

STATE OF MINNESOTA

IN SUPREME COURT

A21-0275

Court of Appeals

McKeig, J.

State of Minnesota,

Appellant,

vs.

Filed: March 15, 2023  
Office of Appellate Courts

Joel Clarence Velisek,

Respondent.

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Keith Ellison, Attorney General, Saint Paul, Minnesota; and

David Hanson, Beltrami County Attorney, Travis J. Smith, Special Assistant County Attorney, William C. Lundy, Supervised Practitioner, Slayton, Minnesota, for appellant.

Cathryn Middlebrook, Chief Appellate Public Defender, Jessica Merz Godes, Assistant Appellate Public Defender, Saint Paul, Minnesota, for respondent.

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S Y L L A B U S

1. Minnesota’s statute prohibiting operation of a motor vehicle by a person whose driver’s license is cancelled or denied as inimical to public safety, Minn. Stat. § 171.24, subd. 5 (2022), is enforceable on private property.

2. Because the defendant sought appellate review of the district court’s dispositive pretrial ruling through Minn. R. Crim. P. 26.01, subd. 4, this court’s

interpretation of Minn. Stat. § 171.24, subd. 5, requires reversal of the court of appeals' holding, which results in reinstatement of the defendant's convictions.

Reversed.

## OPINION

McKEIG, Justice.

This case considers the narrow question of whether a driver whose Minnesota driver's license is cancelled or denied as inimical to public safety is prohibited from operating a motor vehicle on private property under Minn. Stat. § 171.24, subd. 5 (2022). Appellant State of Minnesota charged respondent Joel Clarence Velisek with driving after cancellation-inimical to public safety after a sheriff's deputy observed Velisek, whose license was cancelled as inimical to public safety, drive a motor vehicle down a private driveway. The district court denied Velisek's motions to dismiss for lack of probable cause and to suppress evidence and found Velisek guilty of the charged offense after a stipulated facts trial. The court of appeals reversed Velisek's convictions based on the conclusion that Minn. Stat. § 171.24, subd. 5, is unenforceable on private property. We reverse.

## FACTS

In November 2019, a Beltrami County sheriff's deputy observed a sedan drive down a private driveway toward a public roadway. Before the sedan reached the roadway, the deputy observed the sedan reverse back up the driveway and park. The deputy then observed Velisek open the driver's door and exit the sedan. Velisek's driving privileges were cancelled as inimical to public safety in December 2017 and were still cancelled in November 2019. The deputy arrested Velisek for driving after cancellation-inimical to

public safety (DAC-IPS). Because Velisek seemed intoxicated, the deputy obtained a warrant for a sample of Velisek's blood, which tested positive for methamphetamine.

The State charged Velisek with one count of felony driving while impaired (DWI) under Minn. Stat. § 169A.24, subd. 1(1) (2022), and one count of DAC-IPS under Minn. Stat. § 171.24, subd. 5 (DAC-IPS statute). Velisek moved to suppress all evidence obtained from his arrest and to dismiss the complaint for lack of probable cause, arguing that his cancelled license did not prohibit him from driving on private residential property.

The district court denied Velisek's motions and found the deputy had probable cause to arrest Velisek for DAC-IPS based on *State v. Bauman*, 552 N.W.2d 576 (Minn. App. 1996). In *Bauman*, a sheriff's deputy observed the defendant backing out of a parking spot in a courthouse parking lot and arrested the defendant for driving after revocation. *Id.* at 576–77. The court of appeals interpreted the driving after revocation statute (Minn. Stat. § 171.24, subd. 2 (2022)<sup>1</sup>), which contains identical language to the DAC-IPS statute, and concluded that the driving after revocation statute is not limited to public roads and highways. *Id.* at 577–78. The district court applied the *Bauman* analysis and found the deputy had probable cause to arrest Velisek after he saw Velisek drive a motor vehicle on a private driveway while his license was cancelled as inimical to public safety.

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<sup>1</sup> The 2022 statutory sections cited in this opinion are unchanged from the versions in existence when addressed by the court of appeals unless otherwise noted.

Velisek waived his right to a jury trial and stipulated to the State’s case pursuant to Minn. R. Crim. P. 26.01, subd. 4.<sup>2</sup> The district court found Velisek guilty of both charges and sentenced him to 57 months in prison for the DWI conviction and 1 year in jail for the DAC-IPS conviction, to be served concurrently.

