

CHAPTER 5 DRIVING SAFETY COURSES (DSC)

1. Eligibility for Mandatory DSC

Checklist 5-1	Script/Notes
<p><input type="checkbox"/> 1. To be entitled to mandatory DSC (where the court must grant DSC according to limited terms), the defendant must meet a four-point test. The elements of that test are:</p> <p><input type="checkbox"/> a. The defendant must elect DSC;</p> <p><input type="checkbox"/> b. The election must be timely;</p> <p><input type="checkbox"/> c. The defendant must be charged with a qualified offense; and</p> <p><input type="checkbox"/> d. The defendant must be qualified.</p> <p><input type="checkbox"/> 2. The defendant must elect to take DSC. No special form or language appears to be necessary. That election should be coupled with a plea of guilty or nolo contendere. The defendant may make that election:</p> <p><input type="checkbox"/> a. In person;</p> <p><input type="checkbox"/> b. By attorney; or</p> <p><input type="checkbox"/> c. By certified mail.</p> <p><input type="checkbox"/> 3. Determine whether defendant has made the election and plea in Step 2 by the answer date on the citation.</p> <p><input type="checkbox"/> a. Amount of time increased by the “Mailbox Rule.”</p>	<p>The defendant must plead guilty or nolo contendere before the court orders the defendant to take DSC under Article 45.0511/45A.351, C.C.P.</p> <p>See Step 2 below.</p> <p>See Step 3 below.</p> <p>See Steps 4 and 5 below.</p> <p>See Step 6 below.</p> <p>Art. 45.0511(b)(1) and (3)/45A.352(a)(1) and (4), C.C.P. A defendant under the age of 17 must appear and enter a plea in open court. Art. 45.0215/45A.452, C.C.P.</p> <p>Art. 45.0511(b)(3)/45A.352(a)(4), C.C.P.</p> <p>Art. 45.013/45A.054, C.C.P. If the request for a DSC is mailed first class on or before the appearance date on the citation and received by the clerk not later than 10 business days after the due date for appearance, the request is timely filed. Make sure the clerk keeps the envelope with the postmark. “Day” does not include Saturday, Sunday, or legal holidays.</p>

<p><input type="checkbox"/> b. If the defendant has not pled and elected to take a DSC by the answer date on citation, determine that the defendant was advised of his or her right to take a driving safety course.</p>	<p>Art. 45.0511(p) and (q)/45A.353 and 45A.354, C.C.P. Printing notice of DSC eligibility on the defendant's copy of the citation should satisfy this requirement.</p>
<p><input type="checkbox"/> c. If the defendant was not advised of his or her right to a DSC, advise the defendant now and allow the defendant to enter a plea of guilty or no contest and request a DSC as if it had been timely made.</p>	<p>Art 45.0511(r)/45A.354(b), C.C.P.</p>
<p><input type="checkbox"/> 4. A defendant age 25 or older may elect DSC for an alleged offense that</p> <p><input type="checkbox"/> a. Is within the jurisdiction of the municipal or justice court;</p> <p><input type="checkbox"/> b. Involves the operation of a motor vehicle; and</p> <p><input type="checkbox"/> c. Is defined by:</p> <p><input type="checkbox"/> (1) Section 472.022, T.C. (Obeying Warning Signs);</p> <p><input type="checkbox"/> (2) Subtitle C, Title 7, T.C. (Rules of the Road); or</p> <p><input type="checkbox"/> (3) Section 729.001(a)(3), T.C. (Operation of Motor Vehicle by Minor).</p>	<p>Art. 45.0511(a)/45A.351(a), C.C.P.</p>
<p><input type="checkbox"/> 5. A defendant under the age of 25 may elect DSC for an alleged offense that:</p> <p><input type="checkbox"/> a. Is within the jurisdiction of the municipal or justice court;</p> <p><input type="checkbox"/> b. Involves the operation of a motor vehicle; and</p> <p><input type="checkbox"/> c. Is classified as a moving violation.</p>	<p>Art. 45.0511(a-1)/45A.351(b), C.C.P.</p>
<p><input type="checkbox"/> 6. Article 45.0511/45A.351 does not apply to a person who holds a commercial driver's license or held a commercial driver's license when the offense was committed.</p>	<p>Art. 45.0511(s)/45A.351(c), C.C.P.</p>

