

# **FAIRFAX CIRCUIT COURT**

## **PETITION FOR RESTORATION OF DRIVING PRIVILEGE**

### **By Persons Convicted of a Third Offense Driving While Intoxicated**

Any person whose license to operate a motor vehicle has been revoked in the Commonwealth of Virginia may, after expiration of the applicable statutory period, petition the court in which he or she was found to be convicted of a Third Offense or the Circuit Court of the County in which he or she resides to restore his or her privilege to drive a motor vehicle in the Commonwealth of Virginia.

### **APPLICABLE CODE SECTIONS:**

DWI-THIRD OFFENSE: [§46.2-391](#)

You must be eligible to file a Petition for Restoration or Restricted License. To determine if you are eligible to file for restoration or restricted license, please refer to your Division of Motor Vehicles Transcript. Upon filing your petition, a hearing may not be scheduled until at least 45 days have passed from the date the Petition was filed. Both the Division of Motor Vehicles and the Commonwealth Attorney must be served with the Petition prior to a hearing.

**The Petitioner is responsible for making sure that the documents are complete and in the proper jurisdiction when filed with the Clerk. You are strongly encouraged to engage an attorney to represent your interests. These forms are not provided as, or intended to, replace legal assistance. The Clerk's Office is not responsible for determining which form must be utilized in filing your petition nor in which jurisdiction the petition must be filed.**

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## **WHAT DOCUMENTS NEED TO BE PREPARED/AND OR REQUIRED FOR FILING?**

1. Petition setting forth the legal basis for Restoration or Restricted Operator's license. (Form CC-1470)
2. Current Driving Transcript from the Division of Motor Vehicles
3. Friday Motions Day Praecept to set the hearing date on the Civil/Criminal docket
4. Virginia Alcohol Safety Action Program report (VASAP), if applicable
5. Order for Restoration or Restricted Operator's License
6. If you are requesting a Restricted Operators License, you must complete the Restricted Operator's License Application Form.

## **HOW DO I DETERMINE IF I AM ELIGIBLE TO FILE FOR RESTORATION?**

To determine if you are eligible to file a Petition for Restoration or Restricted License you must obtain a transcript of your driving record from the Division of Motor Vehicles.

To obtain a current copy of your driving transcript you must contact:

Division of Motor Vehicles  
1-866-DMV-LINE (1-866-368-5463)

or visit the internet site at  
<http://www.dmvnow.com>

## **DO I NEED A VIRGINIA ALCOHOL SAFETY ACTION PROGRAM (VASAP) EVALUATION?**

A VASAP evaluation must be obtained for any person seeking Restoration or a Restricted license if any of the convictions on your driving transcript which led to the suspension of your license were alcohol related in accordance with §46.2-360(1) and §46.2-391 of the Code of Virginia, as amended.

To obtain a VASAP evaluation, you must contact:

FAIRFAX COUNTY ALCOHOL SAFETY ACTION PROGRAM  
10640 PAGE AVENUE, SUITE 400  
FAIRFAX, VIRGINIA 22030  
703-246-2727

The VASAP evaluation may be filed at the same time as your petition. If the evaluation report is unavailable at the time of filing, the report must be submitted to the court at least ten days prior to the hearing date. The evaluation must be dated no earlier than ninety (90) days before the hearing date or the Court will generally require the report to be updated.

Information on the Virginia ASAP Program can be accessed through the Commission on Virginia Alcohol Safety Action Program internet site at <https://vasap.virginia.gov/>

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\*A Blank Petition Form can be accessed on the Virginia Judicial System website at:

<http://www.courts.state.va.us/forms/circuit/civil.html>

## WHERE DO I FILE MY PETITION FOR RESTORATION?

If you determine that the appropriate jurisdiction is the Fairfax Circuit Court you may appear in person or mail your documents for filing to:

Fairfax Circuit Court  
Attention: Civil Intake – 3<sup>rd</sup> Floor  
4110 Chain Bridge Road  
Fairfax, Virginia 22030

The documents **must** be filed at the third floor Civil Intake counter of the Clerk's office. The appropriate filing and service fees must be paid at that time. The Petition(s) will then be assigned a Civil Action Number.

At the time of filing the petition(s), the **Petitioner** should also set a hearing date. The hearing may be set on a **FRIDAY, 10:00 a.m. Motions Docket**, no sooner than forty-five (45) days from the time the petition is filed, by filing the appropriate ***yellow Friday Motions Docket Praecept/Notice form***.

The petition(s) and notice must be served on the Office of the Commonwealth Attorney of Fairfax County and the Commissioner of the Division of Motor Vehicles.

## WHAT MUST BE FILED?

1. **PETITION FOR RESTORATION SETTING FORTH THE LEGAL BASIS FOR RESTORATION:** An original and (4) copies of the Petition must be filed.
2. **CURRENT DMV TRANSCRIPT OF YOUR DRIVING RECORD:** An original driving transcript obtained from Division of Motor Vehicles and (4) copies must be filed.
3. **FRIDAY MOTIONS DOCKET PRAECIPE/NOTICE FORM – 10:00 A.M.:** An original praecipe notice form and (4) copies setting the hearing date on the Civil/Criminal Docket no sooner than 45 days from the time of filing.
4. **PROPOSED ORDER**
5. **VASAP EVALUATION IF APPLICABLE:** An original VASAP evaluation must be filed.

If filing a Petition based on DWI-Third Offense, a VASAP evaluation is required. If the evaluation report is unavailable at the time of filing, the report must be submitted to the court at least **TEN** days prior to the hearing date. The evaluation must be dated no earlier than ninety (90) days before the hearing date.

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## FILING FEES:

**STYLE OF CASE:** **Your Name** versus **Commonwealth of Virginia**

**FILING FEE:** (Separate FEE for each Petition) **SEE CURRENT FEE SCHEDULE**

**SERVICE FEE:** \$12.00 per Document. **NOTE:** The Virginia Department of Motor Vehicles (DMV) and Commonwealth Attorney must both be served. If you need assistance to determine the service fee, please contact the Circuit Court Civil Intake Division at 703-691-7320 (press 3, then 1)

***(All filing fees & sheriff service fees should be made payable to Clerk of the Circuit Court)***  
***Acceptable forms of payment cash, certified check or money order***

## ON HEARING DATE:

The Petitioner must bring:

- Proposed order (Form CC-1471) setting forth the requested relief  
<https://www.fairfaxcounty.gov/circuit/sites/circuit/files/Assets/Documents/PDF/third-offense-restore-order.pdf>
- Current copy of your driving transcript. The current driving transcript must be dated within thirty days of the hearing date.
- If applicable, a VASAP evaluation. The VASAP evaluation must be dated within ninety days of the hearing date.

If the Petitioner is requesting a restricted license, they must also bring:

- Completed Application for Restricted Driver's License (CCR-O-24)  
<https://www.fairfaxcounty.gov/circuit/sites/circuit/files/Assets/Documents/PDF/restricted-license-civil-application.pdf>

The Judge will sign the Order granting the restricted license and the application stating what restrictions have been granted and forward the file to the Clerk's Office for preparation of the Restricted License. The completed Restricted License will then be submitted to the Judge that granted the petition for signature.

The Restricted license and certified copy of the Court Order will not be available to be picked up by the Petitioner until the process of preparing the license has been completed. The Petitioner will be contacted by the Clerk's Office when the license is available for pick up.