

The background of the slide is a photograph of a grand, classical-style building, likely a government or institutional structure. It features a series of tall, fluted columns supporting a heavy entablature. The building is constructed from light-colored stone or concrete. The image is slightly faded and serves as a backdrop for the text.

# **THE ADMINISTRATIVE HEARING PROCESS**

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WAYNE GARDNER, or  
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LEGAL ADVISORS  
ILLINOIS SECRETARY OF STATE

# Purpose

To give you a basic understanding of the hearing process (how it works and why it is structured the way it is)

# Objective

To facilitate and expedite  
the evaluation process





# The Administrative Hearing Process

## ***Definitions:***

Revocation (of driving privileges)

Permanent loss of driving privileges

Suspension (of driving privileges)

Temporary loss of driving privileges

# The Administrative Hearing Process

## ***Definitions (implied consent)***

### Summary Suspension (of driving privileges)

Temporary loss of driving privileges after refusal to take chemical test and failure of chemical test with arrest for DUI

# **The Administrative Hearing Process**

## **Summary Suspension First Offender Driving Privileges Suspended For:**

- Six months for taking and failing chemical test;
- Twelve months for refusing to take chemical test.
- Immediately eligible for Monitoring Device Driving Permit (MDDP) program without SOS hearing.

**P. A. 99-467, eff. 1 January 2016**



# **The Administrative Hearing Process**

## **Summary Suspension Second Offender Driving Privileges Suspended For:**

- Twelve months for failing chemical test;
- Thirty six months for refusing chemical test
- Not eligible for MDDP. Must apply for Restricted Driving Permit at SOS hearing.

**P. A. 99-467, eff. 1 January 2016 and P.A. 99-290**

# The Administrative Hearing Process

## ***Definitions (implied consent)***

### Summary Revocation (of driving privileges)

Permanent loss of driving privileges following an arrest for DUI involving a motor vehicle accident that caused personal injury or death to another, and a refusal to take chemical test.

(Public Act 96-1344, eff. 7-1-11.)



# The Administrative Hearing Process

## ***Definitions (Criminal Outcomes)***

### Court Supervision

Finding of guilt or plea of guilty by court.

Offender must maintain clean record for one year.

Violation of supervision results in conviction.

Supervision never appears on criminal record, only on SOS driving record for life.

# The Administrative Hearing Process

## Conviction

Finding of guilt or plea of guilty by court.

Judgment of guilt entered upon permanent criminal record and SOS driving record for life.

SOS enters revocation of driving privileges only for convictions (not for supervisions).

# Following the DUI arrest:

## Implied Consent Process

Summary Suspension or  
Revocation:

(Sworn Report and  
Warnings to Motorist)

- Civil Proceeding which impacts driving privileges

## Criminal Process

DUI arrest:

(Uniform Traffic  
Ticket)

- Criminal Proceeding which impacts personal liberty



# Summary Suspension Process

## *First Offender*

- First Offender defined as any DUI arrest more than five years from previous DUI arrest.
- Offender follows *implied consent* track which is a Civil Process with Formal Courtroom Rights only affecting driving privileges.
- Offender must request an *implied consent* hearing to contest statutory requirements.
- Offender carries initial burden of proving by preponderance of evidence that the suspension should be rescinded.

# Summary Suspension Process

## *First Offender*

- Court *rescinds* summary suspension OR
- Court *upholds* summary suspension
- SOS then offers the offender to participate in the MDDP program.
- Offender can then accept invitation from SOS to participate in the Monitoring Device Driving Permit (MDDP) program without a SOS hearing.



# **Summary Suspension Process**

## ***First Offender***

- BAIID Dept issues MDDP and monitors same.
- Required to install a BAIID on the vehicle they will drive during the period of suspension
- No rehabilitative measures required prior to the issuance of the MDDP.
- Summary suspension terminates automatically after paying fee which can be extended due to MDDP violations or traffic convictions



# Summary Suspension/Revocation Process for *Multiple Offender*

- Multiple Offender defined as any DUI arrest **less than** five years from previous DUI arrest.
- Offender follows *implied consent* track which is a Civil Process with Formal Courtroom Rights only affecting driving privileges.
- Offender must request an *implied consent* hearing to contest statutory requirements.
- Offender carries initial burden of proving by preponderance of evidence that the suspension should be rescinded.

