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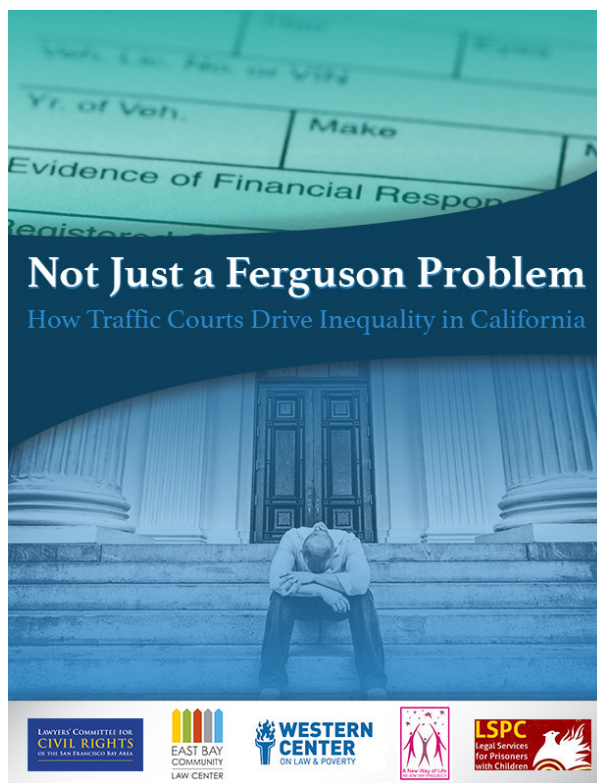
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NOT JUST A FERGUSON PROBLEM - HOW TRAFFIC COURTS DRIVE INEQUALITY IN CALIFORNIA

A recent Department of Justice report found that courts and law enforcement in Ferguson, Missouri, are systematically and purposefully taking money from the pockets of poor people —disproportionately from black people—to put into court coffers. The context may be different in California, but many of the practices are chillingly similar. As a result, **over four million Californians do not have valid driver's**



licenses because they cannot afford to pay traffic fines and fees. These suspensions make it harder for people to get and keep jobs, further impeding their ability to pay their debt. They harm credit ratings. They raise public safety concerns. Ultimately they keep people in long cycles of poverty that are difficult, if not impossible to overcome. This report highlights the growing trend of license suspensions, how the problem happens, the impact on families and communities, and what can and should be done about it. [Click here to read the full report.](#)

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INFOGRAPHIC

Not Just a Ferguson Problem
How Traffic Courts Drive Inequality in California

LAWYERS' COMMITTEE FOR CIVIL RIGHTS OF THE SAN FRANCISCO BAY AREA

Ticket Received
Whether for rolling a stop sign, jaywalking, or littering

by law, fines increase automatically
a \$100 ticket instantly costs \$490

courthouse doors are closed
after one missed deadline to appear or pay

1 in 6 licenses is suspended in California
affecting over 4 million people

driver's license suspended for unpaid fine
reinstatement only upon payment in full

fine increases again
regardless of the reason for the missed deadline
\$100 ticket now costs \$815

suspended licenses lead to lost jobs and decreased wages
42% lose their jobs*
Only 45% find new jobs
88% with new jobs have lower wages
*NJ Study, 2007

increased social and economic costs
need for public benefits and social services, costs to courts and law enforcement, and uncollected debt all go up

inequality grows
communities of color are disproportionately affected, and the harmful impact of poverty is passed on to the next generation

DEAD END for California

For more information, view the report:
www.lccr.com/trafficcourt

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DOWNLOAD REPORT

Over four million Californians are without a valid driver's license, not because they pose a risk to public safety, but because they are trapped in a spiral of court fines and fees they cannot afford to pay, according to "Not Just a Ferguson Problem – How Traffic Courts Drive Inequality in California".

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CLIENT STORIES

CHRISTINA'S STORY

An entire decade—that's how long Christina, a San Francisco resident, had to work to get her driver's license reinstated. In March 2015, Christina came to the Lawyers' Committee Second Chance Legal Clinic, explaining that her license was suspended and that she was unable to come up with the fees to get it reinstated. Her offenses were, by all appearances, minor but, her fines were approaching \$5,000.

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CLIENT STORIES

ANTHONY'S STORY

Anthony, a 22-year-old Bay Area native and single father, had hit a rough patch. He had been issued a few traffic tickets, but was making regular installment payments working as a mechanic in Oakland. That's when he received news that no parent ever wants to hear: his two-year-old son was diagnosed with Leukemia.



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CLIENT STORIES

THADDEUS'S STORY

After spending five years fighting to get his driver's license reinstated, Thaddeus finally succeeded. But the amount of effort it required, and the roadblocks he endured on the way, highlight the problems with how California uses license suspension as a debt collection tool.

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CLIENT STORIES

JAMES'S STORY

James first came to LCCR's Second Chance Legal Clinic in July 2014 because his driver's license was suspended, and he owed \$2,538.96 in debt from traffic tickets and failing to appear at his traffic court hearing date—a hearing he missed because of an emergency trip to the hospital.



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Not Just a Ferguson Problem

How Traffic Courts Drive Inequality in California



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Low-income Californians are being disproportionately impacted by state laws and procedures related to driver's license suspensions. Due to increased fines and fees and reduced access to courts, more than four million Californians have suspended driver's licenses. These suspensions make it harder for people to get and keep jobs, harm credit ratings, and raise public safety concerns. Ultimately, they keep people in long cycles of poverty that are difficult if not impossible for many to overcome. This report highlights the impacts on families, how the problem happens, and what can and should be done to rectify it.



