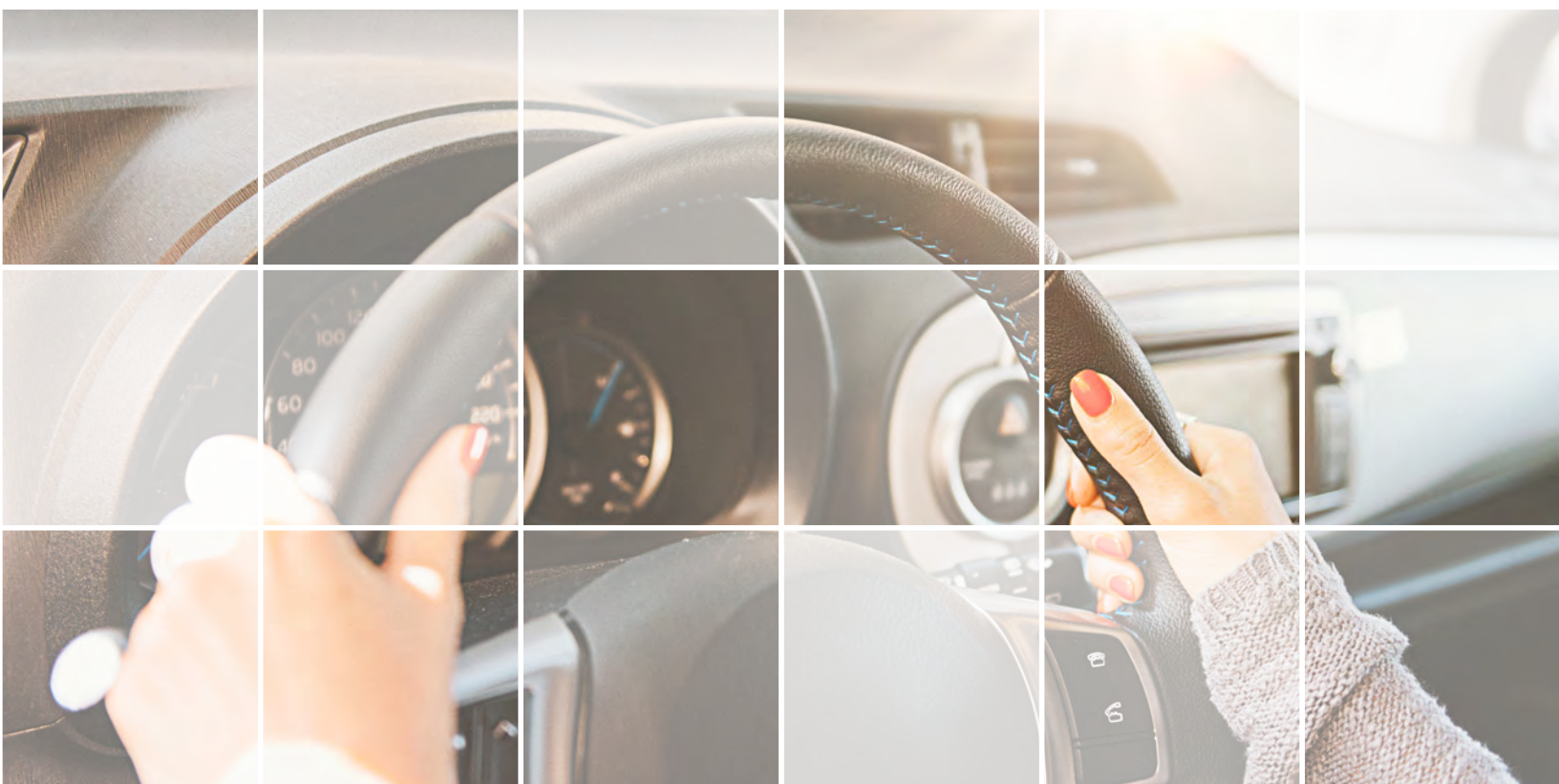


DRIVEN BY DOLLARS

A State-By-State Analysis of Driver's License
Suspension Laws for Failure to Pay Court Debt

Authored by Mario Salas and Angela Ciolfi



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Although we made every attempt to verify the results of our research with local practitioners, any remaining errors are ours, and ours alone.

Disclaimer

This report is not legal advice. Because of the rapidly changing nature of the law, information contained in this report may become outdated, and anyone using this material in a legal matter must always research original sources.

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EXECUTIVE SUMMARY

Across the country, millions of people have lost their licenses simply because they are too poor to pay, effectively depriving them of reliable, lawful transportation necessary to get to and from work, take children to school, keep medical appointments, care for ill or disabled family members, or, paradoxically, to meet their financial obligations to the courts.

State laws suspending or revoking driver's licenses to punish failure to pay court costs and fines are ubiquitous, despite the growing consensus that this kind of policy is unfair and counterproductive. Forty-three states and the District of Columbia use driver's license suspension to coerce payment of government debts arising out of traffic or criminal convictions. Most state statutes contain no safeguards to distinguish between people who intentionally refuse to pay and those who default due to poverty, punishing both groups equally harshly as if they were equally blameworthy.

License-for-payment systems punish people—not for any crime or traffic violation, but for unpaid debts. Typically, when a state court finds a person guilty of a crime or traffic violation, it orders the person to pay a fine or other penalty along with other administrative court costs and fees. If the person does not pay on time, the court or motor vehicle agency can—and in some states, must—punish the person by suspending his or her driver's license until the person pays in full or makes other payment arrangements with the court.

By cutting people off from jobs, license-for-payment systems create a self-defeating vicious cycle. A state suspends the license even though a person cannot afford to pay, which then makes the person less likely to pay once he or she cannot drive legally to work. The person now faces an unenviable choice: drive illegally and risk further punishment (including incarceration in some states), or stay home and forgo the needs of his or her family. In this way, license-for-payment systems create conditions akin to modern-day debtor's prisons.

Despite their widespread use, license-for-payment systems are increasingly drawing critical scrutiny from motor vehicle safety professionals, anti-poverty and civil rights advocates, and policymakers. New state-

MILLIONS OF DRIVERS ACROSS THE COUNTRY HAVE LOST THEIR DRIVER'S LICENSES BECAUSE OF COURT DEBT.

Although we do not have nationwide data, we know that the individuals whose licenses are currently suspended or revoked for failure to pay court debt number in the millions. Indeed, just five states account for over 4.2 million people:

- » 1.8 million Texans¹
- » Almost 1.2 million North Carolinians;^{2*}
- » 977,000 Virginians;³
- » 146,000 Tennesseans;⁴
- » 100,000 Michiganders;⁵

*Data from North Carolina include drivers suspended for failure to appear as well as failure to pay.

based advocacy campaigns across the country have produced reforms by way of the courts, legislatures, and executive agencies.

