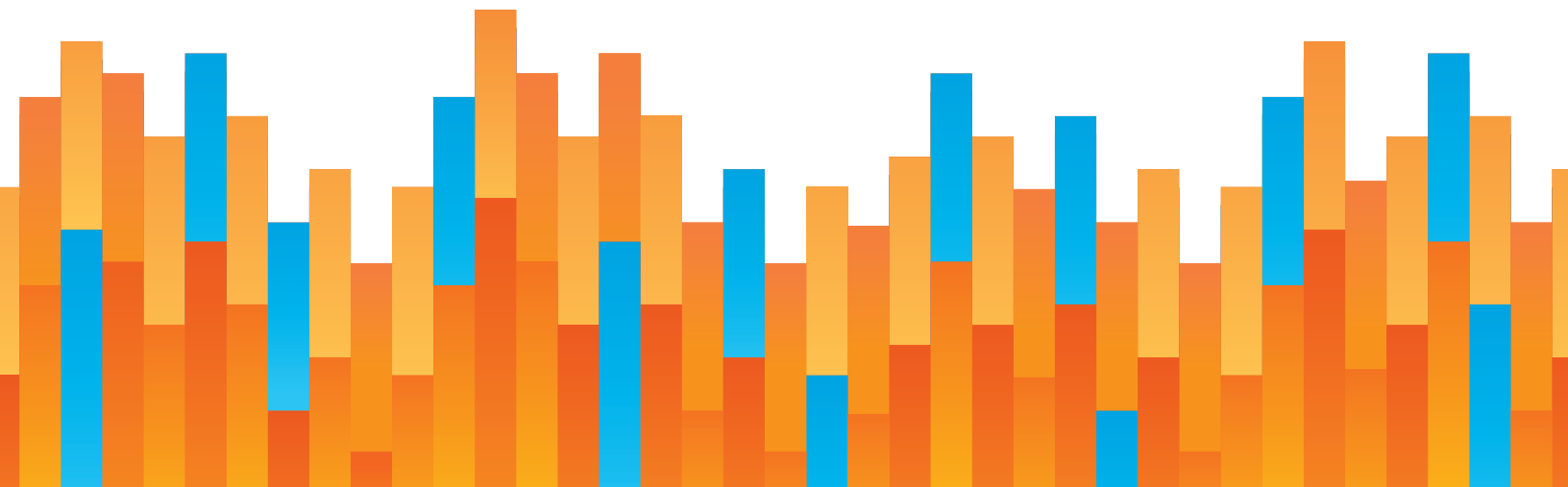




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DRIVER'S LICENSE SUSPENSION REFORM: THE RIGHT ROAD FOR MICHIGAN

by James Craven
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PART 1

OVERVIEW

1.1

PUNITIVE LICENSE SUSPENSION AND ITS EFFECTS

Is suspending a person's driver's license an effective punitive measure? This is a vital question for Michigan, which suspended over 475,000 of its citizens' driver's licenses in 2010 alone.¹ That's roughly 6.7% of Michigan's driving population: more than one license suspension per 15 drivers.²

It may be wise to prevent someone from handling a vehicle when they have been driving drunk or causing accidents. But some states have turned to license suspension as a broader form of punishment, stacking the right to drive on top of the fines and prison sentences courts already impose. Michigan is among the most conspicuous members of this crowd: over 95% of individuals who had their licenses suspended in 2010 committed non-driving related offenses.³

¹ Suspended/Revoked Working Group. "Best Practices Guide to Reducing Suspended Drivers." American Motor Vehicle Administration, 2017. Web. <<https://www.aamva.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=3723&libID=3709>> 02 Jan 2018.

² Ibid. "Highway Statistics Series." U.S. Department of Transportation Federal Highway Administration. *Fhwa.dot.gov*. 07 Nov. 2014. Web. <<https://www.fhwa.dot.gov/policyinformation/statistics/2010/dl22.cfm>> 23 Jan. 2018. This estimate was reached by dividing the number of suspended licenses by the total number of licensed drivers.

³ "Best Practices Guide to Reducing Suspended Drivers."

