided in [Va. Code § 18.2-270](#).

The denial of a driver's license shall be for a period of one year or until the juvenile reaches the age of seventeen, whichever is longer, for a first such offense, or for a period of one year or until the juvenile reaches the age of eighteen, whichever is longer, for a second or subsequent offense.

The juvenile may be referred to VASAP (Virginia Alcohol Safety Action Program) participation in accordance with [Va. Code § 18.2-271.1](#) upon such terms and conditions as the court may set forth.

The court shall report any order issued under [Va. Code § 16.1-278.9](#) to the [Department of Motor Vehicles](#), and the record shall include a statement whether the juvenile was represented by or waived counsel or whether the order was issued pursuant to [Va. Code § 16.1-278.9 \(A1\)](#).

The court, in its discretion, and upon a demonstration of hardship, may authorize the use of a restricted permit to operate a motor vehicle by any juvenile who has a driver's license at the time of the offense or at the time of the court's finding. The issuance of the restricted permit shall be set forth within the court's order, a copy of which shall be provided to the juvenile and shall specifically enumerate the restrictions imposed. The DC-265, RESTRICTED DRIVER'S LICENSE ORDER AND ENTRY INTO ALCOHOL SAFETY ACTION PROGRAM should be used.

### **Refusal to Give Blood or Breath Sample**

In some cases, a person charged with driving while intoxicated is also charged with refusing to give a blood or breath sample if the offense occurred on a public highway. This case is separate from the driving while intoxicated case. The refusal is indexed in the delinquency using the case type **ST**. If the juvenile pleads guilty to driving while intoxicated, the judge may dismiss the refusal to give blood or breath sample. Va. Code §§ [18.2-268.4](#), [29.1-738.2](#) and [46.2-341.26:4](#). The first offense for refusal to give a blood or breath sample is a civil case. A subsequent offense for refusal to give a blood sample is also considered a civil case. Although this case is civil, Va. Codes §§ [18.2-268.4](#) and [46.2-](#)

[341.26:4](#) provide that trial procedures are the same as in misdemeanor cases. However, the juvenile would not be entitled to court-appointed counsel for these cases. A subsequent offense for refusal to submit to a breath test is a Class 1 misdemeanor and the juvenile would be entitled to court-appointed counsel.

If the judge finds that the juvenile unreasonably refused to give a blood or breath test and within the previous ten years, the juvenile has not committed an offense of refusal or driving while intoxicated, the judge suspends the juvenile's driver's license for one year. If the juvenile has a prior offense of refusal or driving while intoxicated within the last ten years and the juvenile was charged and convicted on a second or subsequent offense, he or she is guilty of a Class 1 misdemeanor and the juvenile's privilege to drive shall be suspended for a period of three years. If a court finds that a child at least 13 years of age has refused to take a blood test in violation of § [18.2-268.2](#), the court shall order that the child be denied a driver's license for a period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense.

The finding in the refusal case can be admitted as evidence in the trial of the driving while intoxicated charge for the sole purpose of explaining the absence of a chemical test.

The prosecution of the case is had on a DC-319, SUMMONS or a warrant or in the case of a juvenile, through a VIRGINIA UNIFORM TRAFFIC SUMMONS. [Va. Code § 16.1-260 \(H\)](#). Such summons or warrant will be accompanied by either a DC-231, CERTIFICATE OF REFUSAL-BREATH/BLOOD TEST (WATERCRAFT OR MOTORBOATS), a DC-232, CERTIFICATE OF REFUSAL-BREATH/BLOOD TEST (COMMERCIAL MOTOR VEHICLE), or a DC-233, DECLARATION AND ACKNOWLEDGEMENT OF REFUSAL-BREATH/BLOOD TEST (MOTOR VEHICLES GENERALLY).