To provide national context for these efforts, we analyzed license-for-payment systems in all 50 states and the District of Columbia to generate conclusions about the prevalence and uses of license-for-payment.

Our key findings include:

- » 43 states (and D.C.) suspend driver’s licenses because of unpaid court debt;⁶
- » Only four states require an ability-to-pay or “willfulness” determination before a license can be suspended for nonpayment;
- » 19 states—almost 40% of the nation—have laws imposing mandatory suspension upon nonpayment of court debt; and,
- » Virtually all states that suspend for unpaid court debt do so indefinitely, with rules that prevent reinstatement until payment is satisfied.

All over the country, people are struggling to earn a livelihood and meet the needs of their families while their licenses remain indefinitely suspended because of court debt they cannot pay. At a time of historic income and wealth inequality, states should urgently reexamine whether the policy’s immense costs to individuals, communities, and states overwhelm its benefits. At a minimum, license-for-payment states should review their policies to ensure their systems provide due process, with adequate safeguards in place to make certain no person is punished because of poverty.

THE PROBLEM WITH LICENSE-FOR-PAYMENT

It is often said that driving is a privilege. But for most people, the ability to drive legally to jobs, medical appointments, places of worship, and the grocery store is no more a privilege than it is to work, eat, pray, and care for their families. Indeed, as the U.S. Supreme Court wrote nearly 50 years ago in *Bell v. Burson*, a driver's license "may become essential in the pursuit of a livelihood."⁷

Across the country, however, most states see the need to drive as a court debt collection opportunity: Pay what you owe, or else lose your license.

These license-for-payment systems are unfair and harmful to individuals, needlessly perpetuate involvement with the criminal justice system, and are costly and counterproductive for states and communities. Without adequate safeguards to prevent people from being punished for their poverty, they may also be unconstitutional.

UNFAIR AND HARMFUL

License-for-payment systems have a disproportionate impact on low-income people. People in this group have fewer available resources to divert to paying court debt, and are therefore at greater risk of losing their licenses for nonpayment. While wealthier drivers have little difficulty covering court debt, people living paycheck-to-paycheck with little or no savings and families to support may not be able to pay in a lump sum or consistently make payments on installment plans.

People already on shaky financial grounds and saddled with court debt are likely to suffer a wide range of harms after losing the ability to drive legally.⁸ Unsurprisingly, driver's license suspension is correlated with job loss⁹ and missed job opportunities.¹⁰ Without the ability to drive, most jobs are virtually inaccessible to people living in many of the country's largest urban areas.¹¹ Inaccessibility is likely to be an even larger issue in rural areas lacking public and other alternative transportation. Even if a workplace is just a short drive or

A REAL EXAMPLE OF THE COURT DEBT CYCLE

Demetrice Moore is a certified nursing assistant (CNA) and mother of two children. In 2002, she was convicted of grand larceny, and sentenced to jail and to pay court costs, including the cost of the lawyer appointed to represent her because she was indigent. She served her jail time, but was unable to pay the court costs she owed, which resulted in the automatic suspension of her Virginia driver's license.

As a CNA, she had to drive extensively to care for elderly and disabled patients in their homes. Consequently, she was convicted several times for driving on a suspended license, and was jailed for that offense for 23 days in 2016. She stopped working as a CNA because of the required driving. Her court debt from the multiple convictions and accumulated interest ballooned to almost \$4,500, and she could not afford the \$100 per month payment plan offered by one of the courts. Having been stripped of her license for over a decade, Ms. Moore and the family she supports have been punished, far beyond the terms of her sentencing 15 years ago, because she is poor.

bus ride away from the worker's home, lacking a valid driver's license can make getting to and from work or carrying out a job search far more time-consuming and unreliable. On average, commutes for people who use public transportation are about twice as long as commutes for people who drive.¹² Jobs that cannot be accessed by public transportation at all may become entirely unreachable without unfailing support from friends or family.

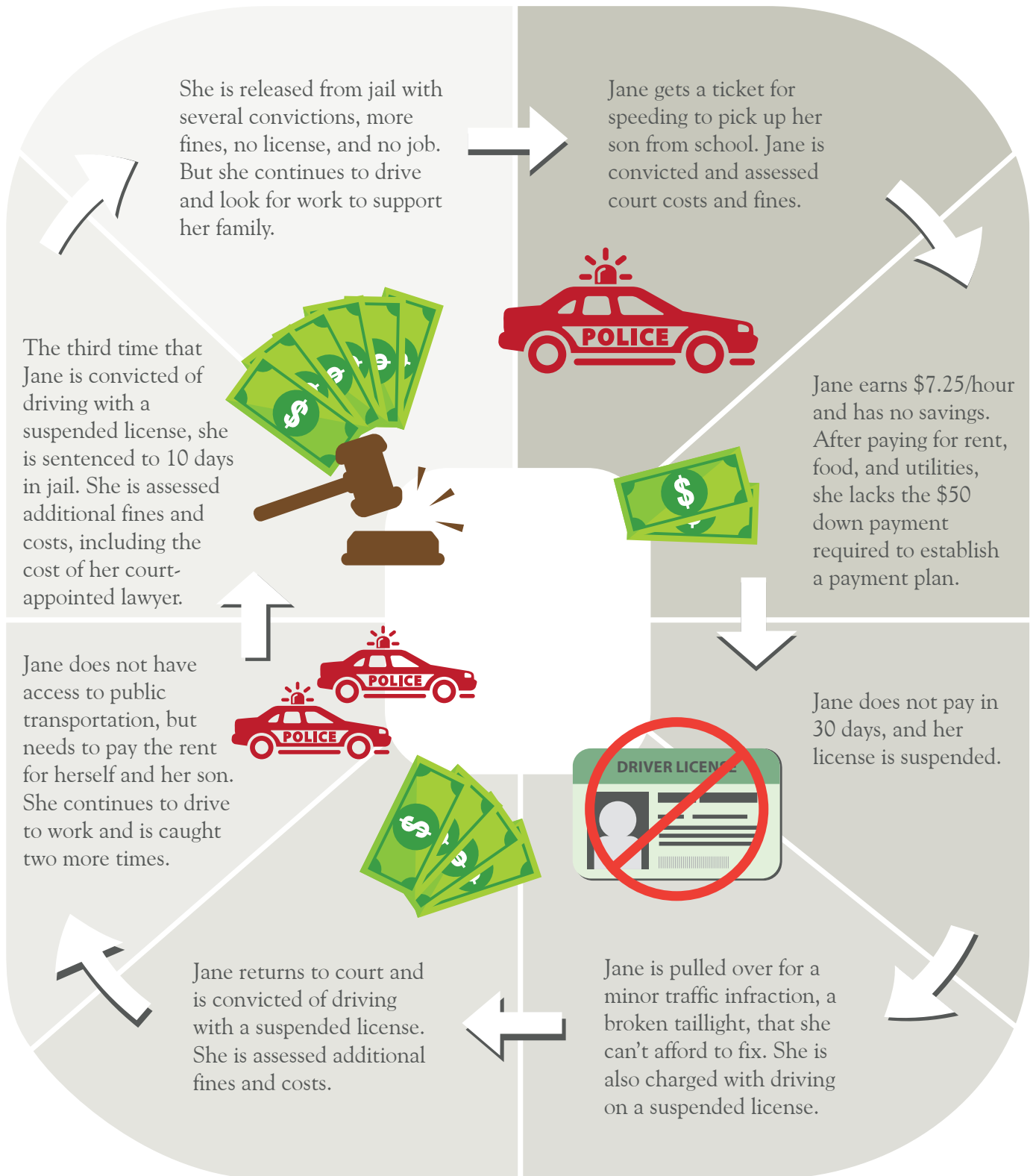
Transportation limitations aside, many jobs require a valid license, such as delivery services, commercial trucking, and operating forklifts and other construction equipment. Moreover, even when driving is not part of the job duties, many employers often ask whether job applicants have a valid driver's license, viewing licensure as an indicator of stability and reliability.¹³

