



Dissecting DSC

Leisa Hardin
Court Administrator
City of Mansfield

DSC Qualifications

- **Timely Request**
 - Before the answer date
- **Mailbox Rule Art. 45.013 CCP**
 - If mailed on or before answer date (by certified mail)
 - Must be received within 10 working days of answer date

DSC Qualifications

- **Has not taken DSC in the past 12 months for a citation**
- **Financial Responsibility**
 - Must the driver be listed on the policy?
 - Presented at time of request
- **Texas driver's license or permit, or**
 - U.S. Military (including spouse and dependents)
 - Active Duty

Court Cost and Fee

- Court Cost
- School Zone – add \$25 Child Safety Fee
- Administrative Fee
 - Not to exceed \$10 if granted under defendant's right
 - Fee may be up to max fine if granted by judge



Specialized DSC

- Child safety
- Seat belt offense



Eligible Offenses

- ADULTS
 - Subtitle C Rules of the Road Transportation Code (Chpts. 541-600) that are not excepted by Art. 45.0511, C.C.P.
 - Section 472.022, Transportation Code (Obeying Warning Signs and Barricades)
 - These offenses have a \$64.00 court costs or \$69.00 cost if court has \$5.00 juvenile case manager fee.

UNDER AGE 25

- Offense must be a moving traffic violation
- Offense must involve the operation of vehicle

Ineligible Offenses

- Speeding 25 mph or more over limit
- Speeding 95 mph or more
- Passing a school bus
- Hit and Run Offenses (Occupied Vehicle)
- Serious Traffic Violation (CMV)



Ineligible Offenses

- Offense Committed in Construction Zone While Workers Present
 - Subtitle C Rules of the Road
 - Not including Seatbelt and Inspection Offenses
 - Workers present must be noted on citation
- Offense Committed by persons with or who had a CDL



Processing DSC

- Defendant enters plea of "no contest" or "guilty"
- Court enters judgment on plea
 - Finding of guilty, but defers imposition of judgment for 90 days
 - Only judge grants by signing judgment
 - Clerk's processing paperwork does not grant DSC
- Collects costs and fee
- Defers imposition of judgment for 90 days
- Affidavit of Eligibility

Cost and Fee

- When should the cost and fee be collected?
- If not collected and defendant completes all requirements, court required to dismiss
 - Court has no means of collecting court costs

Completion of DSC

- 90 Days
 - 90 days to present evidence to court
- Driving Record from DPS
- Signed Court's Copy of DSC Certificate



"I was driving defensively, but it turned out that the other driver was more defensive than I was."

DSC Compliance

- Court removes first judgment
- Court enters final judgment dismissing case
- Reports to DPS date of completion



Failure to Comply

- **Show Cause Hearing**
 - Court “requires” Defendant to appear
 - Court Notifies Defendant in Writing of
 - failure to comply
 - time of hearing
 - place of hearing

Show Cause Hearing

- If Defendant Appears, Court may:
 - Allow extension of time to present evidence of compliance; or
 - Impose judgment of conviction on case
- Defendant may pay the fine or appeal
- If Defendant Fails to Appear, Court :
 - Imposes judgment of conviction on case
 - Requires payment of the fine
 - May issue Capias Pro Fine

TEA Approved DSC

- **Online**
 - <http://www5.esc13.net/drivers/list-licensed-driving-safety-course-providers.html#Specialized>
- **Classroom**
 - <http://www5.esc13.net/drivers/list-activetestds.html>
- **Video/DVD**
 - <http://www5.esc13.net/drivers/list-activetestds.html#ADM>

Art. 45.0511. DRIVING SAFETY COURSE OR MOTORCYCLE OPERATOR COURSE
DISMISSAL PROCEDURES. (a) Except as provided by Subsection (a-1), this
article applies only to an alleged offense that:

- (1) is within the jurisdiction of a justice court or a
municipal court;
- (2) involves the operation of a motor vehicle; and
- (3) is defined by:
 - (A) Section 472.022, Transportation Code;
 - (B) Subtitle C, Title 7, Transportation Code; or
 - (C) Section 729.001(a)(3), Transportation Code.

