

Maryland DUI: The basics of understanding the process, & crafting a quality defense.

This is designed to address some of the most common questions people have about DUI/DWI cases. Facing a “simple” DUI/DWI can actually be quite complex. There are many factors to a DUI case, which simply cannot be addressed here. There is no substitute for an in-depth consultation with an attorney. However, some of those factors are:

- Was there an accident?
- What about consequences to my job? School?
- What about immigration consequences of a DUI/DWI?

What to do right now

1. *Talk with a lawyer*

a. DUI defense can be incredibly complex. There are more defenses available than you may realize. There is a reason an attorney may ask you if you have had any bone breaks or surgeries. There is a reason they may ask if diabetes runs in your family. There is a reason why an attorney may ask you what you ate before any testing. These are just three of the seemingly obscure questions an attorney may ask you when seeing if the field sobriety tests (if done) were done properly by the officer.

b. Most attorneys who do DUI defense offer free “consultations.” You can talk with a lawyer about the facts specific to your case. If you’re worried about step 2 of “I like this lawyer, but there’s no way I can afford them,” you may be pleasantly surprised to find out some attorneys may offer payment plans.

Regrettably, there are too many people who face DUI charges who incorrectly presume “I can’t beat my case,” “a lawyer will cost me more than I can afford,” or “I do not need a lawyer.” The bottom line is, you just don’t know unless you ask. In fact, a lawyer may be able to save you additional headaches, hassles, and potentially additional costs.

2. *Start putting together the pieces of your case*

Write down everything you can remember about the arrest, in the order that everything happened. Do this as soon as possible after arrest. Your memory does not improve over time.

Once you have written down what happened, see what you can get to give you a timeline. Maybe you texted a friend “I just got pulled over, officer running my license” at 1:05 am. Maybe you left a restaurant, and still have a receipt. Usually receipts have times on them of when you paid.

Write down a list of witnesses. Witnesses can be people you were with in the hours leading up to your arrest or they could be passengers in your car. Don't assume a witness won't be valuable at this stage, just make the list.

Get photos and videos of the scene. Maybe you were pulled over near a business with security cameras. Perhaps that picked up video of your arrest or driving behavior prior to arrest. This may be difficult to do on your own, and is one of the many reasons talking with a lawyer sooner rather than later can be very valuable to your case. Sometimes some of these businesses only keep footage for a week or two.

What about my driver's license?

From the date you were pulled over, you have exactly 45 days before your license will be suspended IF you do not act...quickly. However, as you will see in the following paragraphs, you really only have 10 days to ensure your license will not be suspended (at least until the MVA hearing).

If you cannot afford your license to be suspended, you need to send in an MVA Hearing Request form. The arresting officer should have provided you this in your paperwork. You have 10 days to get this in to guarantee your license will not be suspended before you have your hearing.

If you cannot get the MVA Hearing Request form in within the first 10 days, do not despair. You have 30 days to get that form in to get a hearing. The problem with waiting until day 11-30 is that your license will be suspended on the 46th day and your hearing may be scheduled after that day. Thus, your license will be suspended and you cannot drive.

About your driver's license hearing at the MVA

The MVA hearing shares some similarities with court proceedings, but has many differences that are important to know. You do not have a right to an attorney at this hearing like you do in court (after all, the administrative hearing cannot put you in jail). However, you are permitted to have an attorney and an attorney can be very useful to you as you try to keep your license or obtain a restricted license.

If you request a hearing at the MVA, you may be eligible for a work restricted and/or treatment restricted license. This license would allow you to go to and from work or to and from treatment (i.e. alcohol counseling). You cannot simply just say "I need my license for work" or "I am enrolled at ABC Counseling services." You will need to provide some sort of proof. Speaking with a lawyer about what Administrative Law Judges (ALJ) will consider and accept, can be very useful.