In these ways, license-for-payment systems irrationally tend to deprive vulnerable people of the means by which they can pay their debts and take care of themselves and their families, and create a vicious cycle. People cannot afford to pay, so they lose their licenses. When they lose their licenses, they cannot legally drive to work, so they lose their jobs or cannot find jobs. Even those who find another job may experience a decrease in pay.¹⁴ All of these forces result in people being less likely to pay court debts, which can lead to additional court involvement.

License-for-payment systems are also problematic because they result in enforcement disparities to the detriment of historically vulnerable groups. For example, recent data from California show a strong positive correlation by zip code between black populations and driver's license suspension for nonpayment or nonappearance at related court hearings.¹⁵ In Virginia, too, data suggest black people disproportionately suffer driver's license suspension for nonpayment.¹⁶ This group also appears to suffer a disproportionate rate of convictions for driving with a suspended license when the underlying suspension is due to nonpayment.¹⁷ Similar disparities have been documented in Wisconsin.¹⁸



THE VICIOUS COURT DEBT CYCLE



PROLONGED COURT INVOLVEMENT

Under license-for-payment policies, people struggling to satisfy court debt and reinstate their licenses are at heightened legal risk. Often, people who lose their driver's licenses have to choose between losing their jobs (by not driving) and driving illegally in order to maintain employment. Faced with the choice between job loss and the risk of being pulled over, most people continue to drive.¹⁹ For a suspended driver, a routine traffic stop may turn into a prolonged police encounter. It can also result in vehicle impoundment. After a vehicle is impounded, police may conduct an administrative “inventorying” of its contents, which may expose the driver to more criminal liability if incriminating evidence is found. Drivers who receive convictions for driving with a suspended license may also face steep fines, more court costs, additional time-based periods of suspension, or even mandatory incarceration.²⁰

Even if a person subject to a driver's license suspension never suffers these penal consequences, the suspension largely confines the person to his or her home unless public or other transportation is available. This limitation on movement resembles house arrest or incarceration, especially in rural or other isolated areas. Thus, conditioning one's lawful ability to drive on repayment functions as a hidden consequence of violating a traffic or criminal law, a footnote to the formal sentence that may be far more long-lasting, punitive, and destructive than the original penalty.

For many of these reasons, license-for-payment policies drew unflinching criticism from the United States Department of Justice in its exhaustive report on the abusive traffic and criminal court system in Ferguson, Missouri.²¹ There, the Department catalogued and condemned the discriminatory practices at play at all levels of the system, designed to prey upon low-income black residents by trapping them in a cycle of fees, fines, driver's license suspension, and incarceration. These kinds of policies and practices exacerbate existing disparities by further limiting economic opportunities, along with increasing and prolonging exposure to criminal or traffic court penalties for these groups. Furthermore, they may heighten tensions between targeted communities and law enforcement as contact increases and trust deteriorates.

COSTLY TO COMMUNITIES

When courts are used as revenue generators and debt collection policies rest on the false assumption that everyone can afford to pay, communities suffer as well. From a fiscal standpoint, state and local officials often feel pressure to increase revenues. However, license-for-payment policies may be no more effective at enforcing the obligation to pay than other debt collection practices, such as garnishments or liens.²² Additionally, critics have identified a host of hidden costs and consequences of license-for-payment policies that further call their effectiveness into question.²³ States and localities must divert resources toward administering criminal and traffic systems that become even more pressured by an influx of suspended drivers and their ever-growing court debts.²⁴

Communities also suffer because of new threats to public safety from the costs of enforcing laws against driving with a suspended license. The number of drivers with suspended licenses due to court debt is shockingly large in many states—roughly 1 in 6 drivers in Virginia, for example.²⁵ Stopping, citing, and potentially arresting a person for driving on a suspended license diverts police officers from focusing on dangerous driving behaviors and otherwise promoting public safety.²⁶ Courts are forced to process additional cases.²⁷ Jails house inmates who are guilty of nothing more than “driving while poor,” and communities bear these unnecessary costs.²⁸

UNCONSTITUTIONAL

In several states, civil rights advocates have filed lawsuits challenging the constitutionality of license-for-payment laws.²⁹ Essentially, these lawsuits contend that automatic license suspension violates the Due Process and Equal Protection Clauses by punishing people for their poverty. According to the U.S. Department of Justice, which filed a statement of interest in support of plaintiffs challenging Virginia's automatic suspension statute, drivers have a fundamental "due process right to establish inability to pay" when a state or locality seeks to suspend driver's licenses for nonpayment of court debt.³⁰ Typically, violations of court orders are punished via contempt proceedings, and a person cannot be punished without a hearing to determine whether the violation was intentional. Without an ability-to-pay hearing, automatic license suspension is essentially a contempt proceeding—without the proceeding.