(a-1) If the defendant is younger than 25 years of age, this article
applies to any alleged offense that:

- (1) is within the jurisdiction of a justice court or a
municipal court;
- (2) involves the operation of a motor vehicle; and
- (3) is classified as a moving violation.

(b) The judge shall require the defendant to successfully complete a
driving safety course approved by the Texas Education Agency or a course
under the motorcycle operator training and safety program approved by the
designated state agency under Chapter 662, Transportation Code, if:

(1) the defendant elects driving safety course or motorcycle
operator training course dismissal under this article;

(2) the defendant:

(A) has not completed an approved driving safety course
or motorcycle operator training course, as appropriate, within the 12 months
preceding the date of the offense; or

(B) does not have a valid Texas driver's license or
permit, is a member, or the spouse or dependent child of a member, of the
United States military forces serving on active duty, and has not completed a
driving safety course or motorcycle operator training course, as appropriate,
in another state within the 12 months preceding the date of the offense;

(3) the defendant enters a plea under Article 45.021 in person
or in writing of no contest or guilty on or before the answer date on the
notice to appear and:

(A) presents in person or by counsel to the court a
request to take a course; or

(B) sends to the court by certified mail, return receipt requested, postmarked on or before the answer date on the notice to appear, a written request to take a course;

(4) the defendant:

(A) has a valid Texas driver's license or permit; or

(B) is a member, or the spouse or dependent child of a member, of the United States military forces serving on active duty;

(5) the defendant is charged with an offense to which this article applies, other than speeding at a speed of:

(A) 95 miles per hour or more; or

(B) 25 miles per hour or more over the posted speed limit; and

(6) the defendant provides evidence of financial responsibility as required by Chapter 601, Transportation Code.

(c) The court shall enter judgment on the defendant's plea of no contest or guilty at the time the plea is made, defer imposition of the judgment, and allow the defendant 90 days to successfully complete the approved driving safety course or motorcycle operator training course and present to the court:

(1) a uniform certificate of completion of the driving safety course or a verification of completion of the motorcycle operator training course;

(2) unless the judge proceeds under Subsection (c-1), the defendant's driving record as maintained by the Department of Public Safety, if any, showing that the defendant had not completed an approved driving safety course or motorcycle operator training course, as applicable, within the 12 months preceding the date of the offense;

(3) an affidavit stating that the defendant was not taking a driving safety course or motorcycle operator training course, as applicable, under this article on the date the request to take the course was made and had not completed such a course that is not shown on the defendant's driving record within the 12 months preceding the date of the offense; and

(4) if the defendant does not have a valid Texas driver's license or permit and is a member, or the spouse or dependent child of a member, of the United States military forces serving on active duty, an affidavit stating that the defendant was not taking a driving safety course or motorcycle operator training course, as appropriate, in another state on the date the request to take the course was made and had not completed such a course within the 12 months preceding the date of the offense.

(c-1) In this subsection, "state electronic Internet portal" has the meaning assigned by Section 2054.003, Government Code. As an alternative to

receiving the defendant's driving record under Subsection (c)(2), the judge, at the time the defendant requests a driving safety course or motorcycle operator training course dismissal under this article, may require the defendant to pay a fee in an amount equal to the sum of the amount of the fee established by Section 521.048, Transportation Code, and the state electronic Internet portal fee and, using the state electronic Internet portal, may request the Texas Department of Public Safety to provide the judge with a copy of the defendant's driving record that shows the information described by Section 521.047(b), Transportation Code. As soon as practicable and using the state electronic Internet portal, the Texas Department of Public Safety shall provide the judge with the requested copy of the defendant's driving record. The fee authorized by this subsection is in addition to any other fee required under this article. If the copy of the defendant's driving record provided to the judge under this subsection shows that the defendant has not completed an approved driving safety course or motorcycle operator training course, as appropriate, within the 12 months preceding the date of the offense, the judge shall allow the defendant to complete the appropriate course as provided by this article. The custodian of a municipal or county treasury who receives fees collected under this subsection shall keep a record of the fees and, without deduction or proration, forward the fees to the comptroller, with and in the manner required for other fees and costs received in connection with criminal cases. The comptroller shall credit fees received under this subsection to the Texas Department of Public Safety.