4+ million

licenses suspended in California



\$10 billion

uncollected court-ordered debt

Andrew¹

Andrew, a 22-year-old single father, was working as a mechanic and making regular installment payments to the court on a couple of traffic tickets. A few months into the payments, his two-year-old son was diagnosed with leukemia. As his son's sole caretaker, Andrew had to leave his job to care for his son. His sudden loss of income meant that he could not meet the terms of his payment plan, and the court suspended his driver's license. His fines were handed off to a collections agency, with an extra \$300 "civil assessment" tacked on for his "failure to pay" as planned. Andrew needed to travel over 25 miles to and from chemotherapy treatments several times a week without a car, and he was terrified to bring his immunocompromised two-year-old on the bus. The court refused to hear his case unless he paid the full fine amount, and he was told he could not get a license until the full amount of fines and fees was paid, even if he resumed making installment payments.

“Without a license, I can’t work. Without work, I can’t pay my fines to get my license back.”

Tammi

Tammi had not been pulled over in years, so she was perplexed when she received a notice from the DMV saying that her license had been suspended due to unpaid fines. She visited the court, where a clerk informed her that she owed over \$3,500 for several unpaid traffic tickets. Tammi was sure the tickets weren't hers, and suspected that they belonged to her sister, who she had recently caught using her identity. She asked to see a judge, but was told that she could not, unless she paid the full fine amount first. Though Tammi knew she was innocent, she was only receiving \$850 each month in Social Security benefits, and had no way of paying that much up front. Simply because she was unable to afford to pay to appear in front of a judge, Tammi faced the prospect of having her credit significantly damaged and her license suspended indefinitely.

I. Executive Summary

A recent report by the Civil Rights Division of the U.S. Department of Justice found that the courts and law enforcement agencies in Ferguson, Missouri, are systematically and purposefully taking money from the pockets of poor people—disproportionately African Americans—to put into court and city coffers.² While the context may be different in California, many of the practices are chillingly similar.³ Here, as in Missouri, a litany of practices and policies turn a citation offense into a poverty sentence: the revenue incentives of fine collection lead to increased citation enforcement,⁴ add-on fees for minor offenses double or quadruple the original fine, and people who fail to pay because they don't have the money lose their driver's licenses. Once an initial deadline is missed, courts routinely deny people the right to a hearing unless they can afford the total amount owed up front, and payment in full becomes the sole means for having a license reinstated.

As a result of these policies and practices, millions of Californians do not have valid driver's licenses because they cannot afford to pay citation fines and fees. In fact, over 4 million people, or more than 17% of adult Californians, now have suspended licenses for a failure to appear or pay. These suspensions make it harder for people to get and keep jobs, further impeding their ability to pay their debt. Ultimately, they keep people in long cycles of poverty that are difficult, if not impossible to overcome. This report highlights the growing trend of driver's license suspensions, how the problem happens, the impact on families and communities, and what can and should be done about it.

The Problem: Explosion of Debt and License Suspensions

Over the past few decades, the fines and fees associated with traffic citations have steadily increased. What used to be a \$100 violation now costs nearly \$500, and jumps to over \$800 if a person misses the initial deadline to pay. As the fees have gone up, and with the economic crisis, fewer people can afford to pay their tickets. In addition, instead of suspending driver's licenses only where public safety is at stake, courts now use license suspensions as a tool for collecting this unpaid traffic citation debt. This means that once a ticket goes to collections, the person cannot have a driver's license until every cent of a fee is paid, even if she is making monthly payments for years.

For many people, this collection system creates unjust results. While people who can afford to pay, do, many who cannot pay lose their jobs because they need a license to work. Parents cannot drive sick kids to medical appointments. Families must choose between food and traffic fines. Some, including identity theft victims, suffer these harms even when they did not commit the offense in the first place. The logical place to resolve these injustices is in court. However, missing a deadline to pay a traffic fine now bars entry for anyone who cannot pay up front: courts across California require the "total bail," or maximum fine amount, to be paid before a person can exercise the right to a hearing.⁵ This means you must pay or lose your license, even if you didn't violate the law.

Without the ability to pay or an opportunity to request a fair remedy in court, the number of people with license suspensions is at a record high: over four million Californians have suspended driver's licenses solely because they have not paid the full fines for minor infractions. Ironically, the system is starving itself of revenue. When people cannot work, they cannot pay traffic fines. When they know they cannot get a license even if they make monthly payments for years, they stop paying. The result: California now has over \$10 billion in uncollected court-ordered debt.

The Process: How an Unpaid Ticket Results in Huge Fines, Fees and License Suspensions

The consequences of an unpaid citation are swift and severe. After the initial deadline to appear in court or pay the ticket is missed, regardless of the reason, the driver's license is suspended and an additional \$300 civil assessment is added to the total fine amount. This is true even if the citation had nothing to do with driving – for example, a citation for loitering or littering.

The result is a two-tiered system of justice in traffic courts across California, where only money grants access to the courts. Those who have the money to pay up front can contest the ticket in writing, and can schedule a court date that works with their schedule. In fact, they are often the only ones who can schedule a court date at all.