Today 86% of Americans use a car or motorcycle to get to work. Without a driver's license, they're at risk of losing their job and their income. Many places of employment even require a valid driver's license before hiring. These conditions have made the driver's license an increasingly necessary tool to rise out of poverty and unemployment, and cast a long shadow over the practice of punitive license suspension.⁴

1.2 DRIVING WHILE LICENSE SUSPENDED

Individuals who ignore their license suspensions and risk taking to the road anyway often do so because they don't have a better means of getting around. The National Highway Traffic Safety Administration estimates 75% of individuals with suspended licenses risk it and drive anyway.⁵

Those that get caught are charged with Driving While License Suspended (DWLS).⁶ In addition to carrying a fine of up to \$500 on a first offense, it levies a variety of mandatory civil fees, including an additional \$125 clearance fee for license reinstatement.⁷ The potential fine doubles to \$1,000 on a second offense, and more civil fees are hefted on. All of these costs (plus any prior debt) must be paid for an individual's license to be reinstated.⁸ Each time an individual is caught trying to drive with a suspended license, these additional fines and fees make it harder for them to return to driving legally.

1.3 LICENSE SUSPENSION IN MICHIGAN

Michigan regularly suspends its citizens' driver's licenses as a punishment for a vast array of civil and criminal offenses, with some offenses carrying a mandatory license suspension. While suspending licenses for unsafe driving has an understandable value to the public, many of the offenses that Michigan suspends an individual's license for have no relation to traffic safety. These suspensions cut off a vital lifeline for individuals in the workforce, and herald an endless cycle of fines, court costs, and liabilities that make escaping the criminal

⁴ Aiken, Joshua. "Reinstating Common Sense: How driver's license suspensions for drug offenses unrelated to driving are falling out of favor." Prison Policy Initiative, 2016. Web. <<https://www.prisonpolicy.org/driving/national.html>> 15 Dec. 2017.

⁵ Shapiro, Joseph. "Can't Pay Your Fines? Your License Could be Taken." NPR. 2014. Web. <<http://www.npr.org/2014/12/29/372691960/cant-pay-your-fines-your-license-could-be-taken>> 2014 15 Dec. 2017.

⁶ Mich. Compiled Laws § 257.904

⁷ Mich. Compiled Laws § 257.320e(1)

⁸ Mich. Compiled Laws § 257.904

justice system nearly impossible. Michigan workers aren't the only victims: the state itself spends countless man-hours and taxpayer dollars prosecuting and imprisoning individuals for the crime of Driving While License Suspended, even while burdened with the ninth largest prison system in the nation.⁹

This policy brief explores the reasons Michigan suspends driver's licenses, the consequences of doing so, and the ways to handle these challenges moving forward.

⁹ The Sentencing Project. "State-by-State Data." 2015. Web. <<http://www.sentencingproject.org/the-facts/>> 15 December 2017.

PART 2

LICENSE-SUSPENDING OFFENSES

Getting your license suspended in Michigan is easier than one might think. While Michigan suspends driver's licenses for traffic safety offenses like drunk or reckless driving, individuals in Michigan routinely have their licenses suspended for convictions of minor crimes that have nothing to do with driving, such as failure to pay court costs on time or smoking a joint.¹⁰

The following is a complete list of offenses that lead to suspensions:

- Most drug offenses;¹¹
- Failure to appear for traffic offenses;¹²
- Failure to pay court-imposed fines on time;¹³
- Failure to respond to three or more parking tickets;¹⁴

¹⁰ Mich. Compiled Laws § 257.321a-c; *see also* Bannon, Alicia, Mitali Nagrecha and Rebekah Diller. "Criminal Justice Debt: A Barrier to Reentry." Brennan Center for Criminal Justice. 2010. Web. <<http://www.brennancenter.org/sites/default/files/legacy/Fees%20and%20Fines%20FINAL.pdf>> pg 24, 15 Dec. 2017; Mich. Compiled Laws § 257.319e; Mich. Compiled Laws § 333.7403

¹¹ Mich. Compiled Laws § 257.319e

¹² Mich. Compiled Laws § 257.321a-c

¹³ *Ibid.*

¹⁴ Mich. Compiled Laws § 257.321a

- Perjury or false certifications relating to motor vehicle registration;¹⁵
- Unauthorized use of a motor vehicle;¹⁶
- Fuel theft;¹⁷
- Giving alcohol to a minor two or more times;¹⁸
- Refusing a chemical test on suspicion of DUI;¹⁹
- Failure to pay “driver responsibility fee” for traffic offenses;²⁰
- Buying alcohol underage two or more times, or using/making a fake ID;²¹
- Any felony where the driver was operating a vehicle;²²
- Failure to pay child support;²³ and
- Parenting time disputes.²⁴

While many of these offenses are traffic safety crimes, it's evident from the list that Michigan uses driver's license suspension as a punishment for a wide range of offenses unrelated to traffic safety. Many of these, discussed below, create an undesirable result for the state and its citizens.