Velisek appealed, arguing that the DAC-IPS statute only prohibits a person with a cancelled license from driving on the public streets or highways, not private property. The court of appeals reversed the district court’s ruling on Velisek’s motions to suppress and dismiss. *State v. Velisek*, 971 N.W.2d 111, 119 (Minn. App. 2022), *rev. granted* (Minn. Apr. 27, 2022). The court of appeals determined the DAC-IPS statute unambiguously provides that “a driver violates the law when the vehicle operated is one *for which a license is required.*” *Id.* at 115. The court of appeals turned to the license requirement statute, Minn. Stat. § 171.02, subd. 1(a) (2022), which “provides that ‘a person shall not drive a motor vehicle upon a street or highway in this state unless the person has a valid license.’ ” *Velisek*, 971 N.W.2d at 115 (quoting Minn. Stat. § 171.02, subd. 1(a)). Because chapter 171 defines a street or highway as “ ‘every way or place’ between property lines that is ‘open to the use of the public, as a matter of right, for purpose of vehicular traffic,’ ” the court of appeals concluded that “a license is required only when a vehicle is operated on a street or highway—not when operated on private property.” *Id.* (quoting Minn. Stat. § 171.01, subd. 48 (2022)). The court of appeals distinguished *Bauman* from Velisek’s

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<sup>2</sup> Minn. R. Crim. P. 26.01, subd. 4, allows a defendant to stipulate to the prosecutor’s case for the purpose of obtaining appellate review of a pretrial ruling when the parties agree that the pretrial ruling is dispositive of the case. Velisek sought to obtain appellate review of the district court’s denial of his motions suppress evidence and dismiss the complaint.

circumstances and declined to extend the *Bauman* holding to persons driving on private property with a license cancelled as inimical to public safety. *Id.* at 116–17.

We granted the State’s petition for further review.

## ANALYSIS

This case requires us to interpret the DAC-IPS statute, Minn. Stat. § 171.24, subd. 5, and then to apply our interpretation to Velisek’s motions to suppress and dismiss the complaint. We address each issue in turn.

### I.

First, we must determine whether the DAC-IPS statute prohibits a person with a driver’s license cancelled as inimical to public safety from operating a motor vehicle on private property. Statutory interpretation is a question of law reviewed de novo. *State v. Thonesavanh*, 904 N.W.2d 432, 435 (Minn. 2017). “Under the de novo standard, we do not defer to the analysis of the courts below, but instead we exercise independent review.” *Wheeler v. State*, 909 N.W.2d 558, 563 (Minn. 2018).

Velisek was charged under the DAC-IPS statute, which provides:

A person is guilty of a gross misdemeanor if:

- (1) the person’s driver’s license or driving privilege has been canceled or denied under section 171.04, subdivision 1, clause (10);
- (2) the person has been given notice of or reasonably should know of the cancellation or denial; and
- (3) the person disobeys the order by operating in this state any motor vehicle, the operation of which requires a driver’s license, while the person’s license or privilege is canceled or denied.

Minn. Stat. § 171.24, subd. 5. Our focus is on the language in clause (3), which subjects a person to criminal prosecution if they disobey the cancellation order “by operating in this state any motor vehicle, the operation of which requires a driver’s license.” *Id.*, subd. 5(3). The State asserts that because the only geographic limit in the DAC-IPS statute is “in this state,” the statute focuses on the type of motor vehicles that require a license to operate rather than the location where the motor vehicle is driven. Velisek, in contrast, argues that the DAC-IPS statute applies only when operation of a motor vehicle “requires a driver’s license,” which, under the license requirement statute, is only required when driving “upon a street or highway”—not on a private residential driveway.

“Our aim in interpreting a statute is to effectuate the intent of the Legislature.” *State v. Powers*, 962 N.W.2d 853, 858 (Minn. 2021); *see also* Minn. Stat. § 645.16 (2022). “The first step in statutory interpretation is to determine whether the statute’s language is ambiguous.” *State v. Stay*, 935 N.W.2d 428, 430 (Minn. 2019). The language of a statute is ambiguous if it is “subject to more than one reasonable interpretation.” *State v. Mauer*, 741 N.W.2d 107, 111 (Minn. 2007). If a statute is ambiguous, “we may apply the canons of construction to resolve the ambiguity.” *Thonesavanh*, 904 N.W.2d at 435. “If a statute is unambiguous, we apply its plain meaning.” *State v. Henderson*, 907 N.W.2d 623, 625 (Minn. 2018).