### **Virginia Alcohol Safety Action Program (VASAP) Participation**

VASAP participation is required for all first and second offense convictions of DWI. If the assessment by VASAP indicates that intervention is not appropriate for the juvenile, the court, for good cause shown, may decline to order it. If the juvenile has been charged with a violation of the DWI statutes or a substantially similar local ordinance, the juvenile may voluntarily enter into a VASAP program at any time prior to trial. Only participation in a local VASAP program certified as meeting minimum standards and criteria established by the Commission on the Virginia Alcohol Safety Action Program is permitted.

#### **In-State Conviction**

After being convicted of driving while intoxicated for the first or second time under [Va. Code § 18.2-266](#) or a similar local ordinance, the court must refer the juvenile to a VASAP program unless, after evaluation, the assessment by VASAP indicates that intervention is not appropriate for such

person, the court, for good cause shown, may decline to order such participation. The terms and conditions of court-ordered VASAP participation, including the granting or denying of permission for the juvenile to receive a restricted driver's license (see below), are to be contained in the DC-265, RESTRICTED DRIVER'S LICENSE ORDER AND ENTRY INTO ALCOHOL SAFETY ACTION PROGRAM.

#### Out-Of-State Conviction

If a juvenile has been convicted in another state of driving while intoxicated pursuant to a statute which is substantially similar to [Va. Code § 18.2-266](#) and whose Virginia driver's license is subject to revocation for such conviction under [Va. Code § 46.2-389](#), the juvenile may petition the juvenile and domestic relations district court to be given probation, be assigned to VASAP, and to be issued a restricted license order. If the juvenile would have been eligible for VASAP had he or she been convicted of DWI in Virginia, the court may refer the juvenile to VASAP and issue a restricted license order. The court must refer all those convicted of a first or second offense to VASAP. The issuance of a restricted driver's license in circumstances involving out-of-state DWI convictions is handled as a civil matter. The terms and conditions of court-ordered VASAP participation, including the granting or denying of permission for the juvenile to receive a restricted license (see below) and ordering DMV to stay the suspension of the driver's license, are to be contained in the DC-265, RESTRICTED DRIVER'S LICENSE ORDER AND ENTRY INTO ALCOHOL SAFETY ACTION PROGRAM.

#### Fees

The judge must require the juvenile to pay to VASAP a fee of no less than \$250 but not more than \$300 when entering the program. If the judge positively finds that the juvenile is indigent, then he may reduce or waive the fee. The fee is collected by VASAP, not the court. Failure to pay this fee may be grounds for revoking the VASAP participation or for suspending the driver's license. These two options are described below.

#### Failure to Pay VASAP Fee

If the juvenile fails to timely pay the VASAP fee or any installment of the fee, the juvenile's driver's license may be suspended. There are two processes by which this suspension can be affected. If the VASAP entry fee is noted on the DC-210, ACKNOWLEDGMENT OF SUSPENSION OR REVOCATION OF DRIVER'S LICENSE, the clerk should manually produce an abstract to be sent to DMV suspending the juvenile's driver's license upon notification by VASAP in writing that the VASAP fee has not been paid. When the VASAP fee has been paid to VASAP, the VASAP receipt must be presented to the clerk who will then prepare a manual DC-30, COMMONWEALTH OF VIRGINIA DRIVER'S LICENSE

REINSTATEMENT FORM to be given to the juvenile. The juvenile is instructed to take the DC-30 with the receipt to DMV for reinstatement of the driver's license.

Alternatively, the VASAP program can file a DC-635, [MOTION FOR SHOW CAUSE SUMMONS OR CAPIAS](#) to seek revocation of the juvenile's driver's license for failure to pay the VASAP fee, and a DC-360, SHOW CAUSE SUMMONS (CRIMINAL) is issued. If the judge orders the driver's license suspended for failing to pay the fee, the juvenile (if in court) should be required to execute a DC-210, ACKNOWLEDGMENT OF SUSPENSION OR REVOCATION OF DRIVER'S LICENSE, and an amended abstract of conviction is filed with DMV showing the suspension of the license. Upon payment of the VASAP fee to VASAP (not the court), the juvenile brings a copy of the VASAP receipt or a letter from VASAP showing full payment to the clerk's office, which photocopies and attaches it to the show cause summons, prepares a DC-30, Commonwealth of Virginia Driver's License Reinstatement attaches the receipt or letter to the DC-30, and instructs the juvenile to take it to a local DMV office (to get the DMV records cleared). See also "Post-Trial Procedures - Notices to Department of Motor Vehicles" in this chapter.

