

Reinstate Washington Statewide Driver's Relicensing Program

QUICK SUMMARY

The Problem

Currently, about 375,231 Washingtonians have suspended drivers licenses—or almost 7% of the state's population. These license suspensions consume a disproportionate share of legal and judicial resources and divert police officers from more serious matters. Driving While License Suspended 3rd charges now make up approximately 1/3 of annual misdemeanor prosecutions in the state. Drivers whose licenses are suspended are unable to maintain employment, fulfill parental obligations, obtain health care, or take part in numerous other important activities. Suspended drivers cannot obtain auto insurance—yet many drive anyway, putting others at heightened risk of being in accidents with uninsured motorists. This problem endures despite recent legislative changes (e.g. Laws of 2012, Reg Sess., ch 82 § 1 restricting license suspensions for failing to pay fines or appear to moving violations only occurring after June 1, 2013) and prosecutorial charging decisions, in a limited number of jurisdictions, refusing to file these cases or reducing to an infraction.

Why the Problem Exists

While some of these suspensions serve genuine public safety interests, nearly 60% are based solely on the driver's failure to pay fines and monetary obligations. Most drivers with suspended licenses owe traffic fines in multiple jurisdictions. In order to regain a license, all fines must be paid in each jurisdiction, which proves to be a difficult task as the fines increase into the thousands of dollars. To pay these fines, most drivers require an installment plan or other relief in each court, something very difficult to obtain in some courts. Also, most unpaid fines are sent to collection agencies that demand high down payments and steep monthly installments that don't consider driver's ability to pay. Drivers can't afford these prices because suspensions cause many to lose their jobs and prevent them from finding new employment.

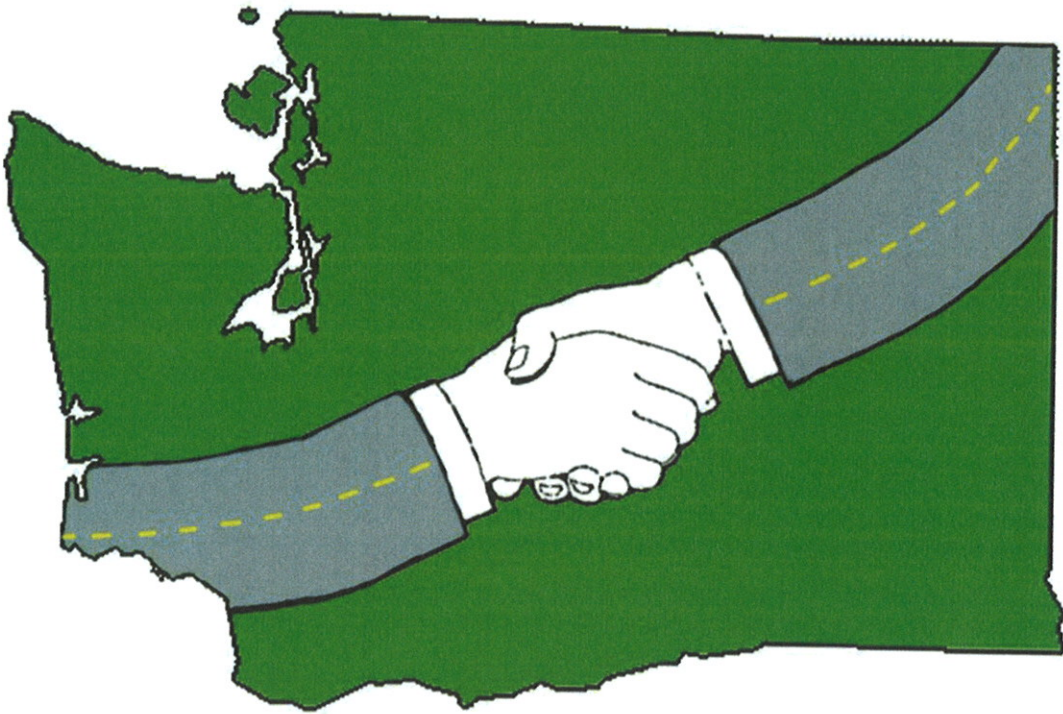
What Can Be Done

Many suspended drivers would pay their fines, if the fines could be consolidated into a single monthly payment they can afford, with the suspension being lifted once the payments commence. Local relicensing programs of this kind have proven very successful in Spokane, Seattle, King County, and elsewhere—both in terms of helping drivers regain their license and in enabling courts to collect more fines than they would have otherwise received. The spotty coverage of these programs has made them ineffective for many drivers (i.e., those with fines from non-participating jurisdictions) and frustrating for the participating judges. A single relicensing program that covers the entire state would ensure that any driver able and willing to make affordable monthly payments toward his or her tickets could resolve a suspension based solely on unpaid fines.

How This Would Work

The program would: 1) Set up payment plans with drivers, 2) collect the payments and 3) divide the money among the courts where the fines are owed. Once a driver sets up a payment plan with the program and begins making payments, the driver's license holds would be cleared (allowing him or her to regain the license). So long as the driver continues to make the payments, the suspension would remain lifted. The program would collect a monthly administrative fee from the driver's payments to fund the cost.