#### A.

We must first determine if the language in the DAC-IPS statute is ambiguous. *See Stay*, 935 N.W.2d at 430. We may utilize the canons of interpretation set forth in Minn. Stat. § 645.08 (2022) to determine the plain meaning of the statute. *Laase v. 2007*

*Chevrolet Tahoe*, 776 N.W.2d 431, 435 (Minn. 2009). To determine the plain meaning of a statute, “we first construe words and phrases in the statute ‘according to rules of grammar and according to their common and approved usage.’ ” *State v. McReynolds*, 973 N.W.2d 314, 318 (Minn. 2022) (quoting Minn. Stat. § 645.08(1) (2022)). We examine a statute as a whole, considering the entire statute, not just the specific phrase at issue. *Pakhnyuk*, 926 N.W.2d at 920.

The DAC-IPS statute makes it a crime for a person to disobey a license-cancellation order “by operating in this state any motor vehicle, the operation of which requires a driver’s license, while the person’s license or privilege is canceled.” Minn. Stat. § 171.24, subd. 5(3). Consequently, a person whose license is cancelled as inimical to public safety violates the DAC-IPS statute if the driver operates a motor vehicle in the state *and* the operation of that motor vehicle requires a driver’s license.

Here, it is undisputed that Velisek was “operat[ing] a motor vehicle in the state.” Our analysis instead focuses upon when a driver’s license is required to operate a motor vehicle. The license requirement statute, Minn. Stat. § 171.02, answers this question. The license requirement statute provides that “[e]xcept when expressly exempted, a person shall not drive a motor vehicle *upon a street or highway in this state* unless the person has a valid license under this chapter for the *type or class of vehicle being driven*.” Minn. Stat. § 171.02, subd. 1(a) (emphasis added). The license requirement statute therefore has both a geographic limit (“upon a street or highway in this state”) and a classification requirement (that the motor vehicle is classified as the type of vehicle that requires a driver’s license to operate). *Id.*

Both Velisek and the State contend that the relevant language in the DAC-IPS statute is unambiguous, but the State focuses upon the corresponding license requirement statute's classification requirement, while Velisek focuses upon the geographic limit. The State asserts that the DAC-IPS statute unambiguously focuses on the type of motor vehicles that require a license to operate rather than the location where the motor vehicle is driven. The State argues that the only geographic limit in the DAC-IPS statute is "in this state" and this limit is not modified by the phrase "upon a street or highway." Under this analysis of clause (3), the State believes the relevant question is "what kind of motor vehicle requires a driver's license for their operation?" The State contends that the license requirement statute, Minn. Stat. § 171.02, in turn, answers this question through the classification requirement in subdivision 1(a), and the corresponding classification system in subdivision 2(a).

Velisek, in contrast, argues that the DAC-IPS statute unambiguously "covers only situations where a person with a canceled license operates a motor vehicle on a street or highway—not on a private residential driveway." Velisek explains that the DAC-IPS statute's plain language provides that the statute applies only when operation of a motor vehicle requires a driver's license. *See* Minn. Stat. § 171.24, subd. 5(3) ("the operation of which requires a driver's license"). And Velisek argues that the license requirement statute, in turn, imposes a geographic limitation whereby a driver is only required to have a license when driving "upon a street or highway." Accordingly, Velisek contends the DAC-IPS statute cannot be enforced on a private residential driveway.



Both interpretations advanced by the parties are reasonable. Using the license requirement statute only for its classification system, as the State suggests, is reasonable because the DAC-IPS statute already includes a geographic limit that is broader than the license requirement statute's geographic limit—"in this state" versus "upon a street or highway in this state," respectively. The deliberate use of a broader geographic limit in the DAC-IPS statute can reasonably be interpreted to indicate the Legislature's intent that the statute be enforceable beyond the streets and highways in the state.