# Summary Suspension/Revocation: Process for *Multiple Offender*

- Court *rescinds* summary suspension OR
- Court *upholds* summary suspension
- Offender has to petition for a formal hearing for a Restricted Driving Permit (RDP) via SOS.
- Evaluation and rehabilitative measures are required to be issued RDP.
- Administrative Hearing Dept. grants RDP.



# Summary Suspension/Revocation: Process for *Multiple Offender*

- Required to install and drive with an interlock on the vehicle they will drive during the period of suspension.
- BAIID Dept issues RDP and monitors same.
- Summary suspension terminates automatically after paying fee which can be extended due to RDP violations or traffic convictions.



# THE CRIMINAL PROCESS

## *(first/multiple offenders)*

- Arraignment
- Pre-Trial Conference
- Plea or Trial
- Guilty or Not Guilty
- Evaluation
- Sentencing
  - Court Supervision (end of story)
  - Conviction (Driving privileges revoked for period of years)
  - Fourth conviction (lifetime revocation)

# The Criminal Process has Formal Courtroom Rights

- Right to Counsel (will be provided public defender if cannot afford).
- Presumption of innocence until proven guilty by the state's attorney beyond a reasonable doubt.
- Offender can be fined and/or jailed.
- In addition, the offender's driving privileges will be revoked following conviction.
- Length of eligibility for reinstatement of driving privileges depends on severity of offense.



The background of the slide is a photograph of a grand, classical building with a series of tall, fluted columns. The building appears to be made of light-colored stone or marble. The image is slightly faded and serves as a backdrop for the text.

# **The Ultimate Objective of the Hearing Process**

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*Quantify the Risk  
to Public Safety*



# Issues at the Hearing

The background of the slide features a faded, sepia-toned image of a grand classical building. It has multiple stories with a series of tall, fluted columns supporting a heavy entablature. The building appears to be a government or institutional structure, possibly a courthouse or a university building, given the formal nature of the text on the slide.

- What is nature and extent of the problem?
- Is the problem resolved?
- Is petitioner a safe and responsible driver?
- What are the hardships, if applicable?

# Results of the Hearing

A faded, sepia-toned background image of a classical building with prominent columns, likely a government or judicial structure, is visible behind the text.

The objective is to apply the law to the facts.

And finally, a decision is mailed to the petitioner.

# The Administrative Hearing Process

*Petitioner's are convicted of:*

- **DUI. and/or**
- **Leaving Scene of Injury or Fatal Collision, and/or**
- **Reckless Homicide, and/or**
- **Aggravated DUI.**





# Vehicle Code Mandates



Eligibility date for reinstatement of driving privileges for DUI revocation depends on the life-time number of convictions:

- One year/First Conviction
- Five years/Second Conviction
- Ten years/Third Conviction
- Lifetime revocation/Fourth conviction

# Further Mandates

- First conviction DUI offenders are required to drive on a permit for at least 75% of one year with an interlock. They must demonstrate and undue hardship until eligible for reinstatement.
- Second or Third conviction DUI offenders, are required to drive on a permit with an interlock for 5 years (all registered vehicles must have BAID installed). They must demonstrate and undue hardship until eligible for reinstatement.



# Further Mandates

- Fourth conviction DUI offenders are revoked for life and may only apply for a hardship permit after 5 years of hard time, measured from later of date of revocation or date of release from incarceration;
- They must also demonstrate that they have 3 years of abstinence.
- They must install and drive with an interlock forever on any vehicle they drive.



# Further Mandates



## Other Convictions include:

- Conviction for leaving the scene of a fatal or personal injury collision, results in minimum three (3) year revocation. Sec. 6-208(b)1 of the IVC.
- P.A. 90-543, eff. 1 Dec. 1997

# Further Mandates

- Conviction for reckless homicide or aggravated .  
DUI resulting from the operation of a motor  
vehicle results in minimum two (2) year  
revocation. If the offender is sentenced to prison,  
then he/she is not eligible for any driving relief  
for two (2) years from the date of release from  
imprisonment. Sec. 6-208(b)1 of the IVC.