From a practical standpoint, drivers are often blindsided by license suspensions for court debt. Many states do not provide meaningful opportunities for drivers to prevent or resolve a license suspension by showing inability to pay the underlying debt. Disturbingly, many states even require people to pay when their sole income is Social Security, TANF, or other need-based assistance.³¹ Because court debt can arise from traffic infractions or low-level misdemeanors that do not carry the possibility of a significant fine or jail time, many if not most low-income people proceed through court without the aid of lawyers. Drivers in this group likely do not know about the consequences for nonpayment and the available constitutional protections, and in any event are ill-positioned to assert them. Furthermore, as the U.S. Department of Justice observed, "in addition to being unlawful, to the extent that these practices are not geared toward addressing public safety, but rather toward raising revenue, they can cast doubt on the impartiality of the tribunal and erode trust between local governments and their constituents."³²

VIRGINIA'S AUTOMATED SYSTEM RAISES CONSTITUTIONAL CONCERNS

In Virginia, roughly 65% of all outstanding suspension and revocation orders result from unpaid court debt. In fact, nearly one million Virginia drivers have licenses suspended for nonpayment of court debt.³³ Virginia is one of 19 states in which driver's license suspension is a mandatory consequence for nonpayment. State law does not allow for an ability-to-pay determination prior to suspending the debtor's license. Virginia's system is also highly automated. In almost all jurisdictions, court computer systems electronically transmit a record of nonpayment to the Department of Motor Vehicles (DMV) shortly after the payment due date. Upon receiving this record, DMV immediately flags the license as suspended. For these reasons, Virginia's automatic and mandatory license-for-payment system is highly problematic under the Due Process and Equal Protection Clauses. Its system lacks adequate checks against suspensions that result from inability to pay and, as a result, punishes people simply for their poverty.³⁴

FINDINGS

We reviewed statutes governing licensing consequences for nonpayment of court debt in all 50 states and the District of Columbia.³⁵ A detailed state-by-state analysis is compiled in Appendix A to this report. We found:

1. License-for-payment systems are ubiquitous.

Almost all states suspend driver's licenses because of unpaid court debt despite the harms this practice inflicts on both individual debtors and their communities. Forty-three states and the District of Columbia use driver's license suspension to enforce court debt. Three other states have laws that prevent renewals for expired driver's licenses in some cases of unpaid court debt.³⁶ Only four states—California,³⁷ Kentucky, Georgia, and Wyoming—do not suspend for unpaid court debt at all.

2. License-for-payment systems punish people just for being poor.

Troublingly, in 40 states, driver's licenses may be suspended without regard to the driver's ability to pay at the time of suspension. Only four states—Louisiana, Minnesota, New Hampshire, and Oklahoma—require a determination that the person had the ability to pay and intentionally refused to do so.

3. In many states, driver's license suspension is a mandatory consequence anytime a person does not pay court debt on time.

Nineteen states—almost 40% of the nation—have rules that *require* driver's license suspension following a missed court debt payment deadline. Of these states, only New Hampshire requires a court to first determine that the debtor has the ability to pay; suspension is mandatory if a court determines the debtor has the ability to pay.³⁸



In Virginia, drivers suspended for safety reasons can often reinstate their licenses faster than those suspended for nonpayment. For example, a person convicted of reckless driving risks no more than a six-month suspension of his or her license,⁴⁰ while a suspension for failure to pay commonly lasts for years.

In 24 other states and the District of Columbia, driver's license suspension laws contain technical provisions permitting discretion. However, anecdotally, practitioners report that these "discretionary" suspensions may actually occur without much deliberation, or even without human intervention at all. As state governments modernize methods of internal communication and link their agency databases, suspensions in these states become even easier to automate and routinize. In reality, the discretion afforded by state law may just be an empty promise, replaced by bureaucracies that instead produce driver's license suspensions just as mechanically as the 19 states with laws requiring them for nonpayment.

4. Suspensions for nonpayment are typically indefinite.

Of the 44 jurisdictions that suspend driver's licenses for unpaid criminal or traffic court debt, 39 do so indefinitely. In other words, in these states, driver's licenses remain suspended until the state is satisfied concerning payment, or until statutes of limitation on debt collection rules prevent the state from pursuing debts any longer.³⁹ Only five states—Idaho, Minnesota, New Mexico, Vermont, and Wisconsin—have laws limiting the length of these suspensions.

5. Licensing consequences are not confined to debts for traffic-related convictions.

Although most jurisdictions (29 states and D.C.) employ license-for-payment systems to punish nonpayment of debt incurred for traffic convictions only, more than one-quarter (14) of states suspend licenses for nonpayment of both traffic and criminal court debt.⁴¹

Of the 14 states that apply license-for-payment to both traffic and criminal justice debt, five—Delaware, Florida, Maine, Michigan, and Virginia—employ mandatory indefinite suspension without regard to ability to pay.

REINSTATEMENT FEES

Once a person's license is suspended, they typically must pay reinstatement fees—on top of monies owed to the courts—in order to get their license back. Reinstatement fees can be hefty:

- » Alabama: \$100
- » Michigan: \$125 (+ \$500 Driver Responsibility Fee if convicted of driving while suspended)
- » New Hampshire: \$100
- » Nebraska: \$125
- » Virginia: at least \$145
- » Washington: \$129

CONCLUSION AND RECOMMENDATIONS

Enforcing debts against people who can't afford to pay puts them in a perpetual state of punishment.⁴⁵ They can never atone, especially compared to wealthier people who can just write a check and be back in good standing.

Given the devastating fallout from systems that condition driver's licenses on court debt repayment—the everyday and abstract harms inflicted upon human beings, communities, and governments—decision-makers ought to abandon them in favor of existing civil means of collecting debts. Some states already pursue unpaid court debts without resorting to driver's license suspension,⁴⁶ eliminating the danger that vulnerable people will lose a critical means of supporting themselves and their dependents because of inability to pay.

There is an emerging consensus that driver's license suspension is a misguided and counterproductive tool for collecting court debt. The American Association of Motor Vehicle Administrators (AAMVA) has stated that driver's license suspension should not be used for punishing social non-conformance, but should instead be limited to taking dangerous drivers off the road.⁴⁷ Similarly, the U.S. Department of Justice has written that such suspensions “raise significant public policy concerns” and that governmental authorities should “avoid suspending driver's licenses as a debt collection tool, reserving suspension for cases in which it would increase public safety.”⁴⁸

Several states have taken steps to reduce or eliminate the use, or impact, of court debt suspensions. In addition to California's decision to cease suspending additional licenses for court debt (see below), Colorado earlier in 2017 amended existing law, reducing the misdemeanor of driving on a suspended license (punishable by up to six months of jail time) to a traffic infraction carrying no jail time in cases where the license was suspended due to court debt.⁴⁹ Likewise, these counterproductive suspension policies are gaining attention from a broad range of advocates and receiving strong bipartisan scrutiny—groups as diverse as the ACLU and legal aid organizations to Right on Crime⁵⁰ and the Institute for Justice⁵¹ have recognized that these laws need to change.