Conversely, incorporating the license requirement statute's geographic limit, as Velisek suggests, into the DAC-IPS statute is also reasonable. The Legislature deliberately chose to limit the license requirement statute's applicability to the streets and highways in the state, rather than to extend its reach to private property. And the DAC-IPS statute, through the phrase "the operation of which requires a driver's license," Minn. Stat. § 171.24, subd. 5(3), can reasonably be interpreted as incorporating that geographic limit. Particularly when it would seem dissonant to criminalize DAC-IPS offenders for driving a vehicle on private property when a driver's license is not generally required to operate a vehicle on private property.

Because the parties' interpretations are both reasonable, we conclude that the language in clause (3) of the DAC-IPS statute is ambiguous.

## B.

When a statute is ambiguous, we may rely on the canons of statutory construction to resolve the ambiguity. *Thonesavanh*, 904 N.W.2d at 435. "We may ascertain the intention of the Legislature by considering, for example, past versions of the law at issue."

*Pakhnyuk*, 926 N.W.2d at 924; *see also* Minn. Stat. § 645.16(5) (“[T]he intention of the legislature may be ascertained by considering . . . the former law.”); *State v. Al-Naseer*, 734 N.W.2d 679, 686–87 (Minn. 2007) (relying on an earlier version of a statute to ascertain legislative intent). “The Legislature’s amendment of a statute creates a presumption that the Legislature intended to change the law.” *Braylock v. Jesson*, 819 N.W.2d 585, 588 (Minn. 2012). “In determining whether an amendment constitutes a clarification or modification of preexisting law, we compare the language of the pre-amendment and post-amendment versions of a statute.” *Id.*

The Minnesota Legislature passed the first iteration of chapter 171, which governs driver’s license regulation, in 1939 with the purpose of “regulat[ing] and licens[ing] persons operating motor vehicles upon the streets and public highways.” Act of Apr. 22, 1939, ch. 401, 1939 Minn. Laws. 780, 780 (codified as amended at Minn. Stat. § 171.24 (2022)). The 1939 statute prohibited driving with a cancelled, suspended, or revoked license as follows:

Any person whose driver’s license or driving privilege has been cancelled, suspended or revoked as provided in this act, and who shall operate any motor vehicle *upon the streets or highways in this state* while such license or privilege is cancelled, suspended or revoked shall be guilty of a misdemeanor.

*Id.* at § 23, 792 (emphasis added). The law explicitly stated that it applied to the operation of motor vehicles “upon streets or highways in this state,” thereby limiting its application

to public roads.<sup>3</sup> *Id.* The 1939 law also contained the first version of the license requirement statute, which stated a person shall not “operate or drive any motor vehicle upon any street or highway in this state unless such person has a valid license . . . under the provisions of this act.” Act of Apr. 22, 1939, ch. 401, § 2, 1939 Minn. Laws. 780, 782 (codified as amended at Minn. Stat. § 171.02, subd. 1(a) (2022)). The first version of the license requirement statute did not include a classification requirement. *Id.*

In 1943, the Legislature amended the cancelled, suspended, or revoked statute to provide:

Any person whose driver’s license or driving privilege has been canceled, suspended or revoked as provided in this act, and who shall operate any motor vehicle, *the operation of which requires a driver’s license, upon the streets or highways in this state* while such license or privilege is canceled, suspended or revoked shall be guilty of a misdemeanor.

Act of Apr. 7, 1943, ch. 331, § 3, 1943 Minn. Laws. 448, 451 (codified as amended at Minn. Stat. § 171.24 (2022)) (emphasis added). The Legislature added the phrase “the operation of which requires a driver’s license,” but left in the geographic limit “upon the streets or highways in this state.” *Id.* at § 3, 451. This revision indicates that the Legislature understood that adding “the operation of which requires a driver’s license” did not incorporate the license requirement statute’s geographic limit into the cancelled,

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<sup>3</sup> The 1939 Legislature defined street or highway as “[t]he entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purpose of vehicular traffic.” Act of Apr. 22, 1939, ch. 401, § 1 1939 Minn. Laws. 780, 781 (codified as amended at Minn. Stat. § 171.01 (2022)). This definition remains unchanged. *Compare id.*, with Minn. Stat. § 171.01, subd. 48 (2022) (defining street or highway as “[t]he entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purpose of vehicular traffic”).

