



Driver's License Suspensions for Non-Traffic Related Violations

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Decades of research support the effectiveness of suspension of driver's licenses for traffic violations as a means of reducing traffic crashes and fatalities.

Initially suspensions were done to remove dangerous drivers, change behavior, and as a punishment for unsafe drivers. Administrative License Revocation (ALR) is currently used in 42 states and the District of Columbia. ALRs permit law enforcement to confiscate the driver's license immediately upon failing or refusing a breathalyzer test. Additionally, states have minimum post-conviction sanctions for first time and repeat Driving Under the Influence (DUI) offenders. Clearly, dangerous driving, and particularly driving under the influence (DUI), are appropriate instances for driver's license suspensions. Unfortunately, many states have decided to use this coercive measure for non-traffic related violations. As more and more drivers face driver's license suspensions for non-driving related violations such as failure to pay child

support, truancy, misdemeanor drug offenses and failure to pay court costs, the effectiveness of the



practice is diluted in terms of increasing traffic safety. Law enforcement spend an inordinate amount of time processing license suspension cases that may have no connection to driving safety. This means that they are not able to focus as much time on the most dangerous drivers. Since insurance policies typically require a valid license the suspension of drivers licenses may also lead to a higher percentage of uninsured drivers on the road. ¹

When driver's license suspensions are used for failure to pay fines, fees and court costs known as legal financial obligations (LFOs) without making any determination on the litigant's ability to pay, questions arise regarding the wisdom of such a practice that can lead to loss of employment and so defeats the very purpose of encouraging individuals to pay LFOs. In March of 2016 the U.S. Department of Justice sent a letter to the state courts that provided seven "basic constitutional principles" to be applied to fines and fees. Principle #5 addresses drivers' license suspensions:

Courts must not use arrest warrants or license suspensions as a means of coercing the payment of court debt when individuals have not been afforded constitutionally adequate procedural protections.²

Recent lawsuits in Virginia and Tennessee focus on the constitutionality of automatic license suspensions for failure to pay LFOs and the Department of Justice has filed a Statement of Interest in opposition. ³ While the constitutionality of this practice will not be addressed in this issue brief, the question on the efficacy of using this method in terms of traffic safety still remains.

During the 1990s War on Drugs era, a federal license suspension law made federal funding dependent on license suspensions for drug cases. While the federal law provides a no cost opt out

¹ Prison Policy Initiative (December 2016). Reinstating Common Sense: How driver's license suspensions for drug offenses unrelated to driving are falling out of favor.

² U.S. Department of Justice, "Dear Colleague Letter." (March 14, 2016).

³ Thomas et al. v. Haslam et al., No. 3:15-cv-00005 (MD. Tenn. 2017); Stinnie et al. v. Holcomb et al., No. 3:16-cv-00044 (W.D. Va. 2016)



provision some states have hung on to the practice. Currently 12 states and the District of Columbia still have this provision (with over 190,000 suspensions for non-driving drug offenses) despite the fact that most research indicates it reduces both public safety and drug rehabilitation. Additionally, the license suspension applies to misdemeanor marijuana offenses which are unlikely to involve addicts. The one thing this practice does is to lead to over 40% of litigants with suspensions losing their jobs, perpetuating a cycle of increasing debt.⁴

Law enforcement, motor vehicle agency and court time and money are spent enforcing and processing license suspensions that have no connection to driving related infractions. This focus on suspended drivers who have no traffic related reason for the suspension means that less time and money are being spent on the dangerous drivers with suspended licenses who continue to drive and so this practice may actually lead to a decrease in public safety. One study compared drivers who had license suspensions for driving infractions and drivers who had suspensions for non-traffic related infractions in eight states (Florida, New Jersey, Colorado, Tennessee, Kansas, South Dakota, Oregon and Pennsylvania). The results showed that 18.9 % of the drivers with suspended licenses based on driving infractions were involved in a subsequent driving crash as opposed to 6.9 % of the drivers with suspensions based on non-traffic related compliance issues.⁵

The more dangerous group needs to be the focus of law enforcement but the percentage of individuals with suspensions based on non-driving compliance issues continues to grow. One reason is that since the suspension lasts during the time that the LFOs are not paid and penalties and interest are piled on top of fines, fees and other court costs, these individuals may never be able to pay off these costs. The addition of a reinstatement fee on top of the other financial obligations essentially turns

⁴ Id at 1.

⁵ Ibid



these into permanent license suspensions for many individuals with no driving related or less serious driving related infractions (e.g. tail light out). A 2016 report on the practice in Virginia found that:

In 2015, more than 900,000 Virginia Department of Motor Vehicles customers had suspended driver's licenses due to one or more unpaid court costs or fines. In FY2015 alone, the DMV issued 366,773 orders of driver's license suspension resulting from unpaid court costs or fines, more than a third of which (38%) were for failure to pay costs and fines assessed for offenses wholly unrelated to driving.⁶

The wisdom of using a practice that undercuts traffic safety is difficult to justify without any evidence that it leads to increased payment of LFOs. The addition of a constitutional challenge of deprivation of a property interest without notice and an opportunity to be heard makes this practice ineffective, counterproductive and arguably unconstitutional.



⁶ Legal Aid Justice Center (May 2016). Driven Deeper Into Debt: Unrealistic Repayment Options Hurt Low-Income Court