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## Purpose

This policy discusses requirements for [pretrial diversion or intervention](#), [Article 894](#), [Act 605](#), [Article 893](#), [Article 892.1](#), [Article 691](#), [894 certification storage and retrieval "Boykins"](#), and [DWI Expungement storage and retrieval](#).

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## Definitions

- [Act 1168](#) (House Bill 1752) of the 1999 Legislative Session (amended and re-enacted Code of Criminal Procedures Article 894(B) and enacted 894 (A)(5) and (D)) - Relative to operating a motor vehicle while intoxicated; to provide for storage of records; to provide for a storage and retrieval fee of records; to require proof of retention of records before setting aside a conviction; to require the Office of Motor Vehicles to be the repository of the records and to maintain the records for ten years and to provide for related matters.
- [Article 892.1](#) (of the Code of Criminal Procedure) - Allows the courts to set aside a conviction for a misdemeanor traffic violation under Title 32 upon completion of a court approved driver education, driver training, or driver improvement program. A Charge dismissed under this Article shall not become a part of the person's official driving record.
- [Article 893](#) (of the Code of Criminal Procedure) - Gives the court the discretion to suspend the sentence imposed on any felony cases and to place the defendant on probation. Once the conditions of the probation have been completed, the court may set aside the conviction and dismiss the prosecution. The dismissal of prosecution will have the same effect as an acquittal.
- [Article 894](#) (of the Code of Criminal Procedure) - Gives the court the discretion to suspend the sentence imposed on any misdemeanor case and to place the defendant on probation. Once the conditions of the probation have been completed, the court may set aside the conviction and dismiss the prosecution. The dismissal of prosecution will have the same effect as an acquittal. ACT 458 (Senate Bill 289) of the 2014 Legislative Session amended R.S. 32:393 to state that the 894 must be a final disposition in order for the licensee to be given the benefits of this Article; however, the reinstatement fees must be paid prior to the licensee receives the benefits of this Article.
- [Pre-Trial Diversion](#) (also referred to as a **Pre-Trial Intervention (PTI)**) - Programs allow people charged with a crime such as DWI to avoid having a conviction on their driving record by their participation in the program.

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## Pretrial Diversion or Intervention

### Authority:

Judicial

Parish/Municipal

[R.S. 15:242](#)

To view Louisiana Statutes: <http://www.legis.state.la.us/>

### Description:

- The individual must contact the appropriate authority for the arresting jurisdiction immediately following his arrest to obtain details about the availability of the jurisdiction's program.
- Participation in this program **will not exempt a commercial driver and/or commercial license holder or commercial learner's permit holder from disqualification of his commercial driving privileges as that is considered masking and that is prohibited by 32:414.2.**

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## Article 894 Code of Criminal Procedure

### Authority:

[Article 894, Code Of Criminal Procedure](#)

[R.S. 32:414.2 \(A\)\(1\)\(b\)](#)

[R.S. 32:414](#)

[R.S. 32:393](#)

To view Louisiana Statutes: <http://www.legis.state.la.us/>

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## Act 605

### Authority:

[Article 894 LA Code of Criminal Procedure](#)

[R.S. 32:414.2](#)

[R.S. 32:414K](#)

[R.S. 32:430N](#)

[R.S. 32:667H\(3\)](#)

[CCRP 892.1](#)

To view Louisiana Statutes: <http://www.legis.state.la.us/>

### General:

- When a suspension occurs as the result of a criminal charge and evidence is received that the charge has been dismissed or reduced, or that there has been a permanent refusal to charge a crime, or that there has been an acquittal, then the suspension is immediately reinstated and no reinstatement fee is to be collected for the suspension. In the case of a DWI or a UDUI, if there is a suspension for a Refusal or Submit resulting from the same occurrence, that suspension is immediately reinstated and no reinstatement fee is to be collected for the suspension if the violation date of the DWI is prior to 08/01/14.
- Effective June 7, 2012 - ACT 663 (2012 Regular Legislative Session) revised R.S.32:667H (3) to state that when a person refuses the chemical test but has a prior arrest for Submit, Refusal, or DWI within the

last 10 years of the current arrest, he will not receive the benefits of ACT 605. This provision applies to arrests made on or after 06/07/12.