suspended, or revoked statute. Doing so would render the identical geographic limit already included in the cancelled, suspended, or revoked statute redundant. *Compare id.* (“upon the streets or highways in this state”), *with* Minn. Stat. § 171.02 (1941) (“upon any street or highway in this state”). Rather, this change suggests that the Legislature intended to limit the crime of driving with a cancelled, suspended, or revoked license to circumstances when the driver operated a motor vehicle that required a driver’s license, because not all motor vehicles required a driver’s license for operation. *See, e.g.,* Minn. Stat. § 171.03 (1941) (providing that farm tractors and other implements of husbandry did not require a driver’s license when operated temporarily on the highway).<sup>4</sup>

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<sup>4</sup> In 1949, the Legislature amended the cancelled, suspended, or revoked statute to provide:

Any person whose driver’s license or driving privilege has been canceled, suspended or revoked as provided in this chapter who operates any motor vehicle, the operation of which requires a driver’s license, *upon the highways in this state* while such license or privilege is canceled, suspended, or revoked is guilty of a misdemeanor.

Minn. Stat. § 171.24 (1949) (emphasis added). The Legislature removed the word “streets” from the statute’s geographic limit. *Id.* Given that “streets and highways” were statutorily defined as “[t]he entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purpose of vehicular traffic,” this omission did not change the cancelled, suspended, or revoked statute’s geographic reach. *See* Minn. Stat. § 171.01, subd. (10) (1949) (defining streets and highways).

In 1971, the Legislature immaterially amended the cancelled, suspended, or revoked statute, but meaningfully amended the license requirement statute. The amendments to the license requirement statute added the classification requirement—“unless such person has a license valid under the provisions of this chapter for the type or class of vehicle being driven”—and the requirements for A-, B-, and C-Class vehicles. Minn. Stat. § 171.02, subds. 1–2 (1971).

In 1984, the Legislature made a key change to broaden the geographic reach of the cancelled, suspended, or revoked statute when it provided:

Any person whose driver's license or driving privilege has been cancelled, suspended, or revoked and who has been given notice of, or reasonably should know of the revocation, suspension, or cancellation, and who disobeys such order by operating *anywhere in this state* any motor vehicle, the operation of which requires a driver's license, while such license or privilege is cancelled, suspended, or revoked is guilty of a misdemeanor.

Minn. Stat. § 171.24 (1984) (emphasis added). The Legislature's intentional replacement of "upon the highways in the state" with "anywhere in this state" shows its intent for the statute to apply to drivers on non-public roads because the change explicitly broadened the statute's geographic limit from the public roadways to anywhere within the state's geographic borders. *Id.*; see also *Braylock*, 819 N.W.2d at 588 ("The Legislature's amendment of a statute creates a presumption that the Legislature intended to change the law."). Additionally, the 1984 license requirement statute included the geographic limit "upon any street or highway in this state." Minn. Stat. § 171.02, subd. 1 (1984). The Legislature must not have intended for the license requirement statute's geographic limit to be read into the cancelled, suspended, or revoked statute because doing so would mean the Legislature's addition of "anywhere in this state" to the cancelled, suspended, or revoked statute would have no effect, making the language void. See also *Owens*, 328 N.W.2d at 164 ("[W]henever possible, no word, phrase or sentence [in a statute] should be deemed superfluous, void or insignificant.").

The Legislature amended the cancelled, suspended, or revoked statute in 1993 to incorporate a separate subdivision with the first version of the DAC-IPS subdivision that

exists today.<sup>5</sup> In 1994, the Legislature streamlined the geographic limit in each subdivision, changing the limit to “in this state” rather than “anywhere in this state.” Minn. Stat. § 171.24, subds. 1–5 (1994). This is the same format as today’s statute. *Compare* Minn. Stat. § 171.24 (1994), *with* Minn. Stat. § 171.24 (2022).

The statute’s history shows the Legislature explicitly expanded the DAC-IPS statute’s geographic reach from “the streets and highways in this state” to “in this state.” *Compare* Minn. Stat. § 171.24 (1949), *with* Minn. Stat. § 171.24, subd. 5 (1994). Importantly, this change happened many years after the Legislature added the phrase “the operation of which requires a driver’s license,” which requires us to read the DAC-IPS statute in conjunction with the license requirement statute. These changes show that the Legislature did not intend for the geographic limit from the license requirement statute to be read into the DAC-IPS statute.