(d) Notwithstanding Subsections (b)(2) and (3), before the final disposition of the case, the court may grant a request to take a driving safety course or a motorcycle operator training course under this article.

(e) A request to take a driving safety course or motorcycle operator training course made at or before the time and at the place at which a defendant is required to appear in court is an appearance in compliance with the defendant's promise to appear.

(f) In addition to court costs and fees authorized or imposed by a law of this state and applicable to the offense, the court may:

(1) require a defendant requesting a course under Subsection (b) to pay an administrative fee set by the court to cover the cost of administering this article at an amount of not more than \$10; or

(2) require a defendant requesting a course under Subsection (d) to pay a fee set by the court at an amount not to exceed the maximum amount of the fine for the offense committed by the defendant.

(g) A defendant who requests but does not take a course is not entitled to a refund of the fee.

(h) Fees collected by a municipal court shall be deposited in the municipal treasury. Fees collected by another court shall be deposited in the county treasury of the county in which the court is located.

(i) If a defendant requesting a course under this article fails to comply with Subsection (c), the court shall:

(1) notify the defendant in writing, mailed to the address on file with the court or appearing on the notice to appear, of that failure; and

(2) require the defendant to appear at the time and place stated in the notice to show cause why the evidence was not timely submitted to the court.

(j) If the defendant fails to appear at the time and place stated in the notice under Subsection (i), or appears at the time and place stated in the notice but does not show good cause for the defendant's failure to comply with Subsection (c), the court shall enter an adjudication of guilt and impose sentence.

(k) On a defendant's showing of good cause for failure to furnish evidence to the court, the court may allow an extension of time during which the defendant may present:

(1) a uniform certificate of course completion as evidence that the defendant successfully completed the driving safety course; or

(2) a verification of course completion as evidence that the defendant successfully completed the motorcycle operator training course.

(1) When a defendant complies with Subsection (c), the court shall:

(1) remove the judgment and dismiss the charge;

(2) report the fact that the defendant successfully completed a driving safety course or a motorcycle operator training course and the date of completion to the Texas Department of Public Safety for inclusion in the person's driving record; and

(3) state in that report whether the course was taken under this article to provide information necessary to determine eligibility to take a subsequent course under Subsection (b).

(m) The court may dismiss only one charge for each completion of a course.

(n) A charge that is dismissed under this article may not be part of a person's driving record or used for any purpose.

(o) An insurer delivering or issuing for delivery a motor vehicle insurance policy in this state may not cancel or increase the premium charged an insured under the policy because the insured completed a driving safety course or a motorcycle operator training course, or had a charge dismissed under this article.

(p) The court shall advise a defendant charged with a misdemeanor under Section 472.022, Transportation Code, Subtitle C, Title 7, Transportation Code, or Section 729.001(a)(3), Transportation Code, committed while operating a motor vehicle of the defendant's right under this article to successfully complete a driving safety course or, if the offense was committed while operating a motorcycle, a motorcycle operator training

course. The right to complete a course does not apply to a defendant charged with:

(1) a violation of Section 545.066, 550.022, or 550.023, Transportation Code;

(2) a serious traffic violation; or

(3) an offense to which Section 542.404 or 729.004(b), Transportation Code, applies.