2.1

DRUG OFFENSES

In 1991, Michigan enacted a law that required automatic driver's license suspension upon conviction of any drug crime. The law was provoked by Congress' Solomon-Lautenberg Amendment, which tied state highway funding to the policy's enactment. Most other states followed suit, but many have since repealed or amended offenses that leveraged license suspension as a form of punishment. Michigan remains one of 12 states to continue suspending driver's licenses for drug crimes, and has expanded the types of convictions utilizing license suspension as a punitive measure.²⁵

¹⁵ Mich. Compiled Laws § 257.319(5)

¹⁶ Mich. Compiled Laws § 257.319(6)

¹⁷ Mich. Compiled Laws § 257.319(9)

¹⁸ Mich. Compiled Laws § 257.319(12)

¹⁹ Mich. Compiled Laws § 257.625f

²⁰ Mich. Compiled Laws § 257.732a(5)

²¹ Mich. Compiled Laws § 436.1703(6)

²² Mich. Compiled Laws § 257.319

²³ Mich. Compiled Laws § 552.628

²⁴ Mich. Compiled Laws § 552.644

²⁵ Aiken, “Reinstating Common Sense.”

In 2010, Michigan suspended the driver's licenses of over 26,450 individuals convicted of drug offenses. That's more than the number of suspensions for all *impaired* driving related offenses combined. There were over 7,000 more suspensions for drug crimes unrelated to driving than there were suspensions for driving under the influence of drugs or alcohol, driving with an open container, and other similar charges.²⁶

Suspending someone's driver's license adds a criminal risk to becoming an Uber driver or commuting to a wide range of honest jobs. As a barrier to employment, license suspension can often be an impediment to rehabilitation as well. Michigan should join the growing list of states that have retracted automatic suspension of driver's licenses for drug crimes.

2.2

CHILD SUPPORT

Nonpayment of child support is another non-driving related offense for which individuals may have their driver's license suspended in Michigan. In 2010, nearly 3,200 individuals had their license suspended for this offense.²⁷ This punishment, designed to incentivize parents to keep up with their payments, can have the opposite effect after it's handed out: without a license, transportation costs can rise and acquiring or maintaining employment may become difficult.

The added difficulty in getting to work isn't the only problem, as the many fines and fees associated with license reinstatement itself also complicate covering the cost of child support. This is an unusual remedy, since if the deterrence mechanism fails it becomes harder to ensure the parent with custody receives the resources they need to care for their child. Wage garnishment, or garnishment of unemployment benefits, may be more appropriate. If the threat of garnishment isn't enough to incentivize payment, the state can simply collect the unpaid dollars directly. The failings of this policy are similar to license suspension with drug crimes: the punishment makes solving the underlying problem more challenging.

²⁶ "Best Practices Guide."

²⁷ Ibid.

2.3

FAILURE TO APPEAR

A failure to appear offense, commonly called an FTA, is the failure of a defendant to appear for his or her scheduled court date. If an individual skips their court date for traffic violations, like speeding, impeding traffic, or driving while their license is suspended, they receive a letter in the mail demanding they show up for a court hearing within 28 days. Their license is suspended two weeks after this 28-day window closes.²⁸

When individuals skip court for offenses impacting public safety, like impaired driving or deliberately causing accidents, suspending their license may be reasonable. While these individuals have not yet been convicted of a crime, the state should prioritize the protection of public safety.

Yet suspending licenses for failing to appear for other traffic violations deserves more scrutiny. Individuals who miss court dates for speeding or impeding traffic don't necessarily pose a public risk. Suspending their licenses could put their jobs at risk, while also obligating the state to pay for the enforcement of its driving while suspended law.

Those charged with DWLS face new barriers to reinstatement after an FTA. Missing court dates leads to more fines and fees that people are expected to pay without driving themselves to work. But if they drive to court, they may get charged again on the way in the door.²⁹ Some courts warn suspendees they'll be arrested on arrival if they drive there.³⁰ It's a no-win situation.

2.4

NONPAYMENT OF FINES AND FEES

Just like failing to appear in court, failing to pay fines or fees associated with traffic violations leads to license suspension.³¹ These include fines for small infractions. In 2017, Gov. Snyder renewed a law that automatically suspends the driver's licenses of individuals with three unpaid parking tickets.³² Most traffic violations mandate automatic suspension

²⁸ Mich. Compiled Laws 257.321a(2)

²⁹ Telephone Interview with Ryan Janer, Attorney, Bay County Public Defender's Office (September 14, 2017).

³⁰ Telephone Interview with Phil Telfeyan, Attorney, Equal Justice Under Law (January 16, 2018).