We also briefly consider the different purposes between the license requirement statute and the DAC-IPS statute. *See* Minn. Stat. § 645.16(3) (2022) (providing we can consider “the mischief to be remedied” by a statute in interpreting legislative intent). Although both statutes discuss driver’s licenses and are a part of the state’s licensing scheme, they have different purposes and address different circumstances.

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<sup>5</sup> This statute made it a gross misdemeanor when a person’s license was cancelled as inimical to public safety and the person “operat[ed] in this state any motor vehicle, the operation of which requires a driver’s license, while the person’s license or privilege [was] canceled.” Minn. Stat. § 171.24(c) (Supp. 1993).

In 1994, the Legislature amended the statute to create separate subdivisions for driving after suspension, revocation, cancellation, disqualification, and DAC-IPS. *See* Minn. Stat. § 171.24, subds. 1–5 (1994).

The license requirement statute prohibits *any person* who does not have a driver's license from operating a vehicle, whereas the DAC-IPS statute only prohibits people from driving if their licenses are cancelled because their past driving conduct is inimical to public safety. *Compare* Minn. Stat. § 171.02, subd 1(a) (2022), *with* Minn. Stat. § 171.24, subd. 5 (2022). The Legislature also chose to enforce a greater punishment on DAC-IPS violators than people who violate the license requirement statute. *Compare* Minn. Stat. § 171.24, subd. 5 (classifying DAC-IPS as a gross misdemeanor), *with* Minn. Stat. § 171.02, subd. 1(a) (prohibiting driving on the streets and highways in this state without a driver's license but not listing a criminal sanction), and Minn. Stat. § 171.241 (2022) (stating violations of chapter 171 are a misdemeanor unless otherwise stated). The difference in severity attached to these different offenses shows the Legislature's understanding that violations of the DAC-IPS statute are more dangerous to public safety than violations of the license requirement statute.

Accordingly, we hold that the DAC-IPS statute is not limited to public streets and highways, and the statute is enforceable on private property.

## II.

Having determined that the DAC-IPS statute is enforceable on private property, we must determine how this holding affects Velisek's case. The central dispute is whether the deputy had cause to stop Velisek after observing Velisek drive a sedan on a private driveway. The deputy's stop of Velisek required the deputy to have suspicion of illegal activity. *See State v. Pike*, 551 N.W.2d 919, 921 (1996) ("A brief investigatory stop requires only reasonable suspicion of criminal activity, rather than probable cause."). If

Velisek's operation of the sedan on private property when his license was cancelled as inimical to public safety was not illegal, then the deputy did not have cause to stop, and subsequently arrest, Velisek.

The district court denied Velisek's pre-trial motions to suppress the evidence obtained from his arrest and to dismiss the complaint because the district court determined the deputy had probable cause to arrest Velisek for DAC-IPS. Velisek stipulated to the prosecution's case under Minn. R. Crim. P. 26.01, subd. 4, to obtain appellate review of the district court's dispositive pretrial ruling on Velisek's motions to suppress and dismiss. The district court found Velisek guilty of both charges and Velisek appealed.

The court of appeals reversed the district court's ruling on Velisek's motions to suppress and dismiss, holding that because "a license is required only when a vehicle is operated on a street or highway—not when operated on private property," the DAC-IPS statute is not enforceable on a private residential driveway. *Velisek*, 971 N.W.2d at 115–17. Accordingly, the court of appeals determined Velisek's arrest "was unauthorized," and "the evidence the deputy obtained as a result of that arrest should have been suppressed." *Id.* at 119. Consequently, the court of appeals reversed Velisek's convictions. *Id.*

Because we hold that the DAC-IPS statute is enforceable on private property, including a private residential driveway, we determine that the district court properly denied Velisek's motions to suppress and dismiss, and we therefore reverse the court of appeals' decision, which results in reinstatement of Velisek's convictions.



## **CONCLUSION**

For the foregoing reasons, we reverse the decision of the court of appeals.

Reversed.