ADVOCATES WIN REFORMS TO CALIFORNIA'S FAILED LICENSE-FOR-PAYMENT SYSTEM

In June 2017, California ended its license-for-payment system. AB 103, which took effect July 1, 2017, bans driver's license suspension for outstanding traffic fines going forward.⁴² This policy change came on the heels of coordinated advocacy by Back on the Road California and its affiliated organizations, including litigation brought on behalf of suspended drivers by ACLU of Northern California, Bay Area Legal Aid, Lawyers' Committee for Civil Rights of the San Francisco Bay Area, Legal Services for Prisoners with Children, Pillsbury Winthrop Shaw Pittman LLP, and Western Center on Law & Poverty. Litigation remains pending, however, because the parties dispute whether reforms provide relief to the hundreds of thousands of drivers who suffered under the discarded policy.⁴³

Governor Jerry Brown wrote, in endorsing reform, that license-for-payment suspension “places an undue burden on those who cannot afford to pay. . . . Often, the primary consequence of a driver's license suspension is the inability to legally drive to work or take one's children to school.”⁴⁴

States and localities opting to maintain these systems must bring them into compliance with the U.S. Constitution by developing enough internal checks to ensure that no one is punished for his or her poverty. No license should be suspended without: notice of the alleged default; an opportunity to be heard as to whether such default was intentional or was instead due to financial inability, incapacity, or some other reason; and a judicial determination that the default was willful. Given the consequences that flow from these proceedings, states should provide lawyers for these ability-to-pay determinations.

In turn, state executive agencies should monitor civil rights consequences of license suspension for nonpayment, seeking out any disparities based on race and economic status. They should also work across agencies to identify unnecessary barriers to driver's license reinstatement. For example, driver's license reinstatement fees⁵² should be reasonable in light of ability to pay, with flexible options such as installment or deferred payment plans.

More broadly, states and localities should also carefully reevaluate existing rules on court costs and fines, and explore alternative programs. They should reconsider relying so heavily on so-called "user fees" to fund their court systems. Indeed, setting aside concerns about how revenue generation may taint the possibility of dispassionate justice, much of the debt that court systems assess may never result in actual revenue.⁵³ At a minimum, courts should tailor costs to align with a person's ability to pay by engaging a defendant in a colloquy regarding his or her financial position, broadly conceived to include all reasonable and regular expenses for self and dependents. As it concerns fines, courts should also explore non-traditional sentencing options such as community service, day fines,⁵⁴ and enrichment or skill-building programs.⁵⁵ Courts should have a role in setting fair penalties that take into account people's ability to pay, but they should not have ongoing responsibility for collecting debts.⁵⁶

When driver's license suspension is an automatic, mandatory, and indefinite consequence for missing a payment deadline for any reason—as it is in many states—drivers living paycheck-to-paycheck or relying on public assistance because of disability or poverty are particularly at risk. Since virtually all of these systems also lack built-in safeguards to prevent suspensions against drivers who simply do not have the means to pay on time, they arbitrarily and unapologetically equate poverty with defiance. Most states are set up to suspend the license first and leave the driver to sort it all out afterwards. Low-income people thrown into this system are trapped in a perpetual state of indebtedness to the state, stripped of the very means they would use to generate the resources needed to clear the debt, and in a far worse position to care for themselves and their families.
















ENDNOTES

1. Andrea M. Marsh, Nat'l Ctr. on State Courts, *Trends in State Courts: Rethinking Driver's License Suspensions for Nonpayment of Fines and Fees*, at 21 (2017).
2. N.C. Div. of Motor Vehicles, Response to FOIA Request (Aug. 10, 2017).
3. Complaint at 5, *Stinnie v. Holcomb*, No. 3:16-cv-44 (W.D. Va. July 6, 2016), available at <https://www.justice4all.org/wp-content/uploads/2016/07/Complaint-Drivers-License-Suspension-for-Court-Debt.pdf> (last visited Sept. 6, 2017).
4. Complaint at 2, *Thomas v. Haslam*, No. 3:17-cv-05 (M.D. Tenn. Jan. 4, 2017), available at <http://www.tennessean.com/story/news/2017/01/05/lawsuit-tennessee-drivers-license-law-punishes-poor/96204462/> (last visited Sept. 6, 2017) (approximately 146,000 Tennesseans have lost their licenses for failure to pay court debt since the Tennessee license-for-payment system went into effect in 2012).
5. Complaint at 2, *Fowler v. Johnson*, No. 2:17-cv-114411 (E.D. Mich. May 4, 2017).
6. This report defines "court debt" as court costs and fines that arise out of convictions for violating traffic and criminal laws. For purposes of this report, court costs are generally assessed and imposed around the time of sentencing in a traffic or criminal case, amounting to the administrative fees the defendant incurs in his or her contact with the court system. Jurisdictions charge defendants—most typically, only those who have been convicted—these fees to recoup the administrative costs of processing the case. Some examples of court costs include: public defender fees, jury fees, courthouse use and maintenance fees, and incarceration fees. Fines are purely punitive, seeking to exact retribution for the offense and deter future wrongdoing by forcing the losing defendant to pay the state or locality some amount of money. This report does not include an analysis of driver's license suspension for nonpayment of restitution, another form of court debt that is ordered in some cases to obligate the defendant to pay for the harm caused. Some states suspend driver's licenses for nonpayment of restitution. See, e.g., Va. Code § 46.2-395(A) ("Any person, whether licensed by Virginia or not, who drives a motor vehicle on the highways in the Commonwealth shall thereby, as a condition of such driving, consent to pay all . . . restitution . . . assessed against him . . .").
7. 402 U.S. 535, 539 (1971). See also Vanita Gupta & Lisa Foster, Civil Rights Div., U.S. Dep't of Justice, "Dear Colleague" Letter, at 6 (March 14, 2016) (hereinafter "Dear Colleague Letter"), available at <https://www.justice.gov/crt/file/832461/download> (last visited Sept. 2, 2017) (noting, "[r]esearch has consistently found that having a valid driver's license can be crucial to individuals' ability to maintain a job, pursue educational opportunities, and care for families.>").
8. Restricted licenses for people who owe court debt, which are authorized in the laws of some states, are sometimes cited as a viable alternative that allow debtors to drive for limited purposes such as to and from work. However, they may rarely be viable in practice. In Virginia, for example, numerous statutory restrictions make them inaccessible in practice to most court debtors. Va. Code §§ 18.2-271.1(E), 46.2-395(E) (among other requirements and limitations, applicant must show "written verification of employment" in addition to one or more approved purposes for using the restricted license).
9. See Jon A. Carnegie et al., N.J. Dep't of Trans., *Driver's License Suspensions, Impacts and Fairness Study*, at 66 (2007).
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12. Mike Maciag, *Riding Transit Takes Almost Twice as Long as Driving*, *Governing* (Feb. 2017), available at <http://www.governing.com/topics/transportation-infrastructure/gov-transit-driving-times.html> (last visited Sept. 2, 2017).
13. Back on the Road California, *Stopped, Fined, Arrested: Racial Bias in Policing and Traffic Courts in California*, at 27 (2016) (hereinafter "Stopped, Fined, Arrested"), available at http://cbclc.org/wp-content/uploads/2016/04/Stopped_Fined_Arrested_BOTRCA.pdf (last visited Sept. 2, 2017). See also Semuels, *supra* note 10.
14. See Carnegie, *supra* note 9 at 56 (finding that 42 percent of survey respondents, New Jersey licensees suspended for court debt, lost their jobs as a result of suspension; 45 percent of those that lost their jobs could not find another job; 88 percent of those who did find another job reported a decrease in income).
15. *Stopped, Fined, Arrested*, *supra* note 13, at 6.
16. Brief of Va. State Conference of the NAACP as Amicus Curiae Opposing Defendant's Motion to Dismiss, Affidavit of Aaron Bloomfield, Stinnie, et al. v. Holcomb, Civ. No. 3:16-cv-44 (W.D. Va. Nov. 3, 2016), available at <https://www.justice4all.org/wp-content/uploads/2016/11/VA-NAACP-Amicus-Brief-Opposing-Motion-to-Dismiss.pdf> (last visited Sept. 2, 2017).
17. *Id.*
18. See, e.g., Univ. of Wis. Milwaukee Emp. & Training Inst., *Driver's License Issues and Recommendations* (2015), available at <http://www4.uwm.edu/eti/2015/DriversIssuesJune2015.pdf> (last visited Sept. 2, 2017).
19. Suspended/Revoked Working Grp., Am. Ass'n of Motor Vehicle Adm'rs, *Best Practices Guide to Reducing Suspended Drivers*, at 4-5 (2013) (hereinafter "AAMVA"), available at <http://www.aamva.org/Suspended-and-Revoked-Drivers-Working-Group/> (last visited Sept. 2, 2017).
20. E.g., Va. Code § 46.2-301(C).
21. Civil Rights Div., U.S. Dep't of Justice, *Investigation of the Ferguson Police Department* (2015), available at https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf (last visited Sept. 2, 2017).
22. See Office of Program Policy Analysis & Government Accountability, Fl. Leg., *Clerks of Court Generally Are Meeting the System's Collections Performance Standards*, Report No. 07-21 (Mar. 2007), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0721rpt.pdf> (last visited Sept. 2, 2017).
23. See, e.g., Rebekah Diller, Brennan Center for Justice, N.Y.U. Sch. of Law, *The Hidden Costs of Florida's Criminal Justice Fees*, at 9 (2010), available at <https://www.brennancenter.org/sites/default/files/legacy/Justice/FloridaF&F.pdf> (last visited Sept. 2, 2017).
24. AAMVA, *supra* note 19 at 12-15.
25. Angela Ciolfi et al., Legal Aid Justice Center, *Driven Deeper Into Debt: Unrealistic Repayment Options Hurt Low-Income Court Debtors*, at 7 (2016), available at <https://www.justice4all.org/wp-content/uploads/2016/05/Driven-Deeper-Into-Debt-Payment-Plan-Analysis-Final.pdf> (last visited Sept. 2, 2017).
26. AAMVA, *supra* note 19 at 13.
27. *Id.* at 14.
28. *Id.* Data from Virginia are illustrative. In 2015, roughly 88% of Virginia convictions for driving with a suspended license were rooted in an underlying suspension due to unpaid court debt. Va. Dep't of Motor Vehicles, Response to FOIA Request (July 6, 2016) (on file with authors). In Virginia, driving with a suspended license is a common reason for incarceration. Courts are authorized to sentence offenders to jail on the first offense, and three convictions within a 10-year period carries a mandatory minimum jail sentence of 10 days. Va. Code § 46.2-301(C). According to the Albemarle-Charlottesville Regional