P.A. 90-543, eff. 1 Dec. 2001, and P.A. 92-343, eff. 1 Jan. 2002

# Beginning the Hearing Process

**First.....start with the consultation.**

**The *informal* hearing officer:**

- ✓ Uses a Checklist
- ✓ Provides the driving record
- ✓ Provides orientation to SOS requirements



# Informal Hearings

## *First Offenders*

- Petitioner can have an *informal hearing* at local driver's license facility OR start with a *formal hearing*
- Appointment is not required
- Make sure hearing officer is present on day the petitioner walks in

# **Informal Hearings**

## ***First Offenders***

- Petitioner carries burden of proof (clear and convincing evidence).
- Petitioner has right to counsel, but not provided.
- Must submit evaluation and proof of countermeasures.

# Informal Hearing

## *First Offenders*

- Petitioner will have interview with hearing officer.
- File will then be reviewed.
- If denied, can try again in 30 days or request *formal* hearing.



# Conclusion of Informal Hearing Process

## Administrative requirements if granted relief:

- Financial responsibility insurance  
(high risk/SR22)
- Written and driving tests
- Assessed fees

# **Formal Hearing**

## ***First and Multiple Offenders***

- Must request a formal hearing in writing with a \$50 filing fee.
- Petitioner carries burden of proof  
“Clear and Convincing” evidence.
- Has right to counsel but not provided.

# **Formal Hearing**

## ***First and Multiple Offenders***

- Needs evaluation and proof of counter measures
- Problem Driver Pointer System (PDPS) provides out-of-state conviction history.
- Formal courtroom proceedings including oaths and cross exam.



# **What Happens Next?**

**The Hearing Officer submits a recommendation including:**

**Findings of Fact and**

**Conclusions of Law,**

**which is reviewed and then an order is entered granting or deny driving relief.**

# Conclusion of the Formal Hearing Process

## Administrative requirements if granted relief:

- Fees
- Insurance
- Written and driving tests
- BAIID (interlock device) monitoring.
- If denied; reapply in three months or appeal SOS decision to the circuit court of Cook, Sangamon or Jefferson County (transcript provided by SOS).



# **The Administrative Hearing Process**

*Kevin Ryan, Formal Hearing Officer  
Illinois Secretary of State, Department  
of Administrative Hearings*



# **Service Provider Role In Hearing Process**

Provide a clinically objective report that specifically addresses an individual client's relationship to alcohol or other drugs.

Do not advocate for driving relief

# Hearing Officer Role in Hearing Process

Consider all available information and determine whether an individual petitioner represents an acceptable risk to be granted driving relief.

The primary responsibility is public safety and welfare.

# 5 Decision Making Factors

- #1:** Have the minimum requirements been fulfilled?
- #2:** Are there deficiencies in the submitted documentation?
- #3:** How did the petitioner present themselves at the hearing?
- #4:** What is the petitioner's overall driving record?
- # 5:** What type of driving relief is the petitioner eligible for?



# Decision Making Factors



## Factor #1

**Have Minimum Requirements been fulfilled?**

# Factor # 1

## Minimum Requirements

- ✓ Current alcohol and drug evaluation no older than 6 months at time of hearing. (Remember the Alcohol/Drug Evaluation Uniform Report must include a recitation of the petitioner's alcohol/drug use history, from first use to present use.)
- ✓ Documentation of compliance with recommendations corresponding to classification level.

# MINIMAL RISK

- ✓ Alcohol/Drug Evaluation Uniform Report properly signed and dated within six months of the date of hearing and a current Update Evaluation when appropriate.
- ✓ Document completion of Driver Risk Education with a post-test score of 75% or greater.



# MODERATE RISK

- ✓ Alcohol/Drug Evaluation Uniform Report properly signed and dated within six months of the date of hearing and a **current Update Evaluation when appropriate.**
- ✓ Document completion of Driver Risk Education with a post-test score of 75% or greater.
- ✓ Document completion of a minimum of 12 hours of Early Intervention or provide a clinical rationale for non-completion of such program.

# **Early Intervention Documentation**

- ✓ Summary report on letterhead stationary regarding intervention provided and its outcome.
- ✓ Specific issues that were explored/addressed relating to the individual petitioner's use of alcohol/drugs.
- ✓ Provider's perception of what individual petitioner gained and his/her ability to avoid development of future alcohol/drug problems.