Yet, access to the courts is critical for those without money; a court hearing is often the only way to get relief from the amount owed. State law requires courts to take into account a person's ability to pay when assessing traffic fines and fees, but the imposed fines rarely reflect ability to pay. For example, under statute, the civil assessment fee for missing

a deadline is supposed to be “up to \$300,” but courts routinely impose the full amount. Much of the money from these fees goes to fund the courts, so the revenue incentives are at odds with the requirement to consider a person’s financial circumstances.

In addition, many—though not all—California courts allow payment plans or community service to resolve traffic fines, but those options usually are not explained or even mentioned in the courtesy notices mailed by the courts, nor are they available in most counties unless you are able to get a court hearing. After a person’s license is suspended for failure to pay a fine, the debt is usually referred to an outside collections agency. Court personnel claim “no jurisdiction” over the case, and refuse to reconsider it, even if the fine was assessed in error. A person without the money to pay the ticket is left with full payment as the only option to reinstate the license.

The Impact: The Disastrous Consequences of Court-Ordered Debt and License Suspensions

The net result of high fees and limited due process is millions of suspended licenses in California. The impact on California’s families is significant. Low- and middle-income jobs increasingly require driver’s licenses. Taking public transportation to work can be onerous and time-consuming: one study found that job seekers in Alameda County had to make on average three to four transfers between home and areas where work was available. Data shows that a valid driver’s license is a more accurate predictor of sustained employment than a General Educational Development (GED) diploma. Many cannot find work without a license. For those who are employed, many cannot keep their jobs without a valid driver’s license. A New Jersey study found that 42% of people whose driver’s licenses were suspended lost their jobs as a result of the suspension.⁶

As in Ferguson, these policies disproportionately impact people of color, beginning with who gets pulled over in the first place. Recent San Diego and Sacramento data show that African-American people were two to four times more likely to get pulled over for a traffic stop than white people; Hispanic people were also disproportionately stopped and searched. In San Francisco, over 70% of people seeking legal assistance for driver’s license suspensions were African American, though African Americans make up only 6% of the city as a whole. In the broader employment context, people with African-American sounding names are significantly less likely to get job interviews than white people with the same resume.⁷ Existing employment barriers based on race should not be exacerbated by court policies that further deprive people of jobs and employment prospects.

The Cost: How Fines and License Suspensions Impose a Hidden Tax on Government, Public Safety, and the Economy

Using license suspensions to collect debt rather than to preserve public safety means that there are millions of Californians who are not a driving safety threat, but who cannot have valid driver’s licenses. According to the American Association of Motor Vehicle Administrators, this type of license suspension is dangerous because it diverts police officer time and attention from public safety priorities. The police, DMV, and courts spend millions arresting, processing, administering, and adjudicating charges for driving on a suspended license. Add in the cost of jailing drivers whose primary fault was failing to pay, and we have a costly debtor’s prison.

The current policies are counterproductive for employers as well: there is a cost to hiring and re-training a new person for a job being done well by someone else. It is an unnecessary expense to both employers and the state to pay unemployment insurance for an employee who would be retained if the person had a license.

Additional costs to the state include the fact that many more families have to rely on safety net public benefits because these millions of suspended licenses are a barrier to gainful employment. There are also the secondary impacts of unemployment on the economy and on families living in poverty; children often bear the brunt of the harms of poverty, and some of these costs will not be fully realized for decades.

Changing California’s practices regarding license suspension would come with some implementation costs. However, by restoring driver’s licenses and allowing people to work, more drivers would be able to pay traffic fines and fees, which would reduce uncollected court debt and increase revenue, as well as eliminate the hidden costs to California’s families and economy.

Solutions: Stop the Cycle of Suspensions for Collections, Protect Jobs, and Collect More Revenue

California should end the use of license suspensions as a collection tool for citation-related debt, allowing more people to work and pay their debts. An array of other collection tools is at the state's disposal. Additionally, California courts must ensure that access to the courts and fair due process do not depend on income; individuals should not have to pay up front to get a hearing.

The cost of paying a ticket is too high, for everyone. Current fees should be reduced by 50%. In assessing fines as punishment, courts should, as state law already contemplates, take into account ability to pay. Standardized payment plans and community service options could alleviate the financial burden of fines and fees, as well as reduce the number of delinquent accounts.

Finally, there are over four million drivers who need this relief now: make it retroactive. The right amnesty plan will release current license suspensions and forgive debt for the poorest Californians, as an investment in California's families and future.

REAL LIFE STORY: SAM

Sam has received two driving-related tickets in the past two years - one in San Francisco and one in Oakland. He was not able to pay either ticket, and further was unable to appear for his court date because he was participating in a program that required him to stay at a rehabilitation facility. He is professionally trained and was previously employed as a chef, but since his license suspension, he has been rejected by multiple restaurants after initial offers of employment due to his license suspension. He continues to search for employment, but because of the license suspension is unable to find a job. As a result, he is now on General Assistance, paid by county funds.

II. The Problem: Explosion of Debt and License Suspensions

At its root, the problem of driver's license suspensions in California has four primary elements:

(A) Fines, fees, and assessments on traffic tickets and other citations are higher than they have ever been, such that today an individual is automatically charged \$490 for what is initially a \$100 ticket.

(B) Courts are using license suspensions as a primary means for collecting citation debt at the same time that budget shortfalls have caused the state to increasingly rely on fees, fines, and assessments to fund basic court operations.