³¹ Mich. Compiled Laws S 257.321(a)

³² Ibid.

after the first unpaid fine or fee. These include failure to pay fines for speeding tickets, impeding traffic, and a wide range of other violations.³³

Michigan also levies a number of civil fees for all traffic offenses, separate from the fines imposed as a criminal penalty. The state assesses a mandatory \$40 Justice System Assessment fee accompanying almost all traffic infractions, and judges can impose up to \$100 of civil liability on top of that fee.³⁴ As with the criminal penalty of fines, failure to pay these fee-based civil penalties also results in license suspension.³⁵

All of these underlying debts must be cleared for a license to be reinstated. Reinstatement can be made more complex by the addition of new fines and fees—like a fine for a nonpayment misdemeanor, a 20% late surcharge on unpaid fines and fees, or fines and fees for driving while license suspended—that are also mandatory in order to reobtain driving privileges.

Concern over the impact of these laws has not escaped the attention of the federal court system. In December 2017 the Eastern District Court of Michigan issued an opinion enjoining the state from suspending driver's licenses for failure to pay fines or fees.³⁶ "I think what's happening in Michigan is a problem that everyone recognizes is hurting the state," said Phil Telfeyan, the driving litigator behind the federal court's decision. "The goal of our litigation should be the state's goal: stop suspending licenses for people who can't afford to pay."³⁷

As with license suspension, the court has a better remedy here in the form of wage garnishment or garnishment of unemployment benefits. By using a payment plan, it can collect what it is owed without worrying that these garnishments are putting offenders out in the cold.

³³ Mich. Compiled Laws S 257.321(a)

³⁴ Mich. Compiled Laws § 257.907(4). The only exception to the \$40 Justice System Assessment is parking tickets that cost under \$10.

³⁵ Mich. Compiled Laws S 257.321(a)

³⁶ *Fowler v. Johnson*, No. 17-11441 (E.D.M.I. Dec. 14, 2017)

³⁷ Telephone interview with Phil Telfeyan.

Suspending driver's licenses for failing to pay fines or fees leaves the poor in a hard position. Raising money to pay off these costs without being able to drive to work is difficult in and of itself. The additional fines and fees generated from late payments compound the problem. This complex system of escalating financial penalties is broken down in the next section.

PART 3

CONSEQUENCES

3.1

BURDEN ON THE POOR

The poor are among the hardest hit by these policies, because failing to pay any of the fines or fees associated with license suspension typically results in more. These costs are numerous, and take many forms:

TABLE 1: MICHIGAN'S ESCALATING FINANCIAL PENALTY SYSTEM

Reason for Fine/Fee	Cost
Traffic Infraction (Civil Fee— accompanies most infractions)	Up to \$100 in most cases ³⁸
Justice System Assessment (civil charge accompanying traffic infractions—usually mandatory)	\$40 ³⁹
Late Fee (assessed after 56 days of nonpayment)	20% ⁴⁰

³⁸ Mich. Compiled Laws § 257.907(4).

³⁹ Ibid. The exception to this rule is parking tickets that cost under \$10.

⁴⁰ Mich. Compiled Laws § 600.4803

Reason for Fine/Fee	Cost
Nonpayment Misdemeanor (charged for failure to pay traffic debt)	Up to \$100 ⁴¹
Driver's License Clearance Fee	\$45 per unpaid ticket or cost ⁴²
Driving While License Suspended Fine	Up to \$500 (first offense), or up to \$1,000 (prior offense) ⁴³
Driver Responsibility Fees	Before 10/01/2015: \$1,000 10/01/15 – 10/01/16: \$750 10/01/16 – 10/01/18: \$500 10/01/18 – 10/01/19: \$250 ⁴⁴
Driver's License Clearance Fee	\$45 per unpaid ticket or cost ⁴⁵
License Reinstatement Fee	\$125 ⁴⁶

By way of example, imagine a woman who receives a \$150 charge for a traffic citation. Accompanying this is up to \$100 in discretionary court costs, and a mandatory \$40 Justice System Assessment fee.⁴⁷ Unable to come up with \$290, she doesn't pay. This triggers a new misdemeanor carrying up to a \$100 fine.⁴⁸

After 42 days of nonpayment, her license is suspended.⁴⁹ At that point, she has two weeks before incurring a 20% late fee that raises the original \$290 cost to \$348.⁵⁰ Getting her license reinstated requires she pay the \$348 for the original charge, up to \$100 for the nonpayment offense, and an additional \$45 clearance fee: \$493.⁵¹

If the woman in our example chooses to drive to work with a suspended license, she could be charged with DWLS. If there is no one else in the vehicle with a valid driver's license, her