(q) A notice to appear issued for an offense to which this article applies must inform a defendant charged with an offense under Section 472.022, Transportation Code, an offense under Subtitle C, Title 7, Transportation Code, or an offense under Section 729.001(a)(3), Transportation Code, committed while operating a motor vehicle of the defendant's right to complete a driving safety course or, if the offense was committed while operating a motorcycle, of the defendant's right to complete a motorcycle operator training course. The notice required by this subsection must read substantially as follows:

"You may be able to require that this charge be dismissed by successfully completing a driving safety course or a motorcycle operator training course. You will lose that right if, on or before your appearance date, you do not provide the court with notice of your request to take the course."

(r) If the notice required by Subsection (q) is not provided to the defendant charged with the offense, the defendant may continue to exercise the defendant's right to take a driving safety course or a motorcycle operator training course until the notice required by Subsection (q) is provided to the defendant or there is a final disposition of the case.

(s) This article does not apply to an offense committed by a person who:

(1) holds a commercial driver's license; or

(2) held a commercial driver's license when the offense was committed.

(t) An order of deferral under Subsection (c) terminates any liability under a bail bond or appearance bond given for the charge.

(u) The requirement of Subsection (b)(2) does not apply to a defendant charged with an offense under Section 545.412, Transportation Code, if the judge requires the defendant to attend and present proof that the defendant has successfully completed a specialized driving safety course that includes four hours of instruction that encourages the use of child passenger safety seat systems, and any driving safety course taken by the defendant under this section within the 12 months preceding the date of the offense did not include that training. The person's driving record under Subsection (c)(2) and the affidavit of the defendant under Subsection (c)(3) is required to include only previous or concurrent courses that included that training.

COMPARISONS OF DEFERRED OPTIONS

(Effective September 1, 2011)