(C) Cuts to court budgets have also corresponded to an increasing practice by the courts of using pre-payment of fines as a condition to accessing the courts, limiting the use of court resources to those who are able to pay up front.

(D) The recent economic crisis, combined with California's exceptionally high poverty rate, means many low-income Californians are faced with the impossible choice of paying for basic necessities and paying a ticket, with the consequence of millions of suspended licenses and billions in uncollected debt.

These four issues converge to a crisis point when low-income individuals, facing economic and logistical barriers to appearing in court and/or paying the steep fines associated with traffic tickets, miss the deadline to do so. The result is huge additional fees and endless license suspensions that trap people in poverty. As the data below indicates, the California Department of Motor Vehicles (DMV) has brought more than 4.2 million actions to suspend drivers' licenses based on a failure to appear or pay fines, fees, or assessments in the past eight years alone.

In short, more than one out of every six drivers in California is impacted. If these numbers were a contagious disease, it would be a public health crisis.

The sections below will explore each of these four trends in further depth.

A. Fines for Citations and Add-on Fees Have Skyrocketed

The story of license suspensions in California begins with the rapidly increasing costs of a single citation. In 2006, the California Research Bureau (CRB) released a report entitled *Who Pays for Penalty Assessments in California*.⁸ This report documents the growth of "penalty assessments," which are generally the statutory assessments added to a citation fine to fund various state and county programs.⁹ According to the CRB report, actions by the Legislature have caused fines to become steeper and more complex over time.¹⁰ The report found that as a result, in 2006 a \$100 ticket actually cost \$390.

In recent years, the cost of a single citation has continued to go up. In 2008, California faced an unprecedented budget shortfall due to the economic crisis. Every area of state government was subjected to significant budget cuts, and California's courts were no exception. To partially alleviate the budget cuts, the Legislature authorized even more fees and assessments on tickets. For example, in 2011, a bill was introduced to add a new penalty assessment, AB 1657 (Wieckowski). The bill analysis from the Assembly Appropriations Committee noted that, due to new assessments, the cost of a \$100 ticket was actually \$479, and the cost of a \$500 ticket was

BY THE NUMBERS:

According to a Senior Administrator for the Metropolitan Courthouse of the Los Angeles County Superior Court, there are 1.8 million traffic citations filed by the Superior Court of Los Angeles County per year from over 150 law enforcement agencies. Approximately 8,000 complaints for failure to appear were filed every week in the fiscal year of 2007-2008. When the Clerk of the Superior Court of Los Angeles issues and files a complaint electronically under Penal Code section 959.1(c) for failure to appear, it triggers a base fine of \$75 per the Bail Schedule, which is then augmented by various legislatively mandated penalty assessments and fees. In the 2007-2008 Fiscal Year, the fines, forfeitures, and assessments related to the more than 8,000 complaints electronically issued and filed each week by the Clerk of the Superior Court of Los Angeles County for failure to appear did indeed exceed *\$75 million*.¹¹

Cost of an Infraction Citation in California Traffic Court, 2015

Statute	Assessment	Amount Owed
	BASE FINE (example)	\$100
		\$100
State penalty assessment (Penal Code (PC) §1464)	\$10 for every \$10 base fine	+\$100
State criminal surcharge (PC § 1465.7)	20% surcharge on base fine	+\$20
Court operations assessment (PC § 1465.8)	\$40 fee per fine	+\$40
Court construction (Government Code (GC) § 70372)	\$5 for every \$10 in base fine	+\$50
County fund (GC § 76000)	\$7 for every \$10 in base fine	+\$70
DNA Fund (GC § 76104.6 and § 76104.7)	\$5 for every \$10 in base fine	+\$50
Emergency Medical Air Trans. Fee (GC §76000.010)	\$4 fee per fine	+\$4
EMS Fund (GC § 76000.5)	\$2 for every \$10 in fine	+\$20
Conviction assessment(GC § 70373)	\$35 fee per fine	+\$35
Night court assessment (GC § 42006)	\$1 per fine	+\$1
ACTUAL COST OF CITATION		\$490
DMV warrant/hold assessment fee (Vehicle Code (VC) § 40508.6)	\$10 fee	+\$10
Fee for failing to appear (VC § 40508.5)	\$15 fee	+\$15
Civil assessment for failure to appear/pay (PC § 1214.1)	\$300 fee	+\$300
COST OF CITATION IF INITIAL DEADLINE IS MISSED		\$815

Source: California Vehicle Code, California Judicial Council

actually \$1,829.¹² Governor Brown ultimately vetoed AB 1657, and in his veto message stated: “[l]oading more and more costs on traffic tickets has been too easy a source of new revenue. Fines should be based on what is reasonable punishment, not on paying for more general fund activities.”¹³

Today, according to the “Uniform Bail Schedule” promulgated by the Judicial Council of California, a ticket with a \$100 dollar base fine, for example for failing to carry proof of auto insurance under Vehicle Code section 16020, actually costs \$490 after imposition of statutory fees and assessments, and \$815

if the individual misses the initial deadline to appear in court or pay the ticket.¹⁴ The chart above sets out the statutes and amounts for each penalty assessment that is added to the “base fine,” or initial penalty for the violation.

With the increasing costs of a single citation in California, more and more people are unable to pay their debts. The burden of this debt, itself a major issue, becomes vastly more significant in light of the primary means being used for its collection – driver’s license suspensions.

