



LICENSE SUSPENSION

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Hidden or “collateral consequences” are additional penalties that may result from criminal convictions. They have a direct impact on critical areas of life such as: employment, housing, education, public benefits, parental rights, and voting, and can hinder an individuals’ ability to successfully reintegrate. Understanding the relevant legal and regulatory framework that creates these sanctions can be helpful to criminal defense attorneys, other advocates, and all residents of New Jersey affected by incarceration. Please note that these laws can and do change, and you should inquire about updates before relying on this information. [June 2006]

SUMMARY: New Jersey’s driver’s license suspension system forms a significant and often overlooked barrier to economic advancement for workers who are low-income and low-skilled, particularly those who have been involved with the criminal justice system. Often workers are unable to reach or are disqualified from job opportunities because their driver’s licenses have been suspended.¹ Other suspensions, as in those imposed for failure to pay child support, rob parents of opportunities to become gainfully employed in order to satisfy their support obligations in an ongoing way.

Among the most common non-financial suspensions that will affect released prisoners in particular are those imposed upon conviction of

any drug-related charge. In addition, individuals can be suspended for failure to appear in municipal court, driving while suspended, as well as for any motor vehicle and traffic violations. Moreover, other types of suspensions can arise independently during a period of incarceration, such as failure to pay child support. Regardless of the reason for the suspension, all license restorations require the payment of a \$100 fee.

Below you will find a list of enabling statutes that govern license suspensions resulting from convictions or adjudications of delinquency, and identify specific convictions triggering a sanction, its consequences, and remedies where they exist. In the following section you will find suspensions arising from non-criminal sources.

License Suspensions Arising from Convictions or Adjudications of Delinquency

STATUTE OR REGULATION	CONVICTION OR OFFENSE	CONSEQUENCES	REMEDIES
Comprehensive Drug Reform Act N.J.S.A. §2C:35-16	Controlled substance-related conviction or an adjudication of delinquency related to controlled substances.	Suspension of license to operate a motor vehicle for six months to two years, as fixed by the court. If the defendant is under 17, the period of suspension, revocation or postponement will run in addition to and after any existing suspension or revocation period is completed.	None. However a judge now has the discretion to refrain from imposing driver's license suspension on defendant convicted of CDS offense if “compelling circumstances warranting an exception” exist ²
N.J.S.A. §2C:46-2	Failure to pay court-ordered financial penalty, including mandatory drug enforcement and de-	License suspension.	Payment.

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	mand reduction penalties, without good cause.		
N.J.S.A. §2A:4A-43.3	Adjudication of delinquency related to an act of graffiti. (Affects only juveniles).	License suspension for between 1-3 years depending on whether individual is a first time or repeated offender.	None.
N.J.S.A. §2C:33-3; N.J.S.A. §2C:33-3.1	Adjudication of delinquency related to raising a false public alarm about a fire. (Affects only juveniles).	License suspension for 6 months.	None.
N.J.S.A. §2C:20-2.1	Auto theft	License suspension for 1 – 10 years depending upon whether person is a first time offender or a repeat offender.	None.
N.J.S.A. §2C: 29-2	Using a motor vehicle or boat to elude a law enforcement officer.	License suspension for between 6 months and two years.	None.
N.J.S.A. §2C: 34-1	Using motor vehicle to engage in or promote prostitution.	License suspension for six months.	None.
N.J. S.A. §2C:43-2	Conviction of a crime, disorderly persons offense or petty disorderly persons offense if a motor vehicle is involved.	License suspension not to exceed two years.	None.
N.J.S.A. §39:4-50 (See Article 9 of Chapter 4, generally).	Driving While Intoxicated (DWI).	A first-time offender faces a mandatory suspension of six months that the court can extend, in its discretion, to as long as one year. Second offenders face a mandatory two-year suspension, and a third and subsequent offenses earn a mandatory 10-year suspension. ³	None.
N.J.S.A. §39:3-40	Driving While Suspended or Without a License.	Driving while suspended will lead to further suspension, with the length	None.

