

SPECIAL PROCESSES & PROCEDURES

DRIVING PRIVILEGES

CONTACT:

Melinda (Mindy) Pickett

melinda.pickett@courts.in.gov

NOTICE TO THE PUBLIC

This information is written to assist trial courts and circuit clerks. Please do not contact our office with questions because Indiana Supreme Court policies do not permit our office to provide legal advice to the public. We recommend that any person with questions about their case seek the advice of a licensed attorney. The Indiana Coalition for Court Access (<https://indianalegalhelp.org/>) can assist in finding low-cost legal help. Additionally, the Indiana Coalition for Court Access (<https://indianalegalhelp.org/what-if-i-dont-qualify/>) and Bar Associations provide options if you do not qualify for low-cost legal aid.

All requests for specialized driving privileges are controlled by Ind. Code. 9-30-16.

Specialized Driving Privileges Highlights:

Sentencing:

- I.C. 9-30-16 allows a court that sentences a person for an offense involving use of a motor vehicle to suspend the person's driving privileges for a period up to the maximum allowable period of incarceration for the offense and the period of suspension can begin prior to the conviction. See I.C. 9-30-16-1(c) and (d).
 - If the motor vehicle offense caused serious bodily injury to another person, the suspension period must be at least one (1) year long. See I.C. 9-30-16-2(a).
 - If the offense under I.C. 9-30-5 includes an element of causing or resulting in serious bodily, the suspension period must be at least one (1) year long. See I.C. 9-30-16-2(a).
 - If the offense under I.C. 9-30-5 and the person has a prior conviction for an offense under I.C. 9-30-5, the suspension period must be at least one (1) year long. See I.C. 9-30-16-2(a).

- Defendants suspended under I.C. 9-30-16-2(a) are eligible for specialized driving privileges. See I.C. 9-30-16-2(b).
- If the offense caused the death of another person (including I.C. 9-30-5 offenses resulting in death), not only is the defendant not entitled to issuance of a specialized driving privilege, but the period of the suspension of their driving privileges cannot be less than a period of two (2) years. See I.C. 9-30-16-2(c).
- When multiple convictions and suspensions arise from the same episode of criminal conduct, the suspensions are served concurrently. See I.C. 9-30-16-1(d).
- A court may grant credit time for suspension that began before conviction, except as prohibited by I.C. 9-30-16-6(a)(2). See I.C. 9-30-16-1(d) and I.C. 9-30-16-6.
- A term in an accepted plea agreement or if the court finds at sentencing it is in the best interest of society, the court shall terminate all or any part of the remaining suspension under I.C. 9-30-6-9(b) and the court shall enter this finding in the sentencing order. See I.C. 9-30-16-6(b).
- I.C. 1-1-5.5-22 provides that the penalties for crimes committed prior to Jan. 1, 2015 are not impacted by HEA 1279-2014. For offenses committed prior to Jan. 1, 2015, courts will impose the penalties in effect at the time of the offense. Someone sentenced under the pre- January 2015 provisions may still petition the court for specialized driving privileges if eligible under I.C. 9-30-16.
- The court and the bureau shall terminate all or any part of the remaining suspension of a person's license under I.C. 9-30-16-1(c) or under I.C. 9-30-6-9 if the charges are dismissed, if the person is acquitted, or the conviction is vacated or reversed on appeal. See: I.C. 9-30-16-6.5.

Specialized Driving Privileges:

- Specialized driving privileges are **not available** to certain people if they/their:
 - have never been an Indiana resident,
 - refused to submit to a chemical tested offered under I.C. 9-30-6 or I.C. 9-30-7 (court may grant this person driving privileges under I.C. 9-30-6-8(d)),
 - sentence resulted from operation of a motor vehicle causing death,

- have previously been granted specialized driving privileges and have more than one (1) conviction for knowingly or intentionally violating a condition imposed regarding issuance of a specialized driving privilege when the condition arose from a motor vehicle offense involving serious bodily injury or death of another person,
- who were suspended or revoked by the Bureau of Motor Vehicles as incompetent or unfit to operate a motor vehicle under I.C. 9-24-10-7(b)(2)(A), or
- who were suspended under I.C. 9-21-8-52(e) or I.C. 9-21-12-1(b) concerning passing a school bus.

See I.C. 9-30-16-1(a), 2(c) and 3(e).

- A court may allow certain persons convicted of an offense involving a motor vehicle to receive a stay of suspension of their driving privileges through issuance of an order granting them a “specialized driving privilege”.