Application/Use	Driving Safety Course (DSC) or Motorcycle Operator Course (MOC) Dismissal Procedures, Article 45.0511, C.C.P.	Suspension of Sentence and Deferral of Final Disposition, Article 45.051, C.C.P.
Application/Use	<p>If defendant is at least 25 years of age, applies to the following traffic offenses that involve the operation of a motor vehicle:</p> <ul style="list-style-type: none"> ● Section 472.022, T.C.; (Obeying Warning Signs) ● Subtitle C, Title 7, T.C.; (Rules of the Road) ● Section 729.001(a)(3), T.C. (Operation of Motor Vehicle by Minor) <p>If defendant is under 25, applies to offenses that involve the operation of a motor vehicle classified as moving violations</p> <p>Does <u>not</u> apply to:</p> <ul style="list-style-type: none"> ● Offenses committed in a construction work maintenance zone when workers are present, Sec. 542.404, T.C.; Art. 45.0511(p)(3), C.C.P.; ● Traffic offenses committed by a person with a commercial driver's license, Art. 45.0511(s), C.C.P.; ● Passing a school bus, Sec. 545.066, T.C.; ● Leaving the scene of an accident, Sec. 550.022 or 550.023, T.C.; or ● Speeding 25 mph or more over the limit or in excess of 95 m.p.h. Art. 45.0511(b)(5), C.C.P. <p>Court must advise person charged with an offense to which DSC applies of right to take course.</p>	<p>Applies to all fine-only offenses except:</p> <ul style="list-style-type: none"> ● Traffic offenses committed in a construction work maintenance zone when workers present (Sec. 542.404, T.C.; Art. 45.051(f)(1), C.C.P.); or ● A violation of a state law or local ordinance relating to motor vehicle control, other than a parking violation, committed by a person who holds a commercial driver's license; or held a commercial driver's license when offense committed (Art. 45.051(f), C.C.P.).
How Often	<p>Defendant may request if the defendant has not had a driving safety course within the 12 months preceding the date of the current offense. Under Subsection (u), defendants may take DSC for a violation of Child Passenger Safety Seat laws even if they have taken DSC in the last 12 months, as long as the judge requires the defendant to take a specialized DSC (including 4 hours of instruction on child passenger safety seat systems) and any course the defendant has taken in the last 12 months did not include such instruction.</p> <p>If the defendant is a member, spouse, or dependant child of a member, of the US military forces serving on active duty, the defendant cannot have taken a driving safety course/motorcycle operator course in another state within the 12 months preceding the date of the current offense. Under Subsection (d), the court has discretion to grant DSC/MOC even if one has been taken within the previous 12 month period, or if the request was not made timely.</p>	Subject to judicial discretion.
Plea Required	A plea of guilty or nolo contendere is required when the request is made. Request must be made on or before answer date on citation. Judge has discretion to grant a late request under Subsection (d).	A plea of guilty or nolo contendere or a finding of guilt required.
Proof of TX DL or on Active Military Duty	Defendant must have a Texas driver's license or permit. If the defendant is on active military duty or is an active duty military spouse or dependant child, the defendant does not have to have a Texas driver's license or permit.	NO
Proof of Financial Responsibility	Defendants are required to present proof of financial responsibility as required by Chapter 601, Transportation Code.	NO
State Court Cost Collected	YES	YES Judge may allow defendant to pay out during deferral period by time payments, performing community service, or both.
Time Limit	Court defers imposition of the judgment for 90 days. The defendant must take the course and present evidence of completion by the 90 th day. Defendant is also required to present to the court a copy of his or her driving record as maintained by DPS and an affidavit stating that he or she was not taking DSC or MOC at the time of the request nor has he or she taken a course that is not on his or her driving record. Under Subsection (u), the defendant's driving record and affidavit are required to show that defendant did not have specialized DSC in preceding 12 months.	Not to exceed 180 days. (1 to 180 days)
Optional Administrative or Special Expense Fee	<p>If defendant makes request on or before answer date, the court may only assess an administrative \$10 non-refundable fee.</p> <p>If the judge grants a course before the final disposition of the case under Subsection (d), the court may assess a fee not to exceed the maximum possible penalty for the offense.</p>	SPECIAL EXPENSE FEE (SEF), not to exceed amount of fine that could be imposed at the time the court grants the deferral. Court may elect not to collect for good cause shown. SEF may be collected at anytime before the date the probation ends. In the event of default, the judge shall require that the amount of the SEF be credited toward the amount of the fine imposed by the judge.