Reinstate Washington



Statewide Driver's Relicensing Program

NORTHWEST JUSTICE PROJECT
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OLYMPIA WA 98501

OBJECTIVE

Design a statewide relicensing program that would enable drivers whose licenses are suspended for delinquent fines to consolidate their fines into simple and affordable payment plans.

PURPOSE

To reduce the number of suspended drivers and collect more traffic fines and legal financial revenue for courts as demonstrated by Spokane's relicensing program.

ELIGIBILITY

As a general rule, the more types of fines a driver can consolidate into a payment plan, the more effective a relicensing program will be in advancing its dual goals to collect more fines and reduce the number of suspended drivers. Guidelines for eligibility should be:

- 1) Allow participating drivers to consolidate any kind of traffic fine that causes a license suspension (but especially moving violations and Driving While License Suspended 3 fines) into payment plans
- 2) If non-suspending fines are included in the payment plan, the model should either give the driver the option of excluding those fines or require that payments be posted to suspending fines first
- 3) The existence of other license holds (e.g. child support, accident judgments, HTO, etc.) would not disqualify a person from participating in the relicensing program, even if those items must be dealt with separately.

ADMINISTRATION

The program should carry out a handful of basic functions such as:

- 1) Enrolling drivers in the licensing program. Enrollment should be easy and efficient. At most, steps should include:
 - A. Establishing an application process
 - B. Advertising the program to likely participants
 - C. Processing applications that are received
- 2) Establishing payment plans with participants. While every driver may have individualized needs, an efficient approach to setting up payment terms with applicants could be through creating a matrix or other established policy with stated criteria and reducing those terms to written forms.
- 3) Reporting payment plans. The program should have a system for reporting the existence of a payment plan to relevant third-parties, such as the courts or collection agencies, to withdraw eligible fines from collections and to the Department of Licensing which would remove the holds and reinstate the driver's license.
- 4) Collecting payments and disbursing funds. The program will need the infrastructure to receive and account for payments that drivers make. Then, once the funds are received, there could be many different ways to divide payments as they arrived. Funds could be divided evenly between a participants jurisdictions, applied on a pro-rata type basis toward the outstanding fines, or applied first to suspending fines and then to other fines, etc. The program should also have a system in place by which participating drivers can receive an accounting of amounts paid and fines satisfied.
- 5) Cancelling payments on default. Inevitably, some participants will fail to make the payments as they come due. The program will need some way of sending notices and canceling plans for drivers who fail to bring their account current. A good system should provide:
 - A. Notice of default, with some clearly defined opportunity to catch up on a delinquent plan
 - B. An opportunity to voluntarily cancel a plan (and thereby avoid disqualification and other sanctions associated with involuntary termination of payment plan)
 - C. Procedures for canceling a plan when a driver has been given notice of default and failed to bring the plan current

ADMINISTRATION CONTINUED

While some period of disqualification may be necessary to ensure that deadlines are taken seriously and to minimize administrative burdens (e.g. 6-12 months preceding the application), drivers should not be permanently barred from the program based on prior defaults. The driver would regain eligibility once the period of disqualification expires.

- 6) *Dispute resolution/due process.* A person negatively affected by some act or decision made by the program would presumably have a due process right to dispute that matter. Disputes could arise regarding eligibility for admission to the program, inclusion of particular fines in a payment plan, repayment terms or conditions, processing, servicing issues, and so forth. Some type of review mechanism would be needed to accommodate these disputes.
- 7) *Administrative fees.* The goal for a statewide relicensing program is to self-fund. There are many ways to accomplish this; such as allocating a percentage of the amount collected to the program or charging participating drivers a small administrative fee. A nominal monthly surcharge could be added to each account to avoid disproportionate treatment based on either the amount of fines or duration of the payment plan.
- 8) *Community service.* The statewide relicensing program will not directly provide community service alternatives for participating drivers. However, the model should allow drivers who obtain community service in particular courts, to exclude those fines from the payment plan. Courts should be explicitly encouraged to allow community service in appropriate cases when feasible, and the existence of the statewide relicensing program should not discourage or deter courts from allowing community service in lieu of fines for drivers with limited financial resources.

REPAYMENT TERMS

The goals of the statewide relicensing program would be best served by requiring small payments that participating drivers can reasonably be expected to make. Establishing a one-size-fits-all rule for payment plans is likely impossible, given that every participant's circumstances will differ—and will often change during the life of a payment plan. Income-contingent or other adjustable payment plan terms may better accommodate a driver's circumstances, but impose much higher burdens on the administering entity. However, establishing a formula that takes into consideration income, and household size, would help assure uniformity with respect to persons similarly situated. A small, fixed monthly payment thus best enables participating drivers to remain in compliance with their payment plans, while requiring minimal staff resources to adjust or renegotiate plans with drivers encountering hardships.

