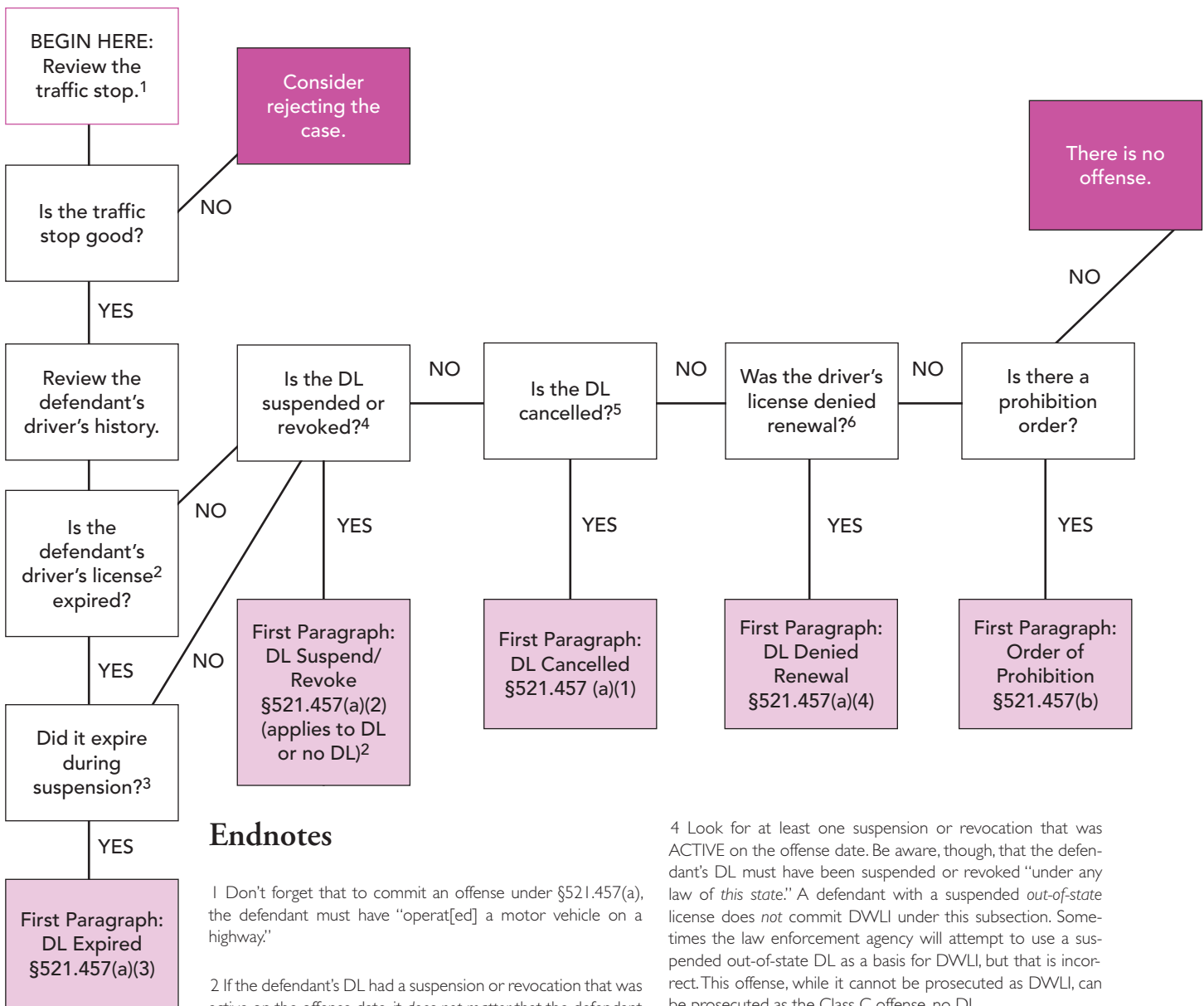


## DWLI Flowchart (First Paragraph [Class C Offense])

Remember that charging a Class B DWLI requires *two paragraphs*: The first defines the Class C offense of Driving While License Invalid under Transportation Code §521.457(a)

and (b). The second paragraph is the one that supports the Class B enhancement. Also, there may be more than one way to charge the first paragraph, e.g., where there are mul-

multiple active suspensions on the defendant's DL *and* it expired during a period of suspension. You then have a choice on which first paragraph to use.



### Endnotes

1 Don't forget that to commit an offense under §521.457(a), the defendant must have "operat[ed] a motor vehicle on a highway."

2 If the defendant's DL had a suspension or revocation that was active on the offense date, it *does not matter* that the defendant has no Texas-issued driver's license. DPS can suspend or revoke either a driver's license or a person's *privilege to drive* in the state. See §521.457(a)(2): "during a period that the person's driver's license or privilege ..." See also §521.001(6)(B).

3 Check the DL history. If the DL was expired on the offense date *and* it expired during a period of *suspension*, then this subsection is applicable, and you can use the paragraph with the "expired" language in it.

4 Look for at least one suspension or revocation that was *ACTIVE* on the offense date. Be aware, though, that the defendant's DL must have been suspended or revoked "under any law of *this state*." A defendant with a suspended *out-of-state* license does *not* commit DWLI under this subsection. Sometimes the law enforcement agency will attempt to use a suspended out-of-state DL as a basis for DWLI, but that is incorrect. This offense, while it cannot be prosecuted as DWLI, can be prosecuted as the Class C offense, no DL.

5 Note that a "cancellation" under subsection (a)(1) had to have occurred "*under this chapter [521]*."

6 Here again, the defendant must have been "denied [renewal] under any law of *this state*."

7 In rare cases, you may find that an Order of Prohibition has been issued against the defendant's DL. Again, note here that the order must have been issued "under any law of *this state*."