#### Court Jurisdiction during VASAP

Even though the final order in a case places the juvenile into VASAP, the court retains jurisdiction over the juvenile until he successfully completes VASAP or his VASAP participation is revoked due to ineligibility or violation of a condition or conditions imposed by the court.

#### Revocation of VASAP

If, after entry into VASAP, the judge learns that the juvenile is ineligible to participate in VASAP or has violated at least one of the conditions imposed by the judge, the judge may commence a revocation proceeding by notice sent by first class mail, ordering the juvenile to show cause why his or her VASAP participation should not be revoked. The hearing must be held not less than ten days from the date of mailing. [Va. Code § 18.2-271.1](#). Failure to appear in response to the notice is grounds for revocation of VASAP participation.

#### Clerical Procedures

In addition to updating JCMS for transmittal of conviction date to DMV and accepting the juvenile's driver's license, the clerk will prepare for the judge's signature a DC-265, RESTRICTED DRIVER'S LICENSE ORDER AND ENTRY INTO ALCOHOL SAFETY ACTION PROGRAM. Coordination with VASAP (beyond sending a copy of the order to VASAP) will be dictated by local practice. When VASAP participation is revoked, an amended abstract of conviction is



prepared and, if restricted driving privileges previously have been ordered, the juvenile must surrender his driver's license and his DC-265, RESTRICTED DRIVER'S LICENSE ORDER AND ENTRY INTO ALCOHOL SAFETY ACTION PROGRAM. Send the amended abstract of conviction and the driver's license to DMV. See discussion of suspension of license, below. The clerk's office does not handle the collection of VASAP fees.

If the court is proceeding under [Va. Code § 16.1-278.9](#), the clerk will update JCMS and accept the juvenile's driver's license, which shall be held by the clerk for the duration of denial. Form DC-576, DRIVER'S LICENSE DENIAL ORDER (JUVENILE)/ DRIVER'S LICENSE SUSPENSION ORDER (UNDERAGE ALCOHOL VIOLATIONS) will be prepared for the judge and juvenile's signature. The order will be manually submitted to DMV. However, no conviction is entered into JCMS, as the case shall be dismissed upon fulfillment of terms and conditions and after juvenile's driver's license restored. Discharge and dismissal shall be without an adjudication of guilt, but a record of the proceedings shall be retained for the purpose of applying in subsequent proceedings. Failure of the juvenile to fulfill such terms and conditions shall result in an adjudication of guilt.

The breath test results, or an affidavit with those results (such as the criminal complaint form), is public if it is attached to an executed warrant and is part of the case papers. Attorney General Opinion to Berger dated 01/23/81 (1980-1981 Op. Atty Gen Va 391) *Virginia Freedom of Information Act. Motor Vehicles. Driving Under Influence. Breath Analysis Exempt From Mandatory Disclosure When Used Restricted To Preliminary Determination To Charge Suspected Violators.*

## Driver's License Actions

### In General

The Virginia Code provides for the revocation of a person's driver's license upon conviction of DWI. Conviction in and of itself operates to deprive the individual of the privilege to drive. [Va. Code § 18.2-271](#). The court does not have the authority to take an out-of-state driver's license on any conviction or deferral. [Va. Code § 46.2-398](#) For a first offense DWI, the individual's license is suspended for one year. In the case of conviction of a second offense DWI within ten years, the individual's license is revoked by the [Department of Motor Vehicles](#) for a period of three years. For a third offense DWI within ten years of the other two convictions, as well as a conviction of maiming of another as a result of DWI under [Va. Code § 18.2-51.4](#) or a conviction of involuntary manslaughter as a result of DWI, the individual's license is revoked indefinitely. These latter three offenses are



all felonies and therefore, an adult offender would be tried in circuit court. The juvenile must be charged and convicted of a subsequent offense for the driver's license to be revoked.

