

THE NORTH CAROLINA DWI JOURNEY

Drinking and Driving

After having consumed alcohol or an impairing substance, a person decides to drive their vehicle.

Stopped by Police

For some reason the driver attracts the attention of the police. Police will stop a motorist only if they have probable cause and suspect the driver is impaired. The police will give on-the-spot field sobriety tests (example: heel to toe) to determine if the driver is impaired.

Breath Test

If the field sobriety tests show evidence of impairment, the subject is arrested, the auto secured, and the police will take the driver to the local police station for a breathtest.

Blood Alcohol Content (BAC) Less than 0.08%

A driver less than 21 will be charged with consuming alcohol if they have any amount of alcohol or a controlled substance in their body.

0.08% or Greater Blood Alcohol Content (BAC)

For drivers 21 or over, the per se BAC for being charged with DWI is 0.08%. However, it is not unusual that drivers with BAC less than 0.08% be charged with DWI; particular if they show signs of physical impairment.

Court

After being charged with DWI, the defendant is given a court date that his case will be tried in the local court.

Upon presentation of evidence by the arresting officer, the DA (defense attorney) and the defendant; the judge may determine the defendant to be not guilty.

If the defendant is found guilty, the level of sanction imposed will be based on sentencing factors (grossly aggravation, aggravating, and mitigating factors) and the defendant's driving history.

Judges are also required to mandate a substance abuse assessment and compliance with the recommended education (ADETS) or treatment as a condition of probation.

There are five sentencing levels. Level I (most severe punishment), Level II, Level III, Level IV, and Level V (least severe punishment).

Upon being convicted of DWI, the defendant's driver's license is revoked by North Carolina DMV. (See G.S. 20-179)

Number of convictions = length of revocation

1 DWI = 1 year

2 DWIs = 4 years
(may have a hearing after 2 years)

3 DWIs = permanent revocation
(may have a hearing after 3 years)

Substance Abuse Assessment

A substance abuse assessment requires a \$100.00 fee. It is composed of a standardized instrument and a face to face clinical interview.

For a defendant to have his drivers license reinstated, he must do two things:

1. complete a substance abuse assessment, by a DWI provider with the Substance Abuse Services section of the Department of Health and Human Services. A provider in your area can be located by going to the NC DWI Services website's "Locate DWI Services" link or by inquiring at your area mental health center.
The substance abuse assessment serves to determine if the person has a substance abuse handicap and to ascertain the degree of the handicap. The assessing agency will make a recommendation of treatment or ADETS based on the degree of the handicap,
2. complete the recommendation of Treatment/ADETS made by the substance abuse assessor.

OR

Fails to Comply

The driver's license remains revoked. This person is subject to arrest for Driving While License Revoked (DWLR).

No Handicap

If the person is determined not to have a handicap they must be recommended to the educational intervention Alcohol and Drug Education Traffic School (ADETS).

ADETS

The three criteria by which a person may be recommended for ADETS are:

1. The results of the substance abuse assessment shows that the person does not have a substance abuse handicap,
2. The person has never, in his life, had another DWI conviction anywhere,
3. The person's BAC was 0.14% or less.
4. The person did not refuse to submit to a chemical test.

Handicap

Those clients who do not meet the criteria for ADETS must be referred to an intervention of treatment.

Treatment

There are four progressive levels of treatment, determined by the degree of handicap the person is found to have:

1. **Short Term:** a minimum of 20 hours of treatment that must last over a period of at least 30 days.
2. **Longer Term:** a minimum of 40 hours of treatment that must last over a period of at least 60 days,
3. **Day Treatment/Intensive Outpatient Treatment:** which must last for a minimum of 90 hours for a minimum of 90 days,
4. **Inpatient Treatment:** composed of both an inpatient stay coupled with a Continuing Care program, both of which must last for a period of at least 90 days.

Complete Assessor's Recommendations

The client is expected to complete the Treatment/ADETS recommendations, including the payment of all fees to the provider.

Case Manager Generates e508 Form

(North Carolina Department of Human Resources DWI Certificate of Completion)

The completed e508 form is the only documentation which serves to verify the client has completed all the requirements of the DWI conviction and is then eligible to have the stop removed from his DMV record for this particular DWI conviction.

E508 Sent to DWI Services Office

The provider sends the completed e508 form electronically to the DWI Services office of the Department of Health and Human Services. In the DWI Services office, it is reviewed for correctness and then electronically sent to North Carolina Division of Motor Vehicles (DMV).

Division of Motor Vehicles Lifts the Substance Abuse Services "Stop" From the Client's License

The e508 form is the only documentation that North Carolina DMV will accept as evidence of completion of requirements stemming from a DWI conviction. DMV will post this completion to the driving record to remove the stop from the driving record for this particular DWI conviction. All questions regarding the tracking of the e508 form, and questions of Treatment/ADETS requirements, should be directed to the local provider of these services.

If a client has questions about his/her drivers license, they should contact a North Carolina DMV hearing officer at (919) 733-4241