REAL LIFE STORY: LAURA

Laura cares for her elderly parents. She needs to drive them to medical appointments, grocery shop for them, and pick up prescriptions. But she cannot, because she missed the deadline on two “fix-it” tickets, and now owes the full fine amount plus \$300 per ticket. As a result of nothing more serious than a broken taillight and a missed deadline, Laura cannot provide what her parents need and cannot see a judge to plead her case.

B. Escalating Reliance on License Suspensions for Debt Collection

1. Expanding Use of License Suspensions for Revenue Collection

Originally, license suspensions were used to promote driving safety by punishing and removing unsafe drivers from the road and thereby encouraging safe driving.¹⁵ Over time, however, the scope of license suspensions has expanded greatly, reflecting a shift in the primary purpose of suspensions from protecting public safety to collecting revenue.¹⁶ Today, suspensions are routinely invoked for behavior unrelated to driving. For example, California suspends driver's licenses for truancy, vandalism, and crimes by juveniles, among many other reasons.¹⁷

In courts across the state, suspensions for unpaid debt have become a regular occurrence. Licenses are suspended for late or non-payment for minor traffic violations, such as tickets for broken taillights, misplaced registration stickers, and failure to

“The fines and assessments being collected by the courts have increasingly been used not as a penalty for the violation, but as a source of revenue to fund government operations, including the courts.”

report a change of address. They are also imposed for late or non-payment for violations that are entirely unrelated to driving, such as tickets for carrying an open alcohol container in public or failure to pay transit fare. Additionally, anecdotal evidence suggests that licenses are being suspended for failure to pay costs related to criminal convictions, even though there is no clear legal authority for license suspensions in those situations.¹⁸

2. Collection Processes for Citation Debt

The use of license suspensions as a revenue-collection tool has coincided with a shift in the way that court-ordered fees, fines, and assessments have been both collected and used by the state.

In the majority of counties across the state, the responsibility for collecting traffic court debt has been delegated by the counties to the courts.¹⁹ When an individual fails to pay a ticket, the courts are empowered to immediately take two punitive measures: imposition of a late-penalty fine of \$300, called a “civil assessment,” and suspension of the driver's license.²⁰ These measures are part of a broader scheme called the “comprehensive collection program,” which is set out in state law.²¹ Counties and courts that follow the “comprehensive collection program” scheme are authorized by law to recover the costs associated with the collection effort.²²

Counties and courts are increasingly assisted in their collection efforts by private companies who provide contracted collection services. Pursuant to state law, the Judicial Council of California establishes guidelines for county and court collection programs, including a standard agreement for contracting with private companies to conduct collection activities.²³ In 2014, the Judicial Council signed a contract for a “Master Agreement” with AllianceOne Receivables for the purpose of providing collection services to participating counties.²⁴ According to this agreement, AllianceOne conducts collection services on a commission basis, with commissions ranging from 13-17% for most fines and fees, and capped at 10% for collection of victim restitution moneys.²⁵ The role and impact of AllianceOne and similar debt collection companies will be discussed in more detail in Sections III and IV below.

The fines and assessments being collected by the courts have increasingly been used not as a penalty for the violation, but as a source of revenue to fund government operations, including the courts. According to the CRB report *Who Pays for Penalty Assessments in California*, in the 1980s most states, including California, used court-ordered penalty payments to fund non-court activities, such as driver education programs for local school districts.²⁶ But a national movement to adopt model standards for the use of court-ordered penalties urged direction of these monies to fund court operations. In 1985, California directed counties to send a portion of these funds to courts to pay for trial operations, and in 2002, counties were directed to send \$5 of every \$10 collected from a surcharge on court-ordered penalties back to the court.²⁷

Under the current statutory scheme, money collected from court-ordered debt is distributed first to satisfy victim restitution (where applicable), and second to the recovery of the cost of collection.²⁸ After these two priorities are met, the funds

REAL LIFE STORY: FRANK

Frank was working part-time when he got a couple of traffic tickets five years ago. He was paying in installments but had to stop because he could no longer afford those payments on top of increasing basic living expenses. He currently owes \$6,800—\$4,000 of which is penalty fees. He was offered a job, but the offer was contingent on getting a license, so he could not accept it. He remains unemployed and unable to pay off any of his debt.

are distributed to state and county programs. In 2011-2012, the state received 60% of the collected funds, and two-thirds of those funds were directed to trial court operations and construction, as shown in the chart by the Legislative Analysts Office.²⁹ As a result, the courts across the state are tasked with collection of debt from citation violations, and this debt is ultimately used to fund the courts.

C. Cuts to Court Budgets Reduce Access to Justice

Since the Great Recession in 2008, the California court system in particular has faced unprecedented budget cuts. The result has been years of courthouse closures and layoffs, with over \$1 billion in budget reductions and closures of over 200 courtrooms.³⁰ Members of the public seeking to use court services have found fewer courthouses open for fewer days for shorter hours and with longer lines, among many other barriers to access. Chief Justice Cantil-Sakauye of the California Supreme Court has said that the current funding is simply “not enough to provide timely, meaningful justice to the public.”³¹

These court cuts have directly impacted people facing citations in traffic court. In addition to the general lack of court access, people with tickets have found themselves increasingly shut out of the traffic court system as a result of courts’ growing use of “bail” requirements. In essence, courts have begun to require payment of “total bail,”³² or the full amount owed on a citation, as a precondition to accessing court resources.