⁴¹ Mich. Compiled Laws § 257.321a(1)

⁴² Mich. Compiled Laws § 257.321a(5)

⁴³ Mich. Compiled Laws § 257.904

⁴⁴ Mich. Compiled Laws § 257.732a(2)(b)(iii); Mich. Compiled Laws § 257.732a(11)(b)

⁴⁵ Mich. Compiled Laws § 257.321a(5)

⁴⁶ Mich. Compiled Laws § 257.320e(1)

⁴⁷ Mich. Compiled Laws § 257.907(4)

⁴⁸ Mich. Compiled Laws § 257.321a(1)

⁴⁹ Mich. Compiled Laws § 257.321a(2)

⁵⁰ Mich. Compiled Laws § 600.4803

⁵¹ Mich. Compiled Laws § 257.321a(5)

car will likely be impounded, adding costs for towing and storage.⁵² The DWLS charge carries a fine of up to \$500 on the first offense.⁵³ Depending on when it occurred, she may also face up to \$1,000 in accompanying Driver Responsibility Fees, which do not fully phase out until 2019.⁵⁴ Finally, a new fee of \$125 is added to the cost of license reinstatement.⁵⁵ All told, the cost of getting her driver's license back could reach \$2,118.

When a criminal conviction results in license suspension, the suspension can last anywhere from one month to several years.⁵⁶ Without a license, many individuals lose their jobs: one study in New Jersey found that 42% of individuals who had their license suspended lost their job as a result.⁵⁷ Nearly half of those individuals were unable to find a new job, and of those who could, almost all were making less than before.⁵⁸ Yet Michigan's requirements for license reinstatement do not factor in ability to pay or changes in employment.

Laws that pile on new suspensions, fines, and fees exacerbate these penalties when individuals can't afford to pay previous fines or miss their court dates. These laws disproportionately impact the poor and indigent, punishing individuals for their inability to pay. This can create a cycle of debt and criminality that, for the poor, can be inescapable.

3.2

IMPACT ON PUBLIC SAFETY

Enforcing these broad license suspensions through driving while suspended laws could have a negative impact on public safety. Not only are most license suspensions unrelated to public safety in the first place, only 25% of suspendees actually stop getting behind the wheel anyway.⁵⁹

⁵² Johnson, Ruth. "Vehicle Immobilization." Department of State. *michigan.gov*. Web. <<http://www.michigan.gov/sos/0,4670,7-127-1583-32399--,00.html>> 02 Feb. 2018. Daily storage costs are punishing if the driver can't recover her vehicle, a separate burden from the cost to reinstate a license.

⁵³ Mich. Compiled Laws § 257.904

⁵⁴ Mich. Compiled Laws § 257.732a(2)(b)(iii)

⁵⁵ Mich. Compiled Laws § 257.320e(1)

⁵⁶ "Best Practices Guide to Reducing Suspended Drivers." Some suspensions, like failure to pay fines or fees, are indefinite.

⁵⁷ Carnegie, Jon and Ian Voorhees. "Driver's License Suspensions: Impacts and Fairness Study." New Jersey Department of Transportation. *nj.gov*. Aug. 2007. Web. <<http://nj.gov/transportation/refdata/research/reports/FHWA-NJ-2007-020-V1.pdf>> 11 Jan. 2018.

⁵⁸ Ibid. The exact figures from the NJ report are as follows: 45% were unable to find new unemployment, and of those who did find new employment, 88% reported a lower income.

⁵⁹ Shapiro. "Can't Pay Your Fines?"

The sheer scale of offenders ties up police officers and prevents them from pursuing dangerous criminals. Washington State, which doesn't suspend licenses for drug crimes or nonpayment, estimated that state troopers alone spent 70,848 combined hours enforcing DWLS for non-driving related suspensions.⁶⁰ With a larger population and more license-suspending penalties, Michigan's number is undoubtedly higher. These are hours that could have been spent protecting public safety.

3.3

COST TO MICHIGAN TAXPAYERS

Burying poor offenders in debt carries a huge cost for the state as well. It would be nearly impossible to quantify the tax revenue Michigan loses by preventing thousands of citizens from driving to work. But studies performed in other states are beginning to shed light on the costs of enforcing and prosecuting the Driving While License Suspended law, which, due to the ample amount of suspensions, is one of the most common charges in Michigan.⁶¹ With 1,366 charges in 2016, DWLS made up more charges than all forms of larceny combined.⁶²

Prosecuting DWLS requires work from police, district attorneys, public defenders, court clerks, judges, and countless other state actors. There are also postage costs, court costs, and jail costs to consider. Georgia estimated its postage costs for non-driving related suspensions alone totaled around \$80,000.⁶³