As an example of good policy, a matrix or formula could establish basic payment terms consistent with an applicant's monthly income and household size (using a reasonable threshold, such as 5% of the applicant's monthly income). A payment plan established properly under the matrix, with the initial payment being no greater than the monthly installment payments (i.e., no large up-front payment that may deter enrollment), would be presumed reasonable. The initial balance on such a plan would be the sum total of all traffic fines the applicant owes to all of the participating courts, plus any amounts the applicant owes to the administering entity, on a monthly basis. Pre-payment of all amounts owing should be allowed without penalty. The license suspension would be lifted upon receipt of the driver's first payment.

Applicants who disagreed with the payment amount (whether due to hardship, calculation error, etc.) should have a right to dispute the amount (albeit with minimal review process). Participating drivers should also have opportunities at reasonable intervals to seek adjustments in their monthly payments, such as for income fluctuations or personal hardships. Alternatively, the program could impose a low, flat rate on participants (such as \$10, \$25, \$50, or \$100 depending on the duration of the payment plan) and not make individual assessments of drivers. This type of policy would eliminate much of the administrative burden associated with individual assessments.

GROUPS NOT COVERED

Suspensions for reasons other than unpaid Washington traffic fines. Suspended Drivers whose suspensions would not be resolved by this program are those suspended for reasons other than delinquent Washington fines. This group includes:

- 1) Drivers with delinquent out-of-state fines
- 2) Drivers who owe unpaid judgments from auto accident cases
- 3) Drivers whose licenses are suspended due to unpaid child support
- 4) Drivers whose licenses are suspended because of serious traffic offenses, such as DUI
- 5) Drivers suspended due to habitual traffic offender status.

Some of these suspensions may be warranted on public policy or safety grounds and are thus outside the scope of this project.

INCREASED COLLECTION RATES

The Spokane Relicensing Program: A Success Story

Over \$5 Million collected since the Community Relicensing Program's inception in 2008.

In contrast, only \$623,471.98 has been collected from drivers assigned to the collection agency.

Over 10,000 individual drivers with 33,000 cases have been assigned to the program since inception.

- ♦ Upon enrollment in the relicensing program, the driver's license is immediately reinstated and an affordable payment plan is put in place.
- ♦ Collection fees and interest are waived.
- ♦ All payments are made to a single accounts receivable program: PAR.
- ♦ PAR collects all of the money owed to participating courts at no cost to the courts.
- ♦ Six jurisdictions participate: Cheney, Medical Lake, Airway heights, Spokane, Spokane County, and Pend Oreille County.

RACIAL DISPARITY

Data from several localities shows that police disproportionately make traffic stops of people of color, particularly African-Americans.¹ This problem has received recent national attention in the wake of the events in Ferguson, Missouri and elsewhere.² Recent data from the Washington State Administrative Office of the Courts also shows that people of color are heavily burdened by an inability to pay traffic infraction fines.

¹ Bender, Alex, Esq., Stephan Bingham, Mari Castaldi, EBCLC, Elisa Della Piana, EBCLC, Merideth Desautles, LCCR, Michael Harold, WCLP, Endria Richardson, LSPC, Jesse Stout, LSPC, and Theresa Zhen, ANWOL. Not Just a Ferguson Problem: How Traffic Courts Drive Inequality in California. Rep. Lawyers' Committee for Civil Rights of the San Francisco Bay Area, n.d. Web. 20 May 2015. <http://www.lccr.com/not-just-ferguson-problem-how-traffic-courts-drive-inequality-in-california>, citing, Alexander, Michelle. *The California DWB Report: A Report from the Highways, Trenches, and Halls of Power in California*. Rep. American Civil Liberties Union Foundation of Northern California, 2002. Web. 20 May 2015. <http://research.policyarchive.org/96062.pdf>.

² Kumodzi, Karl, and Brad Lander. "How Cities' Funding Woes Are Driving Racial and Economic Injustice—And What We Can Do About It." *The Nation: Investigating Progress Daily*. The Nation. 28 Apr. 2015. Web. 20 May 2015. http://www.thenation.com/article/205433/how-cities-funding-woes-are-driving-racial-and-economic-injustice-and-what-we-can-do-utm_source=facebook&utm_medium=socialflow.

	Cases Filed	Cases Paid	Cases FTA	Percent of Cases Paid	Percent of Cases FTA
American or Alaskan Native (Indian) Hispanic	90	39	54	43.33%	60.00%
American or Alaskan Native (Indian) Non Hispanic	19739	12228	10097	61.95%	51.15%
Asian or Pacific Islander Hispanic	136	111	50	81.62%	36.76%
Asian or Pacific Islander Non Hispanic	144727	122193	26166	84.43%	18.08%
Black Hispanic	105	62	62	59.05%	59.05%
Black Non Hispanic	138737	91996	64485	66.31%	46.48%
Unknown Hispanic	171568	141434	54063	82.44%	31.51%
Unknown Non Hispanic	148995	121386	36691	81.47%	24.63%
Unknown	61	53	1	86.89%	1.64%
White Hispanic	9608	6706	4048	69.80%	42.13%
White Non Hispanic	1819270	1482006	466271	81.46%	25.63%
Blank	57		19	0.00%	33.33%
		1978214			

Traffic Infraction Data by Race/Ethnicity
Percentage FTA versus Paid (non-graph data)
2012-2014