# Significant Risk

- ✓ Alcohol/Drug Evaluation Uniform Report properly signed and dated within six months of the date of hearing and a **current Update Evaluation when appropriate.**
- ✓ Document completion of Driver Risk Education with a post-test score of 75% or greater.
- ✓ Document completion of a minimum of twenty hours of treatment.
- ✓ Provide clinical rationale for any modification in required minimum recommendation (increase or decrease) and/or Treatment Needs Assessment and Waiver when appropriate.



# **Treatment Documentation**

- ✓ **Secretary Of State Treatment Verification form with required attachments:**
  - Individualized treatment plan
  - Discharge summary
  - Continuing care plan or clinical rationale for determining continuing care not necessary
  - **Continuing Care Status Report**

# **Criteria for Continuing Care Status Report Documentation**

- ✓ Summary report on letterhead stationary.
- ✓ If ongoing, level of progress in completing follow-up activities detailed in plan.
- ✓ If completed, summary report discussing progress throughout course of completing follow-up activities detailed in plan.

# High Risk (Non-Dependent)

- ✓ Alcohol/Drug Evaluation Uniform Report properly signed and dated within six months of the date of hearing and a **current Update Evaluation when appropriate.**
- ✓ Document completion of a minimum of seventy-five hours of treatment.
- ✓ Provide clinical rationale for any modification in required minimum recommendation (increase or decrease), and/or a Treatment Needs Assessment and Waiver when appropriate.



# High Risk (Non-Dependent) Requirements continued...

- ✓ Provision of a clinical explanation for why dependency was ruled out.
- ✓ Minimum of 3 written statements from people who see petitioner on regular and frequent basis.

# **High Risk (Non-Dependent) Requirements** continued...

- ✓ Document either total abstinence or continued use in a non-problematic manner for at least 12 consecutive months to be considered for full reinstatement.
- ✓ May be reduced to at least 6 months when considering RDP.

# High Risk (Dependent)

- ✓ Alcohol/Drug Evaluation Uniform Report properly signed and dated within six months of the date of hearing and a **current Update Evaluation when appropriate.**
- ✓ Document completion of a minimum of seventy-five hours of treatment.
- ✓ Provide clinical rationale for any modification in required minimum recommendation.



# High Risk (Dependent) Requirements continued...

- ✓ Document total abstinence for at least 12 consecutive months to be considered for full reinstatement.
- ✓ May be reduced to at least 6 months when considering RDP.
- ✓ Minimum of 3 written statements from people who see petitioner on regular and frequent basis.

# High Risk (Dependent) Requirements (continued)

- ✓ Document involvement in a support/recovery program.
- ✓ Minimum of 3 written statements from fellow members/participants in the program.
- ✓ If petitioner's support is non-traditional, petitioner must also identify what the program is and explain how it works and keeps him/her abstinent.

# Decision Making Factors



## Factor #2

**Are there deficiencies in the documentation submitted?**



## **Factor #2**

# **Primary Problem is Inconsistency**

- ✓ Inconsistency within documents
- ✓ Inconsistency between documents
- ✓ Inconsistency between petitioner's testimony and documents
- ✓ Inconsistency between petitioner's testimony and witness testimony

# Decision Making Factors

## Factor #3

How did the petitioner present himself/herself at hearing?



# **Factor #3**

## **Petitioner and Presentation at Hearing**

- ✓ Understanding and acceptance
- ✓ Credibility
- ✓ Demeanor



# **Decision Making Factors**

## **Factor # 4**

**What is the petitioner's overall driving record?**



## **Factor # 4**

# **Overall Driving Record**

- ✓ Consider all offenses, not just alcohol/drug-related driving offenses.
- ✓ Has petitioner demonstrated an inability to utilize driving privileges in a responsible manner?

# **Decision Making Factors**

## **Factor # 5**

**What type of driving relief is the petitioner eligible for?**



# Factor # 5

## Eligibility

- ✓ Reinstatement (if applicable)
- ✓ Restricted Driving Permit  
(employment, educational, support, medical, etc.)
- ✓ Hardship (if applicable)

# Other Notes...

... PDPS

...all alcohol/drug related offenses

...6-303

...BAIID, BMO, LIFETIME

...RDP length