- Jail, incarcerating a person costs approximately \$90 per inmate per day. Christian Henrichson et al., Vera Institute of Justice, *The Price of Jails: Measuring the Taxpayer Cost of Local Incarceration*, at 27 (2015), available at https://storage.googleapis.com/vera-web-assets/downloads/Publications/the-price-of-jails-measuring-the-taxpayer-cost-of-local-incarceration/legacy_downloads/price-of-jails.pdf (last visited Sept. 2, 2017).
29. E.g., *Hernandez v. Cal. Dep't of Motor Vehicles*, No. RG16836460 (Super. Ct. of Alameda Cnty., filed Oct. 25, 2016), available at <http://ebccl.org/wp-content/uploads/2016/11/Hernandez-et-al-v.-CA-DMV-Complaint.pdf> (last visited Sept. 6, 2017) (California); *Fowler*, No. 2:17-cv-114411 (Michigan); *DiFrancesco v. Bullock*, No. CV-17-66-BU-SEH (D. Mont., filed Aug. 31, 2017), available at <http://equaljusticeunderlaw.org/wp/wp-content/uploads/2017/08/1-Complaint.pdf> (last visited Sept. 6, 2017) (Montana); *Thomas*, No. 3:17-cv-00005 (Tennessee); *Stinnie*, No. 3:16-cv-44 (Virginia).
 30. Dear Colleague Letter, *supra* note 7, at 6.
 31. See, e.g., *City of Richland v. Wakefield*, 186 Wash. 2d 596, 380 P.3d 459 (Wash. 2016) (reversing denial of court debtor's request to modify her obligation to pay costs due to indigence, in part because "federal law prohibits courts from ordering defendants to pay [court debt] if the person's only source of income is social security disability."). "Under the Social Security Act, 'none of the moneys paid' as part of social security disability benefits 'shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.'" *Id.* at 607-08 (citing 42 U.S.C. § 407(a)) (emphasis in original).
 32. Dear Colleague Letter, *supra* note 7, at 2 (citing Conference of State Court Administrators, 2011-2012 Policy Paper, *Courts are Not Revenue Centers* (2012), available at <https://csjjusticecenter.org/wp-content/uploads/2013/07/2011-12-COSCA-report.pdf> (last visited Sept. 2, 2017)).
 33. Complaint at 5, *Stinnie*, No. 3:16-cv-44.
 34. See *id.* at 46-53.
 35. We asked local practitioners to verify our analysis of their state's laws. We were unable to identify local practitioners to verify our analysis in the following states: Arizona, Delaware, Hawaii, Massachusetts, Missouri, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Vermont, Wyoming.
 36. These states are: Hawaii (H.C.T.R. Rule 15(b)), Illinois (625 I.L.C.S. § 5/6-306.6), and Texas (Tex. Transp. Code Ann. §§ 706.002, 706.004).
 37. California, *supra* note 3.
 38. N.H. Rev. St. § 263:56-a.
 39. "Indefinite" means subject only to limitations on collections for purposes of enforcing money judgments. These periods may be incredibly long. For example, in Virginia, court debt is enforceable for at least 10 or 20 years depending on the court in which it originated. Va. Code § 19.2-341.
 40. Va. Code § 46.2-392.
 41. Louisiana law allows for driver's license suspension for court debt associated with felonies only. Act of June 15, 2017, No. 260, art. 885.1 2017 La. Sess. Law Serv. (West).
 42. S.B. 185, 2017-18 Leg., Reg. Sess. (Cal. 2017)
 43. *Hernandez et al.*, No. RG16836460.
 44. Edmund G. Brown, Jr., *2017-2018 California State Budget*, at 35 (2017), available at <http://www.ebudget.ca.gov/FullBudgetSummary.pdf> (last visited Sept. 2, 2017).
 45. See generally Alexes Harris, *A Pound of Flesh: Monetary Sanctions as Punishment for the Poor* (2016) (describing how monetary sanctions "symbolically, physically, and perpetually punish[] the poor").
 46. See, e.g., Ga. Code Ann. § 17-10-20(c).
 47. AAMVA, *supra* note 19 at 5. The AAMVA's Suspended/Revoked Working Group, in the Best Practices Guide, focuses on failure to pay court debt for non-moving violations (as well as for other failures to pay such assessments as taxes, child support, and alimony), and does not speak specifically to failure to pay for moving violations.
 48. Dear Colleague Letter, *supra* note 7 at 7.
 49. H.B. 17-1162, 71st Gen. Assemb., 1st Reg. Sess. (Colo. 2017).
 50. See, e.g., Marc Levin & Joanna Weiss, *Suspending driver's licenses creates a vicious cycle*, USA Today (Feb. 21, 2017), available at <https://www.usatoday.com/story/opinion/2017/02/21/driver-license-suspension-court-debt-reform-column/98016910/> (last visited Sept. 2, 2017).
 51. See, e.g., Brief of Institute for Justice as Amicus Curiae Supporting Appellant's Opening Brief at 1, *Stinnie v. Holcomb*, Case No. 17-1740 (4th Cir. 2017) (pending), available at <https://www.justice4all.org/wp-content/uploads/2017/08/22-Amicus-Institute-for-Justice.pdf> (last visited Sept. 6, 2017) (describing Virginia's court debt suspension law, in penalizing drivers for being poor, as "irrational and unconstitutional").
 52. Reinstatement fees in Virginia, for example, are at least \$145. Va. Dep't of Motor Vehicles, *DMV Fees*, at 2 (July 1, 2017), available at <https://www.dmv.virginia.gov/webdoc/pdf/dmv201.pdf> (last visited Sept. 2, 2017).
 53. For example, Virginia's Auditor of Public Accounts documented that between 2008 and 2012, Virginia's courts actually collected only about half of the debt assessed each year. Auditor of Public Accounts, Comm. of Va., *Commonwealth Court Collections Review*, at 1 (2013), available at <http://www.justice4all.org/wp-content/uploads/2014/12/APA-Report-CourtsAccountsReceivableSR2012.pdf> (last visited Sept. 2, 2017).
 54. Day fines are unlike traditional one-size-fits-all fines because they are "income-calibrated," meaning they are based on the offender's net income minus deductions for dependents, fixed obligations, and basic living expenses. Edwin Zedlewski, *Alternatives to Custodial Supervision: The Day Fine*, at 1 (2010), available at <https://www.ncjrs.gov/pdffiles1/nij/grants/230401.pdf> (last visited Sept. 2, 2017).
 55. E.g., Roopal Patel & Meghna Philip, *Criminal Justice Debt: A Toolkit for Action*, at 24 (2012), available at <https://www.brennancenter.org/sites/default/files/legacy/publications/Criminal%20Justice%20Debt%20Background%20for%20web.pdf> (last visited Sept. 2, 2017).
 56. The National Task Force on Fines, Fees, and Bail Practices published a bench card for judges, identifying a variety of possible sanctions (including these) that courts "should consider" when debtors lack the ability to pay. See Nat'l Task Force on Fines, Fees, and Bail Practices, Nat'l Ctr. for St. Cts., *Lawful Collection of Legal Financial Obligations* (Feb. 2, 2017), available at http://www.ncsc.org/~media/Images/Topics/Fines%20Fees/BenchCard_FINAL_Feb2_2017.ashx (last visited Sept. 2, 2017).