<input type="checkbox"/> 7.	DSC is not available for certain excepted offenses:	
<input type="checkbox"/> a.	Speeding 95 mph or more;	Art. 45.0511(b)(5)(A)/45A.352(a)(5)(A), C.C.P.
<input type="checkbox"/> b.	Speeding 25 mph or more over the posted speed limit;	Art. 45.0511(b)(5)(B)/45A.352(a)(5)(B), C.C.P.
<input type="checkbox"/> c.	Fail to remain at collision scene;	Art. 45.0511(p)(1)/45A.353(1), C.C.P.
<input type="checkbox"/> d.	Duty to give information and aid;	Art. 45.0511(p)(1)/45A.353(1), C.C.P.
<input type="checkbox"/> e.	Overtaking and passing a school bus;	Art. 45.0511(p)(1)/45A.353(1) C.C.P.
<input type="checkbox"/> f.	Offenses committed in a construction or maintenance work zone while workers are present, except:	Art. 45.0511(p)(3)/45A.353(3), C.C.P.
<input type="checkbox"/> (1)	Inspection Offenses;	Sec. 542.404(a), T.C.
<input type="checkbox"/> (2)	Pedestrian Offenses; and	Sec. 542.404(a), T.C.
<input type="checkbox"/> (3)	Safety Belt and Child Safety Seat Offenses.	Sec. 542.404(a), T.C.
<input type="checkbox"/> g.	Serious traffic violations defined in Section 522.003(25), T.C. Serious traffic violations are convictions committed while operating a commercial motor vehicle for:	Art. 45.0511(p)(2)/45A.353(2), C.C.P.
<input type="checkbox"/> (1)	Excessive speeding 15 mph or more over the posted speed limit;	Sec. 522.003(25)(A)(i), T.C.
<input type="checkbox"/> (2)	Reckless driving (Class B misdemeanor);	Sec. 522.003(25)(A)(ii), T.C.
<input type="checkbox"/> (3)	Violations of state and local traffic laws other than parking, weight, or vehicle defect violations, arising in connection with a fatal accident;	Sec. 522.003(25)(A)(iii), T.C.
<input type="checkbox"/> (4)	Improper or erratic lane change;	Sec. 522.003(25)(A)(iv), T.C.
<input type="checkbox"/> (5)	Following too closely; or	Sec. 522.003(25)(A)(v), T.C.

<p><input type="checkbox"/> (6) Operating a commercial motor vehicle without a proper commercial driver's license or permit.</p>	<p>Sec. 522.003(25(A)(vi) and (B), T.C.</p>
<p><input type="checkbox"/> 8. The court may dismiss only one charge for each course.</p>	<p>Art. 45.0511(m)/45A.352(b), C.C.P.</p>
<p><input type="checkbox"/> 9. The defendant must be qualified for Mandatory DSC.</p> <p><input type="checkbox"/> a. The defendant must not have completed DSC under Article 45.0511/45A.351, C.C.P., in the 12 months preceding the offense.</p>	<p>Art. 45.0511(b)(2)/45A.352(a), C.C.P.</p> <p>A defendant without a Texas driver's license who is an active member or spouse or dependent child of an active member of the U.S. military must not have completed a DSC in the 12 months preceding the offense in any state. Art. 45.051(b)(2)(B)/45A.352(a)(3), C.C.P.</p>
<p><input type="checkbox"/> (1) The 12 month period begins with completion of the course.</p> <p><input type="checkbox"/> (2) The 12 month period ends on the date of the current citation.</p>	
<p><input type="checkbox"/> b. The defendant must produce evidence of financial responsibility under the Texas Motor Vehicle Responsibility Act. This is most commonly done by presenting a motor vehicle insurance card.</p>	<p>Art. 45.0511(b)(6)/45A.352(a)(6), C.C.P.; Ch. 601, T.C.</p>
<p><input type="checkbox"/> c. The defendant must produce a valid Texas driver's license or permit or be a member, spouse, or dependent child of a member of the U.S. military forces serving on active duty:</p>	<p>Art. 45.0511(b)(4)/45A.352(a)(2), C.C.P.</p>
<p><input type="checkbox"/> (1) Requiring a Texas driver's license or permit is likely to violate the "Full Faith and Credit" provision of the U.S. Constitution. This may be remedied by the court providing a similar relief to out-of-state drivers under Article 45.051/Subchapter G, Chapter 45A, C.C.P. (deferred disposition).</p>	<p>Art. IV, U.S. Constitution. See Checklist 8-2.</p>