Across the state, once the initial deadline for appearing in court or paying the ticket has passed, an individual must post the full bail to receive any further process from the court.³³ This bail requirement holds regardless of the individual’s income – there is no waiver or reduction process – and regardless of

“If you are poor, you are stuck with no driver’s license and hundreds or thousands of dollars in fines - even if you are innocent.”

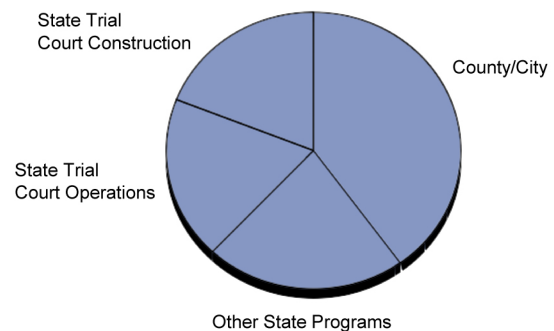
the reason for missing the initial deadline. In this way, access to the court is contingent on having money. Moreover, even for a person who can post bail, there is usually no opportunity to appear before a judge. Instead, the individual must request relief in writing, which creates an additional barrier for seniors, people with disabilities, and anyone without the resources to file paperwork on their own.³⁴

Finally, in some counties it has been reported that bail is required not only for those who have missed an initial deadline, but for anyone seeking a court date on their citation.³⁵ A person cannot have an initial hearing on their ticket at all without paying the fine up front. If that person ultimately prevails in fighting the ticket, they would in effect be seeking reimbursement from the court. The result of this bail requirement is a two-tiered system of justice. If you have money, you can get a trial, as is your constitutional right. If you cannot afford to pay to get into court, you could be stuck with no driver’s license and hundreds or thousands of dollars in fines – *even if you are innocent*.

Figure 6

Majority of Collections Disbursed to the State^a

2011-12



^a Excludes revenues offset to cover costs of collection.

D. Current Policies Result in Millions of License Suspensions, Billions in Uncollected Debt

1. With the Great Recession, License Suspensions Mount

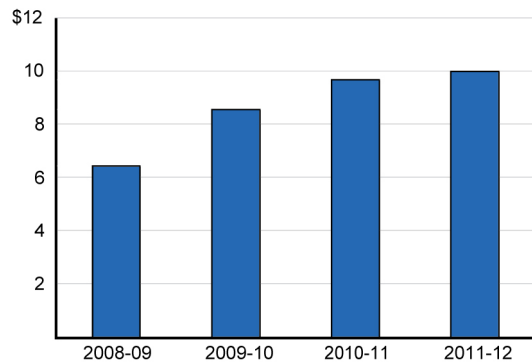
Together the trends of steep fine increases, expanded use of license suspensions as a means of collecting these fines, and reduced access to relief through the courts combine to make the traffic court system an intractable problem for people with limited income. The number of people who fall into this category is huge in California due to the state's exceptionally high rates of poverty. A 2014 report by the U.S. Census found California to have the highest poverty rate in the nation, with nearly a quarter of residents, 8.9 million people, living in poverty.³⁶ Across the state, the majority of families living in poverty have an income between \$29,500 and \$37,400.³⁷ In most of these families at least one household member is working: 37.3% of poor families have at least one member working full time, and another 25.6% have a member working part time.³⁸ As a result of the Great Recession, California saw its rate of poverty grow faster than that of the rest of the country.³⁹

Based on the cumulative suspension and reinstatement actions by the DMV, currently an estimated 4.2 million drivers in California have suspended licenses.

That the economic struggles of the Recession have played a role in this issue is evident in the license suspension trends reported by the DMV. The chart below shows the DMV's license suspension and reinstatement actions between 2006 and 2013. The number of suspensions grew steadily through 2010, with a decline in the number of suspension actions beginning in 2011, likely due to the slow economic recovery occurring at that time. Based on a cumulative analysis of suspension and reinstatement actions reported by the DMV, currently an estimated 4.2 million drivers in California have suspended licenses.⁴⁰

License Suspension & Reinstatement Actions in California, 2006-2013

Year	2006	2007	2008	2009	2010	2011	2012	2013	Total Suspension & Reinstatement Actions
Suspension under \$13365	459,475	496,631	554,597	583,542	606,393	565,373	513,173	510,811	4,289,995
Reinstatements under \$13365	6,026	7,815	8,894	8,069	8,811	9,174	10,151	10,966	69,906
Total Suspensions Minus Reinstatements	453,449	488,816	545,703	575,473	597,582	556,199	503,022	499,845	4,220,089

Figure 3**Balance of Outstanding Court-Ordered Debt Continues to Grow***(In Billions)*

Eliminating license suspensions for citations unrelated to public safety would likely increase the amount of money collected.

The number of license suspension actions for failure to pay or failure to appear is particularly troubling when considered alongside the total number of California driver's licenses. According to the DMV Newsroom, as of January 1, 2014 there were 24,643,432 driver's licenses in California.⁴¹ Based on the above estimate of total suspensions, the data indicate that 17%, or approximately 1 in 6 licenses is suspended in California.