APPENDIX A

STATE-BY-STATE ANALYSIS OF LICENSE-FOR-PAYMENT LAWS

Jurisdiction	License suspensions for nonpayment of court debt	Does state law require consideration of ability to pay before suspension?	Is suspension mandatory or discretionary? ¹	Time between payment deadline and suspension of license ²	Duration of suspension ³	Primary legal citation
Alabama	Yes 	No	Discretionary	0 - 30 days	Indefinite	A.R.Cr. P. Rule 26.11(i)(3)
Alaska	Yes 	No	Discretionary	0 - 30 days	Indefinite	Ak. St. § 28.15.181(g)
Arizona	Yes 	No	Discretionary	0 - 30 days	Indefinite	A.R.S. § 28-1601(A)
Arkansas	Yes	No	Discretionary	0 - 30 days	Indefinite	A.C.A.S. § 16-13-708
California	No	N/A	N/A	N/A	N/A	N/A
Colorado	Yes 	No	Mandatory	0 - 30 days	Indefinite	C.R.S.A. § 42-2-122
Connecticut	Yes 	No	Mandatory	0 - 30 days	Indefinite	C.G.S.A. § 14-140
District of Columbia	Yes 	No	Discretionary	0 - 30 days	Indefinite	18 D.C.M.R. § 304
Delaware	Yes	No	Mandatory	0 - 30 days	Indefinite	21 Del. Code §§ 2731(b); 2732(b)
Florida	Yes	No	Mandatory	0 - 30 days	Indefinite	Fla. Stat. Ann. §§ 322.245; 322.251
Georgia	No	N/A	N/A	N/A	N/A	N/A
Hawaii	No [®]	N/A	N/A	N/A	N/A	N/A
Idaho	Yes 	No	Discretionary	0 - 30 days	Definite ^a	Id. Code § 49-1505
Illinois	No ^{®^}	N/A	N/A	N/A	N/A	N/A
Indiana	Yes 	No	Discretionary	0 - 30 days	Indefinite	In. Code §§ 9-30-3-8, 9-30-11-3, 9-30-11-4, 9-30-11-5
Iowa	Yes 	No	Mandatory	More than 30 days	Indefinite	I.C.A. § 321.210a
Kansas	Yes 	No	Mandatory	More than 30 days	Indefinite	Kan. Stat. Ann. § 8-2110
Kentucky	No	N/A	N/A	N/A	N/A	N/A
Louisiana	Yes [~]	Yes	Discretionary	More than 30 days	Indefinite	Act of June 15, 2017, No. 260, art. 885.1 2017 La. Sess. Law Serv.
Maine	Yes	No	Mandatory	0 - 30 days	Indefinite	14 M.R.S. § 3141; 29-a M.R.S. § 2608
Maryland	Yes	N/A	Discretionary	0 - 30 days	Indefinite	Md. Code, Trans. § 27-103
Massachusetts	Yes 	No	Mandatory	More than 30 days	Indefinite	M.G.L.A. 90C § 3
Michigan	Yes	No	Mandatory	0 - 30 days	Indefinite	M.C.L.A. § 257.321a
Minnesota	Yes 	Yes	Discretionary	0 - 30 days	Definite ^b	Minn. St. Ann. § 171.16
Mississippi	Yes [®] 	No	Discretionary	0 - 30 days	Indefinite	Miss. Code Ann. § 63-1-53
Missouri	Yes 	No	Mandatory	More than 30 days	Indefinite	Mo. Ann. St. § 302.341
Montana	Yes	No	Discretionary	0 - 30 days	Indefinite	M.C.A. § 61-5-214
Nebraska	Yes 	No	Mandatory	More than 30 days	Indefinite	Neb. Rev. St. § 60-4, 100
Nevada	Yes	No	Discretionary	0 - 30 days	Indefinite	N.R.S. §§ 176.064, 484A.900