☐ 10. Alternatives to Mandatory DSC:

☐ a. Discretionary DSC

Art. 45.0511(d)/45A.352(c), C.C.P.

☐ (1) If the defendant is not eligible for Mandatory DSC because they took a course in the 12 months preceding the citation or they failed to make a timely election, the court may still grant DSC.

☐ (2) If the court grants discretionary DSC, the procedures in Checklist 5-2 are followed, except:

☐ (3) The court may assess a fine not to exceed the maximum possible fine for the offense.

Although S.B. 346 (2019) changed the term “special expense fee” to “fine,” the administrative DSC fine in this article is separate from the punitive fine that could be assessed on conviction. Art. 45.0511(f)(2)/45A.358(a)(2), C.C.P.

☐ b. The court may consider deferred disposition under Article 45.051/45A.302, C.C.P., even if a defendant is not qualified for DSC under Article 45.0511/45A.351, C.C.P.

See Checklist 8-2. The defendant may not be granted deferred disposition for a traffic offense committed in a work zone while workers are present (Sec. 472.022, T.C.) or an offense involving motor vehicle control committed by the holder of a commercial driver’s license.

CHAPTER 5 DRIVING SAFETY COURSE (DSC)

2. Procedure for Granting DSC

Checklist 5-2	Script/Notes
<input type="checkbox"/> 1. When the court accepts the conditional plea of guilty and determines that the defendant is eligible, the court should enter judgment on the plea and defer imposition of judgment.	See <i>TMCEC 2024 Forms Book</i> : Judgment: Driving Safety Course Granted; and Request for a Driving Safety Course. Art. 45.0511(c)/45A.356(a), C.C.P.
<input type="checkbox"/> 2. Court must assess and collect all state and local court costs.	Art. 45.0511(f)/45A.358(a), C.C.P.; Sec. 133.101, L.G.C.
<input type="checkbox"/> 3. The court must impose the following conditions: <div> <input type="checkbox"/> a. Defer imposition of sentence for 90 days; <input type="checkbox"/> b. During the deferral period, require the defendant to successfully complete a driving safety course approved by the Texas Department of Licensing and Regulation or a course under the motorcycle operator training and safety program approved under Chapter 662, T.C. <input type="checkbox"/> c. During the deferral period, present the court with a uniform certificate of completion of the driving safety course or verification of completion of the motorcycle operator training course. <input type="checkbox"/> d. During the deferral period, present to the court the defendant's DPS driving record showing that the defendant had not completed an approved driving safety course or motorcycle operator training course in the 12 months preceding the date of the citation. </div>	Art. 45.0511(c)/45A.356(a), C.C.P. Note: An order of deferral terminates any liability under a bond given for the charge. Art. 45.051(a)/45A.302(e), C.C.P. Art. 45.0511(b)/45A.352(a), C.C.P. Art. 45.0511(c)(1)/45A.356(a)(1), C.C.P. Art. 45.0511(c)(2)/45A.356(a)(2), C.C.P.