About court

The first court step may be to have a “preliminary inquiry” scheduled. The officer will not be there. It is an informal environment for you to get some additional paperwork advising you that you have a right to an attorney (since you face a charge(s) that if convicted can put you in jail) and that one can be helpful to you in your case. If you hire an attorney in enough time before the preliminary inquiry, you will very likely not have to attend and the clerk will set your next court date.

The next court date will be your trial date. If you rely on getting a postponement at this hearing, you may be in for a nasty surprise. A judge could determine you were previously advised of your right to counsel and there without a lawyer, representing yourself.

When you go to court, you do have a right to have a trial in front of a judge in District Court. You also have the right to take the case up to Circuit Court to either have a judge trial or a jury trial. There are advantages and disadvantages to each of these scenarios, and each case really is fact specific.

A common DUI trial will have the State’s Attorney try to prove their case through officer observation of driving, field sobriety tests (if performed), and the results of the breathalyzer (again, if performed). Just a few ways a skilled DUI defense attorney can be a significant benefit to you may include: challenging the reason for the stop, the way the field sobriety tests were given, and attempting to keep the breath test result out of evidence. These challenges may be accomplished through motions and/or cross examination. A skilled DUI defense attorney can be very helpful in determining what challenges to make, and how to do so.

You may also want to present a defense case after the State is done attempting to prove their case. You have a right to testify AND a right to remain silent. If you are even thinking of testifying in a DUI case, you should speak with an attorney first to fully discuss the possible benefits and drawbacks of taking the witness stand.

You may also want to offer your own witnesses. Your witnesses may have been a passenger in your car, a friend who saw you that night, a co-worker, or an expert you have hired to testify in your trial. You may have to give notice to the state on your intention to call certain witnesses, who they are, and what they intend to testify about. You will also have to make sure you are able to comply with the rules of evidence if you want the court to consider certain photographs, video, or other items as evidence in your case. Again, a skilled DUI defense attorney can be extremely helpful to you preparing witnesses and the evidence you want to present in order to make a strong case.

Getting around without your car

If your driver’s license is suspended, you cannot drive. Don’t even think about it. Driving on a suspended license can put you in jail. Driving because your license has been suspended due to

an alcohol violation like a DUI will just about guarantee to make a judge very upset. Do not do it.

1. *Talk to your friends and family*

Ask your friends and family members if you can ride with them when they do their errands to the grocery store, pharmacy, bank, etc. Ask a co-worker if you can carpool. If you have kids, see if other parents you are friends with or in the neighborhood can carpool to school.

2. *Delivery has never been easier*

Think a little more about some of the errands you may have to do that were mentioned above. Grocery store? Services like Peapod or Amazon Prime may be services that will have the groceries and other items delivered straight to your door. The pharmacy? CVS offers delivery if you sign up for their Prescription Management program. The bank? Many banks have online banking and allow checks to be photographed and deposited through a mobile app.

These are just a few of the everyday task you can complete with the help of the internet or phone.

3. *Getting around – public transit, Uber, Lyft*

Suburban Washington D.C. – Montgomery County, Prince George’s County – have Metro for subway and bus service. Montgomery County has Ride On bus service. Prince George’s has “The Bus” which runs throughout the county.

Baltimore metro region – Baltimore city, county – does not have as extensive of a network (unfortunately) as suburban D.C. That being said, there are offerings of the light rail, the subway, and bus networks through the MTA.

If public transit is not an option, taxi services may be available. Lyft and Uber are other ways to fill in the gaps where public transit may be unreliable or unavailable.

4. *Work – telecommuting, flex time*

Most people may work 9 am to 5 pm. Flex time allows you to change your start time, but still work the same 8 hour day. You may be able to work 7 am to 3 pm, allowing you to take the bus at a less busy time, meet up with a carpool that you wouldn’t otherwise be able to take. If you have kids, you can be home in time for them to get out of school.

Telecommuting, or working remotely, is using your internet and home computer to log into work. You would have to talk to your boss or I.T. Department at work to make sure you have what you need so you could log in and do work as if you were there in the office.

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