The most expensive cost, however, is likely the cost of jail time. A person who elects to take jail time on a first offense can end up serving as much as 93 days in lieu of the \$500 fine. Subsequent offenses can carry jail time of up to a year. Few offenders facing the fines associated with DWLS are able to pay them, and as a result, most end up in jail instead.⁶⁴

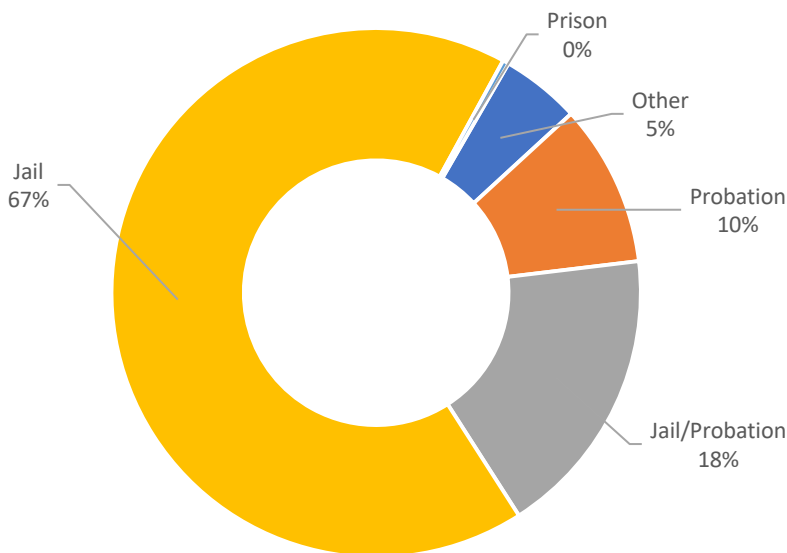
⁶⁰ Aiken, "Reinstating Common Sense"; Bannon, "Criminal Justice Debt." This high number is in spite of the fact that Washington had cut license suspensions significantly by eliminating suspensions for many failure to pay violations two years earlier.

⁶¹ Snyder, Rick. "Michigan Department of Corrections 2016 Statistical Report." Michigan Department of Corrections. Michigan.gov. 2016. Web. <http://www.michigan.gov/documents/corrections/MDOC_2016_Statistical_Report_599836_7.pdf> 17 Dec. 2017; Telephone interview with Ryan Janer, Attorney, Bay County Public Defender's Office (September 14, 2017).

⁶² Snyder, "Michigan Department of Corrections 2016 Statistical Report."

⁶³ Ibid.

⁶⁴ Ibid.; Telephone interview with Ryan Janer

FIGURE 1: PERCENTAGE OF DWLS OFFENDERS WHO SERVE JAIL TIME

Source: Snyder. "Michigan Department of Corrections 2016 Statistical Report."

The Oakland County jail estimated the cost per inmate to be \$105 per day.⁶⁵ That would add up to \$121,905 per day for the entire population of DWLS offenders who spent time in jail for 2016.⁶⁶ Even a few days add up quickly—and this estimate excludes the cost of probation. More DWLS offenders serve probation *in addition* to jail rather than instead of it, meaning the state is stuck with the bill for jail time and the probation officer's salary.⁶⁷

A study in North Carolina showed the cost of jail time alone wholly undercut that state's efforts to collect money owed.⁶⁸ This could become even truer for Michigan once Responsibility Fees are phased out, with taxpayers being left to foot the bill. Jail costs alone outweigh the combined revenue of the Traffic Infraction Fee, the Justice System Assessment, the Driver's License Clearance Fee and the License Reinstatement Fee after just three days.⁶⁹ This discounts entirely the costs of the police force, court personnel,

⁶⁵ Crumm, Charles. "Pay to Stay: Inmates billed for time in county jail." *Oakland Press*. 3 Mar. 2017. *theoaklandpress.com*. Web. <<http://www.theoaklandpress.com/20170331/pay-to-stay-inmates-billed-for-time-in-county-jail>> 10 Jan. 2018.

⁶⁶ Ibid.; Snyder, "Michigan Department of Corrections 2016 Statistical Report." This estimate combines the number of offenders who spent time in jail or prison in 2016 and multiplies it by the \$105 figure cited by Oakland County.

⁶⁷ Snyder. "Michigan Department of Corrections 2016 Statistical Report."

⁶⁸ Bannon, "Criminal Justice Debt."