STATUTE OR REGULATION	CONVICTION OR OFFENSE	CONSEQUENCES	REMEDIES
		of time varying depending on the reasons for the underlying suspension. Driving with no license will also lead to a suspension, which functions as a delay of several months to several years before a license can be obtained. ⁴	
N.J.S.A §2C:12-31	Failure to appear in municipal court for a traffic summons, a local ordinance violation or any other municipal court proceeding.	Suspension is issued by the court, and is discretionary but used very frequently.	Suspension lasts until driver appears to answer the summons. Driver should ask the court to lift the suspension when he or she appears in court. ⁵
N.J.S.A. §39:5-30a,b	General Traffic Violation.	Whenever a driver has had three suspensions during a three-year period, the DMV can suspend his or her license for up to three years. The driver will be sent a notice before the suspension takes place. ⁶	The driver is entitled to a hearing before an Administrative Law Judge in response to the notice. If the driver requests a hearing, he or she will have to appear for a pre-hearing conference beforehand.
N.J.S.A. § 39:5-30.8 Points & length of suspension per violation are in the N.J. Admin. Code (“N.J.A.C.”). See § 13:19, subchapter 10.	Points on License.	The law permits the DMV to suspend the license of anyone who accumulates 12 or more points in a two- year period, or 15 or more points in a longer period. The DMV will send a pre-suspension notice automatically when the driver’s penalties reach the 12-point mark. ⁷	There is an opportunity for the driver to have a hearing before an Administrative Law Judge.

License Suspensions Arising from Other Sources

STATUTE OR REGULATION	CONVICTION OR OFFENSE	CONSEQUENCES	REMEDIES
N.J.S.A. §2A:17-56.43	Failure to pay child support for six months; or to provide health coverage for a child for six months if ordered by the	License suspension. Court must be satisfied that all other methods of enforcement have been exhausted and that no other equitable reason for	If the suspension will result in significant hardship to the individual, legal dependents under age 18, or employees or persons ob-

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	court; or failure to submit to a paternity test. ⁸	non-compliance exists.	ligor provides goods and services to, then the court has the discretion to set up a 12 month payment arrangement after parent has paid 25 percent of the amount owed up front (while paying ongoing support). ⁹
N.J.S.A §39:6B-1 N.J.S.A §17:33B-41	Individuals who have been convicted for failure to carry liability insurance.	(a) Judicial suspensions last from one to two years. (b) Administrative suspension when coverage is allowed to lapse and MVC is notified.	(a) Individual has an opportunity for a hearing in court. (b) Driver must surrender plates within 90 days of notice by the MVC, or provide proof of new insurance.
N.J.S.A §29A-35(b)(2)	Individuals who have not paid insurance surcharges.	License suspension.	Payment. Payment plans are available. Driver can be reinstated after 5-10 percent of total owed is paid.
N.J.S.A. §39:4-139.1 et seq.	Individuals who have not paid their parking tickets.	License suspension.	Payment. Courts do offer payment plans.
N.J.S.A. §39.4-203.2 N.J.S.A. § 2C:46-2	Individuals who have not paid fines imposed by a municipal or superior court (including everything from moving violations to the Drug Enforcement and Demand Reduction fines imposed with drug conviction.	License suspension.	Payment. Payment plans are available.

¹ There are nearly 400 ways to lose a drivers license in New Jersey. *See* “Roadblock on the Way to Work: Driver’s License Suspension in New Jersey” for recommendations for increasing the fairness of New Jersey’s current use of suspension as a sanction. *See also* “Getting Back on the Road: A Manual for Addressing Driver’s License Suspension in New Jersey”, a comprehensive guide to driver’s license restoration. Both can be found at www.njisj.org.

² S2517/A878 were signed into law on January 14, 2006. For the purposes of this statute, compelling circumstances warranting an exception exist if the forfeiture of the person's right to operate a motor vehicle over the highways of this State will result in extreme hardship and alternative means of transportation are not available.

³ Suspensions for DWI last as follows: 6 months to one year for the first offense, 2 years for the second, 10 years for the third and subsequent offenses. The mandatory suspensions are doubled when the offense takes place within 1,000 feet of a school.

⁴ For driving under suspension, the length will vary depending on the underlying suspension. Generally, the prior suspension will be extended for six months. If the prior suspension was for driving without insurance or DWI, it will be extended by one or two years. When the violation takes place in a school zone, the extension will also be one to two years, but because this violation also carries a jail term, the suspension will run from the date of release from jail.

⁵ If the court has issued a warrant for the arrest of the driver, merely appearing in court could result in arrest. The driver should contact the court by telephone to ask that the warrant be “recalled” before attending a hearing or even stopping by to make a payment.

⁶ Suspensions for traffic violations have no set time limit, but must be “reasonable.”

⁷ Suspensions for excessive points can range from 30 to 180 days.

⁸ According to the Reentry Policy Council, incarcerated parents owe an average of more than \$20,000 when they are released from prison. Esther Griswold, Jessica Pearson and Lanae Davis, *Testing a Modification Process for Incarcerated Parents*, Denver, CO: Center for Policy Research, 11-12.

⁹ Failure to comply with a court-ordered payment plan results in immediate suspension unless the parent has filed a motion with the court requesting an extension.