The only way that a person convicted of a first or second DWI can avoid the full effect of the mandatory driver's license suspension or revocation is for the juvenile to successfully participate in and complete VASAP. The judge has a wide range of options regarding the future driving privilege of the juvenile who is participating in VASAP, including:

- Whether the juvenile may drive at all, if participating in VASAP (no driving privilege if, upon conviction, juvenile does not participate in VASAP).
- Deferring the commencement of the driving privilege during VASAP participation for exemplary punishment purposes. A four-month deferral is required for second offenders.
- For first offenders, permitting the juvenile to drive only on a court-ordered restricted license during the one-year suspension period.
- For second offenders, permitting the juvenile to drive on a restricted license during all or part of the three-year suspension or revocation period but not during the first four months of such period if the second conviction was within ten years of the first offense and not within the first year if the second conviction was within five years of the first offense. [Va. Code § 18.2-271.1 \(E\)](#).

#### Restricted Driver's License

The judge may order the issuance of a restricted driver's license for any VASAP participants, but only for the following statutorily authorized purposes:

- Travel to and from the place of employment and for travel during the hours of such person's employment, if the operation of a motor vehicle is a necessary incident of such employment;
- Travel to and from the Program named on the first page of this Order and such other locations designated in writing by the Program;
- Travel to and from school if such person is a student, upon proper written verification to the court that such person is enrolled in a continuing program of education;

- Travel to and from visitation with a juvenile of such person; or
- Travel for health care services including medically necessary transportation of an elderly parent or any person residing within the person's household with a serious medical problem upon written verification of need by a licensed health professional;
- Travel necessary to transport a minor juvenile under the care of such person to and from school, day care and facilities housing medical service providers;
- Travel to a screening, evaluation and education program entered pursuant to [Va. Code § 18.2-251](#) or [Va. Code § 18.2-258.1 \(H\)](#).
- Travel to and from court appearances in which he is a subpoenaed witness or party and appointments with a probation officer and to and from any programs required by the court or as a condition of probation;
- Travel to and from a place of religious worship;
- Travel to and from appointments approved by the Division of Child Support Enforcement of the Department of Social Services as a requirement of participation in an administrative or court-ordered intensive case monitoring program for child support for which you have with you written proof of the appointment, including written proof of the date and time of appointment;
- Travel to and from jail to serve a jail sentence that is to be served on weekends or on non-consecutive days;
- Travel to and from a job interview for which he/she maintains on their person written proof from the prospective employer of the date, time and location of the job interview;
- Travel to and from the offices of the Virginia Employment Commission for the purpose of seeking employment.

For a second offense within ten years, a restricted driver's license may not be issued until four months of the suspension period has elapsed. For a

second offense within five years, a restricted driver's license may not be issued until one year of the suspension period has elapsed. The issuance of a restricted driver's license is ordered on a DC-265, RESTRICTED DRIVER'S LICENSE ORDER AND ENTRY INTO ALCOHOL SAFETY ACTION PROGRAM. The restricted license order (original of the order) may be delivered to the offender conditioned on the offender enrolling in VASAP within fifteen days. The DC-265, RESTRICTED DRIVER'S LICENSE ORDER AND ENTRY INTO ALCOHOL SAFETY ACTION PROGRAM should be prepared and signed and given to the offender to take to VASAP. The VASAP copy (which is not an authorization to drive) should be sent separately to VASAP for enrollment verification purposes. After enrollment, VASAP will endorse the back of the original of the order with a proof of enrollment and give it to the offender who should take it to DMV for issuance of a new restricted license.