<p>A judge, as an alternative to receiving the defendant's driving record, may, at the time the defendant requests a driving safety course or motorcycle operator training course, require the defendant to pay a reimbursement fee equal to the sum of the fee as established by Sec. 521.048, T.C., and the state electronic Internet portal fee for obtaining the defendant's driving record by using the state electronic Internet portal, and require DPS to provide by means of the state electronic Internet portal a copy of the defendant's driving record on request to the court "as soon as practicable." The custodian of a municipal or county treasury who receives reimbursement fees collected under this subsection is required to keep a record of the fees and, without deduction or prorating, forward the fees to the Comptroller of Public Accounts.</p>	<p>Art. 45.0511(c-1)/45A.359(b), C.C.P.</p>
<p><input type="checkbox"/> e. During the deferral period, present to the court an affidavit stating the defendant is not taking a course and did not take a course not reflected on the driving record.</p>	<p>See <i>TMCEC 2024 Forms Book: Affidavit for a Driving Safety Course</i>.</p>
<p><input type="checkbox"/> f. If the defendant did not have a valid Texas driver's license or permit and is a member, spouse, or dependent child of a member, of the U.S. military serving in active duty, the affidavit must state that the defendant was not taking a driving safety course or motorcycle operator course in another state on the date of request and had not completed one in the preceding 12 months from the current offense.</p>	<p>Art. 45.0511(c)(4)/45A.356(a)(4), C.C.P.</p>
<p><input type="checkbox"/> 4. The court may require the payment of a reimbursement fee in an amount of not more than \$10.</p>	<p>Art. 45.0511(f)(1)/45A.358(a)(1), C.C.P.</p>
<p><input type="checkbox"/> a. See Step 11 of Checklist 5-1 for special instructions on discretionary DSC.</p>	<p>Art. 45.0511(f)(2)/45A.358(a)(2), C.C.P.</p>
<p><input type="checkbox"/> b. This fee is not refundable.</p>	<p>Art. 45.0511(g)/45A.358(b), C.C.P.</p>

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| <p><input type="checkbox"/> 5. If the defendant completes all of these terms during the 90 day deferral period and presents the court the required evidence, the court shall:</p> <p style="margin-left: 40px;"><input type="checkbox"/> a. Remove the judgment;</p> <p style="margin-left: 40px;"><input type="checkbox"/> b. Dismiss the charge; and</p> <p style="margin-left: 40px;"><input type="checkbox"/> c. Report the date the DSC was completed to DPS.</p> <p style="margin-left: 40px;"><input type="checkbox"/> d. That report cannot be used for any purpose including increasing insurance rates.</p> <p><input type="checkbox"/> 6. If the defendant fails to complete the terms during the 90 day deferral period, the court shall:</p> <p style="margin-left: 40px;"><input type="checkbox"/> a. Notify the defendant in writing:</p> <p style="margin-left: 80px;"><input type="checkbox"/> (1) Mailed to the address on file with the court;</p> <p style="margin-left: 80px;"><input type="checkbox"/> (2) That the defendant failed to fulfill the orders of the court; and</p> <p style="margin-left: 80px;"><input type="checkbox"/> (3) That the defendant is required to appear at a particular place and time to show good cause why the defendant did not timely comply.</p> <p style="margin-left: 40px;"><input type="checkbox"/> b. If the defendant does not appear, enter an adjudication of guilt and impose a fine.</p> <p style="margin-left: 40px;"><input type="checkbox"/> c. If the defendant appears and does not show good cause for non-compliance, enter an adjudication of guilt and impose a fine.</p> <p style="margin-left: 40px;"><input type="checkbox"/> d. If the defendant appears and shows good cause for non-compliance, the court may allow an extension to allow the defendant to present proof of compliance.</p> | <p>Art. 45.0511(l)/45A.356(c), C.C.P.
See <i>TMCEC 2024 Forms Book</i>:
Judgment: Driving Safety Course Program Granted.</p> <p>Art. 45.0511(l)(2)/45A.356(c), C.C.P.</p> <p>Art. 45.0511(n)-(o)/45A.357, C.C.P.</p> <p>Art. 45.0511(i)-(k)/45A.356(e)(1) and (2), C.C.P.</p> <p>Art. 45.0511(i)/45A.356(e), C.C.P.
See <i>TMCEC 2024 Forms Book</i>:
Driving Safety Course: Notice to Defendant to Show Cause.</p> <p>Art. 45.0511(j)/45A.356(f), C.C.P.
See Checklist 8-1.</p> <p>Art. 45.0511(j)/45A.356(f), C.C.P.;
See Checklist 8-1.</p> <p>Art. 45.0511(k)/45A.355, C.C.P.</p> |
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