



Driving While License Suspended – 3rd Degree

2.5.13

What is a Driving While License Suspended 3rd Degree Charge? A person who drives on a suspended license at a time when that person is eligible to have the license reinstated can be charged with the crime of Third Degree Driving While License Suspended (DWLS 3). The charge is a misdemeanor and carries a penalty of up to 90 days in jail and a \$1,000 fine. The most common reason a person's license is suspended is that the person failed to pay a traffic ticket or failed to appear in court on the ticket, both of which are non-safety related issues. Prior to trial some of these individuals may be held in jail. To resolve the charges each person will require a prosecutor, defense attorney, judge and court time.

Nearly 300,000 Washington drivers currently have their licenses suspended for failure to pay their tickets and many feel compelled to keep driving in order to earn a living. Austen Jenkins, Northwest News Network, KPLU radio broadcast (12:13 p.m. July 23, 2011). DWLS is the most charged crime in the state. Caseloads of the Courts of Washington, 2010 Annual Report, Cases Filed. DWLS 3 makes up 1/3 of the misdemeanor cases filed statewide. Jenkins broadcast. Consultant Dr. David Thompson noted in his report to the Spokane County Commissioners that the high number of driving while license suspended 3rd degree charges place a large burden on the Spokane criminal justice system and that changes in the way the charges were handled could greatly benefit the system. A disproportionate number of people arrested for this crime are of color. The Task Force on Race and the Criminal Justice System, Preliminary Report, March 2011.

What are Spokane City and County Doing Now? If a person is charged with DWLS 3 only, the person can participate in the City's DWLS 3 Diversion program that began in November 2010. Successful completion of the diversion and re-licensing programs results in a dismissal of the DWLS 3 matter and any related tickets that were issued for the same offense.

The City of Spokane Prosecutor's Office and the Center for Justice both have relicensing programs that help low-income people get their licenses back so that they can drive while making regular payments on the tickets.

The County does not have a diversion or re-licensing program.

What are Other City and Counties Doing? King County has a diversion and relicensing program that in its first year reduced filings by 84%, saved approximately \$300,000 in prosecution and public defense costs, cut 1,330 jail days and returned \$2 for every dollar spent.

How Can Spokane City and County Improve? It is critical that the City and County:

- Support and continually assess the diversion program for potential improvement and expansion;

- Educate the community about how to avoid license suspension;
- Fund relicensing services sufficiently to assist individuals in getting their licenses back and arranging payment plans for tickets;
- Set fines at a low enough level that people can afford to pay them; and
- Offer community service to those who cannot afford to pay fines.

How will Spokane City and County Benefit by Implementing these Changes?

- Cost Savings: In many misdemeanor courts, DWLS 3 cases are a third of the caseload, so the costs of prosecuting DWLS 3 cases are staggering. The police and jail are burdened unnecessarily. Assisting people to get their licenses back will reduce the number of DWLS 3 charges. In addition, if DWLS 3 were reclassified by the Legislature from a misdemeanor to a civil infraction (like a parking ticket) criminal charges would be avoided and there could be immense savings in court costs and the cost of appointed counsel.
- Better Outcomes for Communities and Offenders: People need to be able to drive to work and school and to fulfill family responsibilities. When people are relicensed and can legally drive their economic productivity increases, benefitting both them and the community. Reasonable payment plans or community service in lieu of fines people to get the issues resolved.
- Community Safety: It is important that those who are unfit to drive be kept off the roads. Individuals with DWLS 3 are not necessarily unsafe drivers; they are individuals who more often than not, due to their economic situation, could not afford to pay fines. Community safety will not be endangered by these changes.

Personal Story: Matt Gregory lost his ability to get a driver's license before he even got one - for a car accident for which he was found civilly liable. Matt is now a 40-year-old father who still does not have a license, and who has little hope left for ever getting it back. "I bet you I've spent 10 years in jail just for driving," Matt states. "I have spent a *decade* of my life in jail. If you look at my driving abstract, you'll see that I'm only 'driving suspended;' I don't elude, I don't try and harm people. My kids stay with me and I have no one else to drive. I want to be the normal dad who takes my daughter to the store, who can drive to doctor's appointments, to school functions, to work. But they won't let me have a life. This is not a life. You get a life for about 5 minutes and then it's taken away; you lose everything; you get out of jail and you start again with nothing." As of the date of this fact sheet, Matt is incarcerated for non-safety driving offenses.

Sources of Information:

The Task Force on Race and the Criminal Justice System, Preliminary Report, March 2011, Appendix A, pgs. 14-16.

<http://www.law.seattleu.edu/Documents/korematsu/race%20and%20criminal%20justice/Handout,%20DWLS.pdf>

Boruchowitz, Robert C., "Diverting and Reclassifying Misdemeanors Could Save \$1 Billion per Year: Reducing the Need For and Cost of Appointed Counsel." American Constitution Society for Law and Policy, Issue Brief Dec. 2010.

John B. Mitchell & Kelly Kunsch, *Of Driver's Licenses and Debtor's Prison*, 4 SEATTLE J. FOR SOC. JUST., note 7 at 439-440, 470-71 (2005).

"Limiting Suspension/Revocation of Drivers' Licenses to Driving-Related Convictions," <http://www.lac.org/toolkits/drivers/drivers.htm>

Austen Jenkins, Northwest News Network, KPLU radio broadcast (12:13 p.m. July 23, 2011).

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David R. Thompson, Ph.D., "Results from the Discovery Analysis and Resolution (DAR) Process, A Compilation of Ideas Collected and Derived From Discussions with Spokane County Elected Officials and Professional Staff, Focused on Spokane County's Legal-Justice System, Version: 5 October 2009," prepared for Spokane County Board of County Commissioners, pp. 21-26.

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For more information on the Smart Justice Campaign go to www.smartjusticespokane.org, or contact:

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