⁶⁹ Mich. Compiled Laws § 257.907(4); Mich. Compiled Laws § 257.321a(5); Mich. Compiled Laws § 257.320e(1); Charles, "Pay to Stay." This calculation is made conservatively in favor of the current revenue collection system. It adds the civil fees collected by the state,

probation officers, and postage. Factoring in the high likelihood that this process has left the offender unemployed or underemployed, the damage added to Michigan's deficit is considerable.⁷⁰ Ultimately, the taxpaying public will be the ones left holding the bill.

assuming the state charges the maximum amount allowed for the Traffic Infraction Fee and that the offender always pays the cost of license reinstatement before receiving an additional DWLS charge (and thus additional jail time). These fees represent the highest potential cost that would be unavoidable to a DWLS offender seeking to get their license reinstated. Revenue collected amounts to \$310, while the estimated cost of jail time would be \$315. Accounting for inefficiencies in collecting revenue from drivers who fail to reobtain their licenses would likely make the cost/revenue disparity much higher. Note that some counties in Michigan attempt to recoup \$60 of the daily cost for inmates. However, this practice is inconsistent across counties and widely ineffective: Oakland County reported it successfully recouped this \$60 cost in only 3% of cases. See Charles, "Pay to Stay."

⁷⁰ Carnegie. "Driver's License Suspensions."

PART 4

RECOMMENDATIONS FOR REFORM

4.1

REFORM IN OTHER STATES

Other states have increasingly scaled back the number and type of offenses that result in a driver's license suspension. Massachusetts repealed license suspensions for drug crimes last year.⁷¹ Virginia is considering ending license suspension for all non-driving related offenses.⁷² California not only ended suspensions for minor violations, it restored the driver's licenses of everyone who lost their license under the same circumstances—and made license reinstatement automatic at the end of the suspension term.⁷³ Results from Washington State, which ended license suspensions for non-moving violations back in 2013, suggest why states are increasingly embracing license reform. License suspensions were cut in half, and over 4,500 police man-hours were recovered for other efforts.⁷⁴

⁷¹ Schoenberg, Shira. "Massachusetts repeals automatic license suspension for drug crimes." *Mass Live*. 30 Mar. 2016. *masslive.com*. Web. <http://www.masslive.com/politics/index.ssf/2016/03/massachusetts_repeals_automati.html> 15 Dec. 2017.

⁷² Provence, Lisa. "Governor joins call for driver's license suspension reform." *C-ville*. 11 Jan. 2017. *c-ville.com*. Web. <<http://www.c-ville.com/governor-joins-call-drivers-license-suspension-reform/>> 15 Dec. 2017.

⁷³ Romero, Farida. "Millions of Californians Could Regain Driver's License Under New Bill." *KQED*. 31 May 2017. *kqed.org*. Web. <<https://ww2.kqed.org/news/2016/01/22/millions-of-californians-could-regain-drivers-licenses-under-new-bill/>> 17 Dec. 2017.

⁷⁴ Dewan, Shaila. "Driver's License Suspensions Create Cycle of Debt." *The New York Times*. 14 Apr. 2015. *nytimes.com*. Web. <<https://www.nytimes.com/2015/04/15/us/with-drivers-license-suspensions-a-cycle-of-debt.html>> 12 Jan. 2018.

Suspending driver's licenses for non-driving related offenses in Michigan is not effective public policy: the practice beleaguers citizens, endangers public safety, and is a burdensome cost to taxpayers. It's time to reverse course. Broadly speaking, Michigan legislators should consider two reforms: narrow the type of offenses that can result in a driver's license suspension to traffic safety crimes only, and end draconian fines and fees.

4.2

RESTORE LICENSES TO SUSPENDEES WHO FAIL TO PAY FINES AND FEES

Federal courts are investigating the constitutionality of license suspensions in Michigan based on nonpayment. The practice is currently sheltered under a stay of injunction (pending appeal) issued by the Sixth Circuit, after the District Court ruled Michigan could not suspend licenses for failure to pay fines or fees.⁷⁵ Restoring licenses to those who had their driving privileges revoked for nonpayment would be the first step in providing a decisive response to the federal court's ruling.

Michigan has already taken a small step in this direction by moving to end driver responsibility fees in 2019, which were among the highest costs faced by traffic offenders.⁷⁶ It doesn't have to wait to help those who weren't fortunate enough to avoid these fees. Restoring driving privileges to those who had their license suspended for failing to pay these fines and fees would be a cost-free way to relieve some of their burden, and would help many of them find better employment opportunities so they can pay off their existing debt.

