

## DRIVING UNDER SUSPENSION: A SURVEY OF NORTH DAKOTA JUDGES

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### Abstract

North Dakota's current driving under suspension (DUS) law, enforcement, and effects are explored from the perspective of the state's municipal and district court judges (including judicial referees/magistrates). Overall weighted results are presented in addition to between-group distinctions. These insights provide support for stakeholders considering whether change to DUS law and enforcement is needed.

Results show that current DUS penalties should be decreased, by way of decriminalization, shorter suspensions, and reducing the elevation of the offense or subsequent offense. Unless a DUS violator is an elevated offender, it is not deemed necessary to take that person into custody. Municipal court judges tended to agree that reinstatement should be allowed for drivers serving a current suspension/revocation for an alcohol-related offense, while district court judges were opposed. Both groups support treating alcohol-related DUS convictions differently, and connecting license restoration to treatment/sobriety. Further, nearly all participants support permitting temporary restricted license (TRL) privileges for attending evaluations and/or any recommended treatments as an incentive to fully restore driving privileges. Lastly, rather than have restrictions TRLs should allow any driving that is compliant with the 24/7 program.

### Key Findings

**Current penalties and possible changes.** Participants were asked whether they believe the penalties resulting from the charge of driving under suspension (DUS) should be increased, decreased, unchanged, or otherwise modified (Figure 1). Overall, 42.1% of participants agree that penalties should be decreased. The belief is shared by 64.7% of Group 1 (municipal court judges), and 22.2% of Group 2 (district court judges and judicial referees/magistrates). However, 38.9% of Group 2 would prefer increased penalties. "Other" responses were qualitatively analyzed, and when appropriate were recoded and incorporated into a corresponding response category. Responses that could not be recoded include suggestions for improvement, such as tying penalties to vehicle registration, and rewarding those who are actively attempting to reinstate a suspended license. A complete list of comments will be included in Appendix B.

Next, participants selected their preference(s) from a list of possible changes to current DUS penalties (Figure 2). Participants were allowed to select more than one option, resulting in a total of 78 responses. Group 1 most commonly selected decriminalization (30.2%), while 36.0% of Group 2 selected additional elevation of offense or subsequent offense. Overall weighted results show a preference for shorter suspensions (22.3%) and decriminalization (21.0%). Once again, "other" responses were recoded and incorporated into an appropriate response category. Responses that could not be recoded included suggestions of specific contingencies for determining when DUS penalties should be applicable. When considered categorically, 74.3% of responses suggest a preference to ease current DUS penalties.

**Taking DUS violators into custody.** When asked whether all DUS violators should be taken into custody, both groups most frequently disagreed at 94.1% (Group 1), 89.5% (Group 2), and 91.6% overall (Figure 3). Further, 58.8% of Group 1 agreed that DUS violators should only be taken into custody if they are elevated offenders, with Group 2 agreeing at nearly 78.9%, and 69.8% overall (Figure 4).

**Alcohol-related convictions.** As shown in Figure 5, overall, 74.0% agreed that alcohol-related DUS convictions should be treated differently (61.8% and 84.2% for Groups 1 and 2, respectively). The survey did not give or ask for explanations of these differences, rather assumed that results reflect the opinion that these convictions are not ideal and should be treated differently than they are now. Overall, responses imply relatively equal support on both sides of the idea that that reinstatement should be allowed for drivers serving a current suspension/revocation for an alcohol-related offense (Figure 6). Results show a clear difference of opinion between groups, with 67.6% of municipal court judges supporting reinstatement, while 57.9% of district court oppose. Further research could help explain the between-group discrepancy. Figure 7 shows that overall, 82.2% of participants believe that license restoration should be connected to treatment/sobriety. This opinion holds true for both groups, with Group 1 agreeing at 73.5% and Group 2 agreeing at 89.5%.

Temporary Restricted Licenses (TRL). Figure 8 shows nearly all participants believe that TRL privileges for attending evaluations and/or any recommended treatments should be permitted with an incentive that driving privileges could be fully restored upon treatment completion (97.1% for Group 1, 94.7% for Group 2, and 95.8% overall). Lastly, approximately two thirds of all participants (and of each group) agreed that TRLs should allow any driving that is compliant with 24/7 rather than have restrictions (Figure 9).



[Link to full report here.](#)