The judge may order that the restricted license expire at the expected VASAP completion date (at which time DMV will re-issue the driver's license as a regular, unrestricted license without further court action) even if the restricted license would be in effect for a longer period than the maximum suspension or revocation period since there is continuing court jurisdiction over the person during VASAP participation (until the VASAP program is successfully completed or participation is revoked by the judge) and the restricted license can be issued to a person in a VASAP program. In setting the expiration date for restricted driver's licenses issued to second offenders, the judge should remember that the juvenile can drive only on a restricted driver's license during the mandatory revocation period.

The judge may wish to extend the expiration date if the VASAP completion date is extended. In such cases, an amended DC-265, RESTRICTED DRIVER'S LICENSE ORDER AND ENTRY INTO ALCOHOL SAFETY ACTION PROGRAM must be entered.

In some cases, VASAP will want to change the location of delivery of VASAP services or require the juvenile to participate in an additional treatment program. The judge and VASAP should reach an agreement as to whether such changes will be handled by an amended DC-265, RESTRICTED DRIVER'S LICENSE ORDER AND ENTRY INTO ALCOHOL SAFETY ACTION PROGRAM prepared in the clerk's office or by a document on VASAP stationary prepared by VASAP.

No amended abstract of conviction is needed when an amended DC-265, RESTRICTED DRIVER'S LICENSE ORDER AND ENTRY INTO ALCOHOL SAFETY ACTION PROGRAM is entered. However, the following procedures apply:

If the court adds or deletes license restrictions, changes the commencement or expiration date, or revokes the restricted license without terminating VASAP participation:

- The juvenile surrenders the old copy of DC-265, RESTRICTED DRIVER'S LICENSE ORDER AND ENTRY INTO ALCOHOL SAFETY ACTION PROGRAM, (which is destroyed), and the driver's license (unless not yet re-issued by DMV) to judge or clerk.
- The judge signs a new DC-265, RESTRICTED DRIVER'S LICENSE ORDER AND ENTRY INTO ALCOHOL SAFETY ACTION PROGRAM; the original is given to the juvenile, a copy with driver's license attached is sent to DMV, and the court files its copy.
- DMV re-issues a license (unless restricted license is revoked) showing the changed effective date or codes for changed restrictions.

If the court makes other changes--use the same procedure as above except that the juvenile does not surrender his or her driver's license for forwarding to DMV.

If a juvenile requests changes to the DC-265, Restricted Driver's License Order and Entry into Alcohol Safety Action Program order following entry, DC-630, [MOTION TO AMEND OR REVIEW ORDER](#) should be filed and indexed as a subsequent action of the original case. If amended, a new DC-265, Restricted Driver's License Order and Entry into Alcohol Safety Action Program form should be prepared and marked "amended"; a copy should be given to the juvenile and a copy should be retained by the court, with the DC-630, [Motion to Amend or Review Order](#) and attached to the original case.

The court that convicted a person of DWI has continuing jurisdiction over the person during any period of license revocation resulting from that conviction, for the purposes of referring the person to a certified alcohol safety action program and providing a restricted permit, regardless of whether or not it took either action at the time of the conviction. [Va. Code § 18.2-271.1 \(G\)](#).

## Impoundment

Administrative Impoundment Process, [Va. Code § 46.2-301.1](#)

A motor vehicle being driven by any person whose driver's license, learner's permit or privilege to drive has been suspended or revoked for an alcohol-related conviction, including refusal of a blood or breath test, shall be impounded or immobilized upon the driver's arrest for driving while his license has been so suspended or revoked. (Throughout this section, the term "impound" is used to include both "impound" and "immobilize.")

An "alcohol-related" suspension or revocation refers to a suspension or revocation for:

- a conviction for violation of [Va. Code §§ 18.2-266, 18.2-51.4, 46.2-341.24](#) or a similar local ordinance;
- driving after adjudication as a habitual offender, when that adjudication was based at least in part on an alcohol-related offense;
- a seven-day administrative suspension pursuant to [Va. Code § 46.2-391.2](#), or
- an unreasonable refusal of tests in violation of [Va. Code §§ 18.2-268.3, 46.2-341.26:3](#) or a substantially similar ordinance or law in another jurisdiction.