4.3

LIMIT LICENSE SUSPENSION TO TRAFFIC SAFETY RELATED OFFENSES

License suspension is a costly endeavor for the state, and enforcing DWLS laws can be expensive. With Michigan on track to phase out Driver Responsibility Fees, the costs of administering a broad license suspension regime will quickly eclipse the total revenue generated from fines and fees (if it has not already).⁷⁷

⁷⁵ *Fowler v. Johnson*, No. 17-11441 (E.D.M.I. Dec. 14, 2017); "Orders Entered." U.S. Court of Appeals Sixth Circuit. *uscourts.gov*. 08 Feb. 2018. Web. <http://www.opn.ca6.uscourts.gov/case_reports/rptOrdersEntered.pdf> 08 Feb. 2018.

⁷⁶ Mich. Compiled Laws § 257.732a(2)(b)(iii)

⁷⁷ See explanation in footnote 69.

Michigan should move quickly to end license suspensions for all of the following:

Drug Offenses: Suspending licenses for drug offenses only makes rehabilitation more difficult. Repeal license suspensions for drug crimes, as well as non-traffic related felonies, which largely target the same citizens.

Child Support: With state fees and no driver's license, paying child support becomes much harder. This backwards measure needs to go.

Failure to Appear for Non-Traffic-Safety Crimes and DWLS: It won't be easier to get to court without a license. And those charged with DWLS are scared to use the method most available to them: driving. New barriers to license reinstatement won't ameliorate this situation.

Failure to Pay Fines and Fees: Individuals who can't pay off the fines and fees Michigan charges won't be more able to pay them without a license.

Other Non-Traffic Related Crimes: Suspending licenses for buying a minor a drink or being a minor trying to get a drink is simply frivolous.

These offenses have no relation to traffic safety and have not been shown to deter those who have their licenses suspended from continuing to operate a motor vehicle. Preventing license suspensions for these offenses will save Michigan the future costs associated with prosecuting and enforcing DWLS, and help ensure thousands of Michigan citizens are able to reach their jobs.

4.4

MAKE SOME LICENSE RESTORATIONS AUTOMATIC

Not all offenses deserve automatic license restoration: crimes like DUIs and traffic felonies should continue to require careful scrutiny of offenders before reinstating driving privileges. But fuel theft, parenting time disputes, or fraudulent vehicle registration could all be resolved more easily by allowing licenses to be restored after a prescribed term. This would have two positive effects: making administration seamless, and preventing future headaches for the offender and the courts. Instead of attempting to recoup their costs with license reinstatement fees, Michigan could save money by skipping the arduous process of sending letters and tracking down drivers who get behind the wheel without paying. Citizens would also benefit from the simpler punitive process: having a clear end date to

their suspension would make it easy to comply with the law regardless of their financial means.

4.5**ALLOW SOME DWLS CHARGES TO BE SETTLED ONLINE**

Suspended licensees struggle to find a legal way to get to court to face DWLS charges. Putting them in a situation where they need to consider recommitting the same offense to face the original should be avoided when possible.

Just like with license restoration, there are times when it's necessary for offenders to face DWLS charges in court, and times when it's necessary for them to face jail time, too. But many DWLS offenders with less serious underlying offenses could pay their fines online, just like a traffic ticket. Once again, this would reduce costs to the state and the suspendee.

Counties in Michigan handle online settlement dispute differently. But because the license suspension process is always routed through Michigan's secretary of state, this could provide a convenient forum for people in all counties to pay DWLS costs using a single system. The secretary of state's office already has an online form available with payment options for license reinstatement; one solution would be to drop reinstatement fees and convert this into a form for paying DWLS charges.⁷⁸

Michigan could leverage this advantage to provide a fair and efficient way to handle many DWLS offenses. By making an online payment service for DWLS charges available to the same people who qualify for automatic license suspension, the secretary of state's office could also provide a single location for suspendees to settle any DWLS fines they may pick up without getting back behind the wheel.

⁷⁸ Johnson, Ruth. "Application for License Reinstatement." Department of State. *michigan.gov*. Jan. 2017. Web. <http://www.michigan.gov/documents/BDVR-162__09-03_74850_7.pdf> 02 Feb. 2018.

PART 5

CONCLUSION

Suspending licenses has hurt Michigan. There's no reason to continue down a road that leads to a poorer future for its most needy, a more dangerous future for its citizens, and a more costly future for its taxpayers. It's time to change course.

Returning licenses to citizens hurt by responsibility fees, limiting license suspension to traffic safety related offenses, and finding more-efficient ways to administer license suspensions and DWLS charges will put Michigan back on the right track. These changes will result in cost savings for taxpayers, and better protect the liberty and safety of its citizens.

ABOUT THE AUTHOR

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