2. Uncollected Court-Ordered Debt Now Exceeds \$10 Billion

Unsurprisingly, the economic recession and the growth in license suspensions coincide with vast sums of uncollected court-ordered debt. In its report *Restructuring the Court-Ordered Debt Collection Process*, the Legislative Analyst's Office (LAO) highlighted the inefficiency and ineffectiveness of the state's collection system for court-ordered debt, including debt related to traffic court citations. In particular, the report found that total uncollected court-ordered debt now exceeds \$10 billion.⁴² The LAO's chart on the growth of uncollected debt in California is shown here.

The growth of uncollected court-ordered debt undoubtedly correlates directly with the massive number of people facing heavy fines and saddled with a license suspension as a result. Once people lose their licenses, it becomes even more difficult to pay the debt and the amount owed only increases. In essence, current state policy is driving the bad outcomes in collecting debt. The reliance on collection of court-ordered debt to offset cuts to state funding has failed, leaving courts in far worse financial condition. As set forth in the "Solutions" section below, eliminating license suspensions for citations unrelated to public safety and tying collection to income would likely increase the amount of money collected.

III. The Process: How an Unpaid Ticket Results in Huge Fines, Fees and License Suspension

Many, if not most Californians can relate to the experience of receiving a ticket—the lights and sirens turning on, the sinking feeling when you realize they’re for you, the police officer asking for license and registration. Despite the frequency of this seemingly mundane event in our state there are many misconceptions and gaps in our collective knowledge about what happens after someone gets a ticket.

To begin, citing officers usually say you will get a notice in the mail giving the fine amount and explaining your options – but all too often the notice never comes. Most people do not know that they are responsible for contacting the court even if they don’t get a notice, and that their driver’s license will be suspended if they fail to follow up themselves. The ticket itself becomes the sole “notice,” which is problematic because of the small size of the font, sometimes illegible handwritten officer notations, and the poor quality of carbon-copy paper. Even if additional notice is mailed by the court, it usually does not describe what people can do if they do not have hundreds of dollars immediately available to pay the fine. Without knowing that community service, reduced fines, or payment plans are possibilities, people often think their only option is to pay. With fines at an all-time high, many simply can’t pay, so instead they do nothing – not realizing that doing nothing can set in motion a financially disastrous chain of events.

As described above, when people with tickets do not pay the full fine on time, traffic courts respond swiftly. They notify the DMV,⁴³ which then suspends the person’s driver’s license,⁴⁴ and they impose an additional \$300 civil assessment on each ticket.⁴⁵

This scenario plays out day in and day out at traffic courts throughout the state. These courts, while known as “traffic courts,” are in fact a subdivision of the county superior court’s criminal division. Traffic courts handle driving and other traffic-related offenses, such as failing to stop at a stop sign or wear a seat belt, and also non-driving traffic tickets, like failure to have current registration or proof of insurance. It is perhaps less well-known that they also handle tickets that have nothing to do with traffic at all, such as tickets for littering, sleeping on the sidewalk, or failing to pay transit fare.⁴⁶ Regardless of the type of ticket, the result of missing one deadline in traffic court is usually suspension of the person’s driver’s license and the imposition of hundreds of dollars more in fees.

A. License Suspensions and Warrants

Courts are not required to notify the DMV about a person’s failure to pay a ticket by the deadline.⁴⁷ However, almost all courts do so in practice.⁴⁸ Sixty days after the court chooses to report an unpaid ticket, the DMV suspends the person’s driver’s license.⁴⁹

Once the DMV has suspended someone’s license, there is no way to lift the suspension and restore the license until after the court notifies the DMV that the fine has been *fully* paid.⁵⁰ This means that people who cannot afford to pay the fine in full cannot have valid driver’s licenses, even if they have been making monthly payments for years.

For non-traffic municipal violations, like littering or sleeping, courts often issue an arrest warrant for those who do not appear or pay the citation.⁵¹ People are then subject to potential arrest and incarceration for failure to pay, or, as in many counties, law enforcement agencies decline to make an arrest on these warrants, so they simply remain outstanding until the full fine is paid. Scheduling a court date to clear these warrants is usually not an option, because many courts require paying the full “bail” amount before getting a court date. In this way, people who cannot afford to pay end up with perpetual warrants, even if they try to “turn themselves in” at court. Having an open warrant not only subjects people to the constant threat of arrest, it makes it difficult to get employment, benefits, or housing.⁵²

B. Double, Triple the Fine, Even When It’s Contrary to State Law

As described in Section II, when someone misses a deadline to pay a traffic ticket, in addition to losing their driver’s license, the court adds \$300 to the original fine.⁵³ Under state law, this “civil assessment” may only be imposed if the person gets notice and still does not pay or appear.⁵⁴ However, people who say to a court clerk that they did not get the required notice often are told they still have to pay the fine.⁵⁵

Also under state law, the fine should be vacated if the person has “good cause” for not appearing or paying.⁵⁶ However, many courts do not tell people that if they have a good reason for not appearing or paying, they may not have to pay the assessment. If the person with the ticket figures out that they

REAL LIFE STORY: JOSHUA

Joshua, a homeless youth, received a misdemeanor citation for “lodging” while sleeping on the street one night. Because he was staying far from the county courthouse and had no money for transportation, he could not make it into court in time for his court date. As a result, a warrant was issued for his arrest and he began to be regularly harassed by the police. Because of the warrant, Joshua was afraid to apply for public benefits or submit job applications knowing that his warrant would make him ineligible.

can ask the court in writing to cancel the civil assessment, most courts will only do so under circumstances much narrower than the “good cause” articulated in the statute; a child in intensive care does not qualify as good cause, but death of an immediate family member does.⁵⁷ In addition, even if you are eventually found not guilty of the traffic violation in court, courts still require payment of the civil assessment.