See I.C. 9-30-16-3.

- If a court grants a specialized driving privilege, its term is the period as determined by the court and the court may set periodic review hearings.

See I.C. 9-30-16-3(c).

- For offense under I.C. 9-21-5-11(f), specialized driving privileges shall be granted for a period as determined by the court and the court may set periodic review hearings. See I.C. 9-30-16-3.5.

- A person whose driving privileges have been suspended by the Bureau of Motor Vehicles may petition a court for the issuance of an order for a specialized driving privilege. See I.C. 9-30-16-4.

- If a person is petitioning a court for issuance of specialized driving privileges because of a suspension entered by the Bureau of Motor Vehicles, the petition must:

- be verified by the petitioner,
- state the petitioner's age, date of birth, and address,

- state the grounds for relief and the relief sought,
 - be filed in the county in which the petitioner resides, or, for
 - non-Indiana residents, in the county of the most recent moving violation judgment,
 - be filed in a circuit or superior court, and
 - be served on the bureau and the prosecuting attorney. See I.C. 9-30-16-4(b).
- If an ignition interlock device is installed as a condition of a specialized driving privilege, the period of the installation is credited as part of the suspension. See I.C. 9-30-16-1(e).
- If an order for issuance of a specialized driving privilege is granted, a person must:
 - maintain proof of future financial responsibility insurance during the period of specialized driving privileges,
 - carry a copy of the order granting specialized driving privileges or have the order in the vehicle being operated by the person,
 - produce the copy of the order granting specialized driving privileges upon the request of a police officer, and
 - carry a validly issued state identification card or driver's license. See I.C. 9-30-16-3(f); I.C. 9-30-16-3.5(d).
- If a person holds a commercial driver's license and has been granted specialized driving privileges, the person may not, for the duration of the suspension for which specialized driving privileges are sought, operate any vehicle that requires the person to hold a commercial driver's license to operate the vehicle. See I.C. 9-30-16-3(g); I.C. 9-30-16-3.5(e).
- The court may, as a condition of the specialized driving privileges, lift the suspension of the person's motor vehicle registration that was imposed in conjunction with the suspension of the person's driving privileges.

See I.C. 9-30-16-4.5.

- If a person knowingly or intentionally violates a condition imposed by a court regarding issuance of a specialized driving privilege under I.C. 9-30-16-5, the court that issued the specialized driving privilege order may:
 - modify or revoke specialized driving privileges or
 - order the bureau to lift the stay of a suspension of driving privileges and suspend the person's driving license as originally ordered. See I.C. 30-16-5.

Additional guidance for trial courts and clerks handling petitions for specialized driving privileges (those above provisions highlighted in yellow):

- For requests filed under I.C. 9-30-16-3 or I.C. 9-30-16-3.5 concerning court ordered suspensions:
 - Petitions are filed within the existing case.
 - If the petitioner has multiple court issued suspensions from various courts, the petitioner will file separate petitions in each of those cases.
- For requests filed under I.C. 9-30-16-4 concerning BMV administrative suspensions:
 - A petition is filed in the circuit or superior court in the person's county of residence.
 - The case is opened as an MI case type.
 - Civil filing fees are assessed.
 - The cause is captioned as: *Petitioner vs. State of Indiana*.
 - These petitions are served on both the county prosecuting attorney and the Bureau of Motor Vehicles. Service to the Bureau of Motor Vehicles for these petitions is sent by mail and directed to:

BMV Records Management Division
 100 N. Senate Ave. IGCN RM N413
 Indianapolis, IN 46204

- If a petitioner has court issued suspension and BMV administrative suspension, the petitioner could file one petition covering both types in the existing court case if the court issued suspension is in the circuit or superior court in the petitioner's home county. Notice is also provided to the local prosecutor and the BMV since the petition includes administrative suspension.

- In communicating information to the BMV regarding specialized driving privileges I.C. 9-30-16-3 or I.C. 9-30-16-3.5 specialize driving privilege information, court staff submit the SR 16 form including the suspension information. This procedure will allow the BMV to add the suspension to the driver record and show it as “conditional” so that others reviewing the driver record will have accurate information. Sample orders are provided in the Traffic Misdemeanor Small Claims Benchbook available in the Benchbook application in INcite and in Odyssey.
- These templates include a range of conditions that associated with granting these privileges and the demographic information needed by the BMV to process these orders.