 Suspensions for nonpayment of traffic court debt only

New Hampshire	Yes	Yes	Mandatory	0 - 30 days	Indefinite	N.H. Rev. St. § 263:56-a
New Jersey	Yes	No*	Discretionary	0 - 30 days	Indefinite	N.J.S.A. §§ 2B:12-3, 39:4-139.10
New Mexico	Yes 	No	Discretionary	0 - 30 days	Definite ^c	N.M.S.A. § 66-5-30
New York	Yes 	No	Discretionary	More than 30 days	Indefinite	N.Y. Veh. & Traf. § 510(4-a)
North Carolina	Yes 	No	Mandatory	More than 30 days	Indefinite	N.C.G.S.A. §§ 20-24.1, 20-24.2
North Dakota	Yes 	No	Discretionary	0 - 30 days	Indefinite	N.D.C.C. §§ 39-06-32, 39-06-33, 39-06-35
Ohio	Yes 	No	Discretionary	0 - 30 days	Indefinite	Oh. Cd. Ann. § 4510.22
Oklahoma	Yes 	Yes	Discretionary	0 - 30 days	Indefinite	22 Okl. St. Ann. § 983, 47 Okl. St. Ann. § 6-206
Oregon	Yes 	No	Discretionary	0 - 30 days	Indefinite	O.R.S. § 809.210
Pennsylvania	Yes 	No	Mandatory	0 - 30 days	Indefinite	75 Pa. C.S.A. § 1533
Rhode Island	Yes 	No	Discretionary	0 - 30 days	Indefinite	RI ST § 31-11-25
South Carolina	Yes 	No	Discretionary	0 - 30 days	Indefinite	S.C. Code Ann. § 56-25-20
South Dakota	Yes 	No	Discretionary	0 - 30 days	Indefinite	S.D.C.L. § 32-12-49
Tennessee	Yes	No	Mandatory	0 - 30 days	Indefinite	Tenn. Code Ann. §§ 40-24-105(b), 40-24-104(b)
Texas	No [%]	N/A	N/A	N/A	N/A	N/A
Utah	Yes	No	Discretionary	0 - 30 days	Indefinite	U.C.A. § 53-3-221; U.A.C. R708-35
Vermont	Yes 	No	Mandatory	0 - 30 days	Definite ^d	4 V.S.A. § 1109
Virginia	Yes	No	Mandatory	0 - 30 days	Indefinite	Va. Code Ann. § 46.2-395
Washington	Yes 	No	Mandatory	More than 30 days	Indefinite	R.C.W.A. §§ 46.20.245, 46.20.289
West Virginia	Yes	No	Mandatory	More than 30 days	Indefinite	W. Va. Code §§ 17B-3-3a, 17B-3-3c
Wisconsin	Yes 	No	Discretionary	0 - 30 days	Definite ^e	Wi. St. § 345.47, 800.095
Wyoming	No	N/A	N/A	N/A	N/A	N/A

1: "Mandatory" means driver's license suspension is a required consequence for nonpayment of traffic and/or criminal court debt, subject in some states to a finding of willfulness. "Discretionary" means driver's license suspension may follow nonpayment of traffic and/or criminal court debt, within the discretion of the court or motor vehicle agency. According to anecdotal reports from local practitioners we consulted, many states and localities regularly apply suspensions automatically even though it is not required by law.

2: Jurisdictions vary considerably with respect to the timing of a driver's license suspension following a missed payment deadline. For simplicity and ease of reference, we separated this information into two broad categories. In general, states in the "more than 30 days" category have policies causing a person to lose his or her driver's license within 60 to 90 days of a missed payment deadlines.

3: "Indefinite" means subject only to limitations on collections for purposes of enforcing money judgments. These periods may be incredibly long. For example, in Virginia, court debt is collectable for at least 10 or 20 years depending on the court from which it originated. Va. Code § 19.2-341.

~: Suspensions for nonpayment of felony criminal court debt only

^: In Chicago, licenses may be suspended for nonpayment of 10 or more parking tickets. Driver's License Suspension, City of Chicago, available at https://www.cityofchicago.org/city/en/depts/fin/supp_info/revenue/boot_tow_information/driver_s_licensesuspension.html (last visited Sept. 2, 2017).

%: Nonpayment of court debt may prevent the debtor from renewing the driver's license if it expires. However, under Texas' "Driver Responsibility Program" (DRP) certain traffic offenses carry surcharges imposed by the Department of Public Safety in addition to court-imposed costs and fines. If a person required to pay a DRP surcharge does not pay on time, his or her driver's license is automatically suspended." Texas Applesseed, *Pay or Stay: The High Costs of Jailing Texans for Fines & Fees* (February 2017), available at https://www.texasapplesseed.org/sites/default/files/PayorStay_Report_final_Feb2017.pdf (last visited Sept. 15, 2017).

@: Pursuant to a settlement agreement, as of January 2017 the Mississippi Department of Public Safety has rescinded its policy of suspending licenses for failure to pay fines under Miss. Code Ann. § 63-1-53.

a: 90 days max, but license may not be reinstatement until court debt satisfied

b: 30 days or until court notifies motor vehicle agency that the debt has been paid

c: 1 year or until amount due is paid, whichever is earlier (but motor vehicle agency has discretion to extend indefinitely)

d: 30 days or until debt satisfied, whichever is earlier

e: maximum 1 year

LEGAL AID JUSTICE CENTER

The Legal Aid Justice Center (LAJC) fights injustice in the lives of individual Virginians while rooting out exploitative policies and practices that keep people in poverty. LAJC uses impact litigation, community organizing, and policy advocacy to solve urgent problems in areas such as housing, education, civil rights, immigration, healthcare and consumer finance. LAJC's primary service areas are Charlottesville, Northern Virginia, Richmond and Petersburg, but the effects of their work are felt statewide.

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