This administrative impoundment is for a period of thirty days.

The arresting officer shall serve a notice of impoundment upon the driver. A copy of this notice shall be delivered to the magistrate and forwarded promptly by the magistrate to the clerk of the general district court in the locality where the arrest was made. Unlike administrative license suspension, **administrative impoundments are always processed through the general district court, even if the driver is a juvenile.** Administrative impoundments are processed as civil proceedings.

## Restricted Driver's License (Administrative, Driving Suspended)

### Petition for Restricted Driver's License Pursuant to [§ 46.2-334.01](#)

A juvenile who has had his driver's license or privilege to operate a motor vehicle suspended for ninety days by the Commissioner of DMV, pursuant to [Va. Code § 46.2-334.01 \(2\)](#), may petition the Juvenile & Domestic Relations District court of his residence for a restricted license to drive a motor vehicle in the Commonwealth to and from his home and place of employment, provided there is no other means of transportation by which such person may travel. On such petition, the court may, in its discretion, authorize the issuance of a restricted license for a period not to exceed the term of the suspension. Such restricted license shall be valid solely for operation of a motor vehicle between such person's home and his place of employment.

If such petition is granted, the clerk should issue a DC-578, RESTRICTED DRIVER'S LICENSE to the juvenile and manually forward a copy to DMV.

**Petition for Restricted Driver’s License Pursuant To [§ 46.2-301\(E\)](#)**

A defendant who has had his/her driver’s license or privilege to operate a motor vehicle suspended for a conviction of [Va. Code § 46.2-301\(B\)](#), may petition the court that suspended the license provided the period of time for which the license was suspended by the court, if measured from the date of conviction, has expired, even though the suspension itself has not expired.

The following procedures are recommended when processing a request for a restricted driver’s license:

STEP	DESCRIPTION
1	<p>The clerk receives district court form DC-273, PETITION FOR AUTHORIZATION FOR RESTRICTED DRIVER’S LICENSE – CONVICTION FOR UNAUTHORIZED DRIVING.</p> <p>It is recommended that the petitioner file a compliance summary from DMV along with the petition.</p>
2	<p>The clerk will check to be sure the underlying conviction occurred in the court. If so, enter the petition in the delinquency division as a new case using case type <b>RL</b>.</p> <p>Code section: 46.2-301(E)                      Charge: Auth. for RDL Drive Susp</p>
3	<p>According to local policy, the court may hold a hearing or handle administratively. If hearing is to be held, set the date and time.</p> <p>The court may for good cause shown authorize DMV to issue a restricted license for any of the purposes set forth in subsection E of <a href="#">Va. Code § 18.2-271.1</a>.</p>
4	<p>After the hearing, conclude the case using <b>GR</b> for granted; or <b>D</b> for denied in the Final Disposition field.</p> <p>If the petition for authorization is granted, print the district court form Dc-274, AUTHORIZATION FOR RESTRICTED DRIVER’S LICENSE – CONVICTION FOR UNAUTHORIZED DRIVING on white paper – not green safety paper.</p>
5	<p>The court shall forward by mail a copy of district court form DC-274, AUTHORIZATION FOR RESTRICTED DRIVER’S LICENSE – CONVICTION FOR UNAUTHORIZED DRIVING to the Commissioner of DMV.</p> <p>It is not necessary to hold the authorization – it may be mailed immediately. The authorization does not transmit electronically to DMV.</p>

STEP	DESCRIPTION
6	<p>The court shall provide a copy of district court form DC-274, AUTHORIZATION FOR RESTRICTED DRIVER'S LICENSE – CONVICTION FOR UNAUTHORIZED DRIVING to the individual, who may not operate a motor vehicle until receipt from DMV of a restricted license.</p> <p>The court does not determine the length of the restricted driving privilege. DMV may receive authorizations with various restrictions. They will authorize only the restrictions for which all courts agree and authorize. The defendant may not operate a commercial motor vehicle with this license.</p>