	Driving Safety Course (DSC) or Motorcycle Operator Course (MOC) Dismissal Procedures Article 45.0511, C.C.P.	Suspension of Sentence and Deferral of Final Disposition Article 45.051, C.C.P.
Fee for Driving Record	<p>Rather than allowing the defendant to obtain his or her driving record and provide it to the court, the court may obtain the driving record from DPS. A \$10 fee plus the \$2 state electronic Internet portal fee may be imposed if the court chooses this option (Art. 45.0511(c-1), C.C.P.).</p>	<p>Court is not required to order the defendant to obtain a driving record (it may, however, be mandated as a reasonable condition). There is no authorization for the court to collect a fee for obtaining the defendant's driving record.</p>
Other Requirements	<p>Request may be oral or in writing. If mailed, request must be sent certified mail. (Art. 45.0511(b)(3), C.C.P.)</p> <p>When a defendant requests a course on or before the answer date on the citation, the defendant must present evidence of a valid Texas driver's license or permit, or show that he or she is on active military duty.</p> <p>On or before the 90th day after the request, the defendant must present:</p> <ol style="list-style-type: none"> 1. Evidence of course completion; 2. A copy of his or her driving record as maintained by DPS, if any; 3. If the defendant is on active military duty and does not have a Texas driver's license, the affidavit must state that the defendant was not taking a driving safety course or motorcycle operator course, as appropriate, in another state on the date of the request to take the course was made and had not completed such a course within the 12 months preceding the date of the offense; 4. An affidavit stating that he or she was not taking a course at the time of request for the current offense nor had he or she taken a course that was not yet on his or her driving record within the 12 months preceding the date of the current offense; 5. If the offense is charged under Section 545.412, T.C., (Child Passenger Safety Seat Systems), the defendant's driving record and affidavit are only required to show that they have not taken the specialized DSC in the last 12 months. 	<p>Requirements: Judge <u>may</u> require the defendant to do the following:</p> <ol style="list-style-type: none"> 1. Post bond in the amount of the fine assessed to secure payment of the fine; 2. Pay restitution to the victim of the offense in an amount not to exceed the fine assessed; 3. Submit to professional counseling; 4. Submit to diagnostic testing for alcohol or controlled substance or drug; 5. Submit to psychosocial assessment; 6. Participate in an alcohol or drug abuse treatment or education program; 7. Pay the costs of any diagnostic testing, psychosocial assessment, or participation in a treatment or education program either directly or through the court as court costs; 8. Complete DSC or other course as directed by the judge; 9. Present to the court satisfactory evidence of compliance with the terms imposed by the judge; and 10. Comply with any other reasonable condition. <p>-----</p> <p>If defendant under age 25 is charged with a moving traffic offense, Subsection (b)(8) does not apply. The judge <i>shall</i> require DSC. The judge <i>may</i> also require an additional DSC for drivers under age 25 per section 1001.111, Education Code. If the defendant holds a provisional license, the judge shall require the defendant to be examined by DPS under Sec. 521.161(b)(2), T.C., and pay DPS a \$10 fee.</p> <p>For Alcoholic Beverage Code Offenses and the offense of Public Intoxication (Sec. 49.02(e), P.C., defendant under the age of 21), court must require an alcohol awareness course. Sec. 106.115(a), A.B.C.</p> <p>For Alcoholic Beverage Code offenses, except DUL, and the offense of Public Intoxication (Sec. 49.02(e), P.C., defendant under the age of 21), court must require community service. Sec. 106.071(d), A.B.C.</p> <p>1st offense: eight to 12 hours. 2nd offense: 20 to 40 hours.</p>
Satisfactory Completion	<p>Judge shall remove the judgment and dismiss the case; the dismissal must be noted in the docket. Court reports the completion date of the course after the court dismisses the case.</p>	<p>Judge shall dismiss and note in docket that complaint is dismissed. (Only report to DPS the order of deferred for Alcoholic Beverage Code offenses.)</p>
Failure to Complete	<p>If defendant fails to furnish the evidence of course completion, a copy of his or her driving record as maintained by DPS that shows that he or she had not taken DSC or MOC within the 12 months preceding the date of offense, and the affidavit, the court shall set a show cause hearing and notify the person by mail. At the hearing the judge may, on a showing of good cause, allow the defendant time to present the uniform certificate of course completion. If the court does not grant more time, the court shall enter a final judgment ordering the defendant to pay the fine.</p> <p>If a defendant fails to appear at the show cause hearing, the court may, after signing a final judgment, issue a <i>caapias</i> pro fine.</p>	<p>If defendant fails to comply with terms of the deferral, the court shall set a show cause hearing and notify the person by mail to the address on file. At the hearing the judge may, on a showing of good cause, allow an additional period during which the defendant may present evidence of compliance with requirements. If at the show cause hearing or by the conclusion of the additional period the defendant does not present satisfactory evidence of compliance, the judge may enter judgment and impose the fine. The judge may reduce fine previously assessed if the defendant is at least 25 years of age or older and not charged with a traffic offense. If the offense is a traffic offense, the court must report the traffic conviction to DPS.</p> <p>If a defendant fails to appear at the show cause hearing, the court may, after signing a final judgment, issue a <i>caapias</i> pro fine.</p>
Appeal	<p>The entering of the final judgment triggers the requirements for making a timely appeal (Arts. 45.042-45.043, C.C.P.).</p>	<p>The entering of the final judgment triggers the requirements for making a timely appeal (Arts. 45.042-45.043, C.C.P.).</p>