- The above would apply to disqualification with the following two exceptions:
  - The provisions of the Code of Criminal Procedures (Articles 892.1, 893 and 894) cannot be applied to any conviction that would result in a disqualification or result in a subsequent disqualification. This includes 'Serious Offenses,' 'Railroad Offenses,' 'Out-of-Service Offenses,' and 'Major Offenses' as specified in Section II, 3.0. These convictions are added to the driving record as guilty convictions and become a part of the driving record. Any required disqualification remains in effect for the duration of the disqualification period and the reinstatement fee is collected.
  - In the case of a DWI or a UDUI, if there is a disqualification for a Refusal or Submit resulting from the same occurrence, the disqualification for the Refusal/Submit remains in effect for the duration of the disqualification period and the reinstatement fee is collected.

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## Article 893

### Authority:

ARTICLE 893 Code of Criminal Procedure

[R.S. 32:414 \(K\)](#)

To view Louisiana Statutes: <http://www.legis.state.la.us/>

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## Article 892.1 Code of Criminal Procedure

### Authority:

C.Cr.P. Art 892.1

[R.S. 32:414.2. A.1\(B\)](#)

To view Louisiana Statutes: <http://www.legis.state.la.us/>

### Requirements:

- The court may apply Article 892.1 upon completion of the driver's course; however, the conviction must indicate the date the driving school was completed. The driving course violation code "237", will be displayed on the Department's Official Driving Record, (ODR). Article 892.1 can be granted once within a two-year period. Multiple violations arising out of the same incident/violation date are to be considered one offense.

### Exceptions:

- Article 892.1 cannot be applied to convictions under Title 14 of the Louisiana Revised Statutes. This includes convictions of DWI (14:98), UDUI (R.S. 14:98.1), Crime of Refusal (R.S. 14:98.2), Reckless Operation (R.S. 14:99), and Hit and Run (R.S. 14:100). These convictions are added to the driving record as guilty convictions.
- Article 892.1 cannot be applied to any conviction that would result in a disqualification or in a subsequent disqualification. This includes 'Serious Offenses,' 'Railroad Offenses,' 'Out-of-Service Offenses,' and 'Major Offenses' as specified in Section II, 3.0. These convictions are added to the driving record as guilty convictions.

- Article 892.1 cannot be applied to a conviction for speeding twenty-five miles per hour or more over the posted speed limit.

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## Article 691

### Authority:

[R.S. 32:414 \(K\)](#)

To view Louisiana Statutes: <http://www.legis.state.la.us/>

### General:

- The District Attorney has the power to dismiss an indictment or a count in an indictment without the consent of the court.

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## 894 Certification Storage and Retrieval Boykins

### Authority:

[Article 894 LA Code of Criminal Procedure](#)

Article 556.1 LA Code of Criminal Procedure

### Requirements:

- The following documents and information and an Article 894 Transmittal Form ([DPSMV3012](#)) must be submitted for an Article 894 DWI to be stored and available for retrieval upon request from any court, prosecuting agency or defendant:
  - Certified copies of the record of plea;
  - Certified copy of the defendant's fingerprints and Boykin rights (Code of Criminal Procedure Article 556.1) which shall include the defendant's date of birth, social security number and driver's license number.

### Fees:

- \$50 money order or certified funds made payable to the Office of Motor Vehicles

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## DWI Expungement Storage and Retrieval

### Authority:

[R.S. 44:4.1](#)

[Article 894 LA Code of Criminal Procedure](#)

To view Louisiana Statutes: <http://www.legis.state.la.us/>

### General:

- The Office of Motor Vehicles shall store all motions to expunge relative to operating a motor vehicle while intoxicated and maintain the records for ten years. The documents shall be available for retrieval upon request from any court, prosecuting agency or defendant:

### Requirements:

- The following documents must be submitted to store an expungement.
  - Certified copies of the court minutes

- Original or certified copy of the fingerprints
- Proof of the requirements as set forth in the Code of Criminal Procedure Article 556.1
- Completed Article 984 Transmittal Form ([DPSMV3013](#)) **OR**
- In lieu of the fingerprints, court minutes and proof of the requirements as set forth in the Code of Criminal Procedure Article 556.1, A copy of the certified letter received from Office of Motor Vehicles indicating that all of the required documents were previously filed in conjunction with the requirements of Code of Criminal Procedure Article 894 and are on file may be submitted.
- Completed Article 984 Transmittal Form ([DPSMV3013](#))

**Fees:**

\$50 money order or certified funds made payable to the Office of Motor Vehicles