Though state law sets these civil assessments at “up to \$300,” and allows the court to decide if and when to impose them, courts in practice add the full \$300 for every delinquent ticket, regardless of ability to pay or severity of the ticketed offense. At the \$300 level, these civil assessments often grossly outweigh the base fine for the offense. Even worse, in some counties courts threaten to charge additional civil assessments of \$300 when people miss payments on a payment plan.⁵⁸ As the sole recipient of the revenue collected from civil assessment penalties the courts have an incentive to impose the full \$300 fee each time.⁵⁹ This means that in the interactions that thousands of Californians have with court clerks every day, very often the priority is collecting these civil assessments, instead of determining whether the extra fine is appropriate—and legally supportable—in the first place.

C. No Way Out

Many—though not all—traffic courts do initially have options if you cannot afford to pay a fine, ranging from community service to reduced fines for people on public assistance.⁶⁰ In fact, when an individual appears in court on a citation, the judge is required by law to consider ability to pay if requested.⁶¹ However, many courts do not tell people about the right to request an ability to pay determination or mention that community service is an option.⁶² Once you miss a deadline, those options evaporate because you cannot appear in front of a judge to ask for them.⁶³

Even for those clients who are able to sign up for community service, it can be extremely challenging to successfully work off debt to the court. The fees can total into the thousands of dollars, yet the rate at which courts credit community service hours is lower than a typical minimum wage as there is no statewide or statutory standard as to the credit rate.⁶⁴ Additionally, the timeline for community service is often short and can require people to work up to 40 hours a week, which is difficult for people who have jobs or care for family members. Seniors and people with disabilities cannot always find a service assignment they can fulfill. Even those who are able to obtain community service as an alternative to payment find that their service does not count towards the \$300 civil assessment fine, and so even after working off their underlying fines, their driver’s license cannot be reinstated.

The involvement of collection agencies in most counties compounds the difficulties of resolving an outstanding ticket. Individuals are commonly told by court clerks that once debt is referred to an outside agency for collection, the court “no longer has jurisdiction” over the debt. In other words, even if a person has saved up enough money to post the full bail amount and finally get a chance to see a judge, once the debt is with a collection agency, she is told that she still cannot get into court. Efforts to modify the debt, cancel civil assessments, clear an outstanding bench warrant, request community service, or contest the initial citation are all met with the answer that the court can no longer take action on the case. This means that people who are actively trying to deal with their citations, many of whom are simply trying to reinstate their licenses so that they can secure employment, are consistently turned away.⁶⁵

In some counties, the courts have, at their discretion, established special hearings to address outstanding criminal and traffic fines and fees. As part of these special court events, individuals are usually required to make a showing of financial need and personal rehabilitation to demonstrate that dismissing the fines and fees would be in the interests of justice. If a judge finds that a person qualifies then the fines and fees are dismissed or suspended by court order. One such program is run through the “Stand Down” events hosted by the U.S. Veteran’s Administration. At the 2014 East Bay Stand Down event, courts from four Bay Area counties participated in a special calendar to dismiss outright any unpaid court-ordered debt for veterans.⁶⁶ San Francisco Superior Court also recently implemented a new petition process by which individuals can request to have the license suspension lifted if they meet certain requirements, though the program is still in preliminary implementation stages. While effective, these programs are relatively rare and available only to certain individuals, and thus have had little impact on the overall problem of driver’s license suspensions. A similar program in Alameda County has a waitlist of over a year just to participate.⁶⁷

For some people, having a lawyer helps resolve a traffic ticket, or at least surmount the considerable barriers to getting in front of a judge. Though courts will usually not set court hearings after someone has missed an initial deadline, they will occasionally do so when an attorney requests it, though the practice is informal. Unfortunately, since most traffic violations are infractions and the initial penalties do not include jail time, court-appointed attorneys are not available for people who cannot afford an attorney on their own.⁶⁸ Legal aid organizations have taken a small percentage of cases for low-income clients, but have very limited resources and can help only a tiny fraction of people who need representation.⁶⁹

REAL LIFE STORY: ROBERT

Robert was homeless and living in his car, with General Assistance as his only source of income. He went in to court after receiving a failure to appear notice for infraction citations he received for expired registration and “using his car for habitation.” He asked the judge to be able to work off his fines with community service. Robert ended up working over 70 hours of community service for two outstanding tickets—satisfying approximately \$700 in fines—but was then told by the court that his driver’s license would not be reinstated until he paid his two outstanding civil assessments in full, which amounted to another \$600 and could not be satisfied through community service.

IV. The Impact: Disastrous Consequences of Court-Ordered Debt and License Suspensions

The consequences of unpaid fines and a suspended driver's license are devastating. First and foremost, a suspended license is a significant barrier to employment – many people lose their jobs or are denied jobs due solely to the lack of a license. Bad credit reports stemming from unpaid tickets can keep a family from being able to rent or buy a home. People without licenses cannot get auto insurance and cannot legally drive, whether for school, work, childcare, or medical appointments. These are steep penalties for an offense like making a left turn at the wrong time and not having money to pay the full fine. The following section will address the impact of court-ordered debt and license suspensions on individuals, communities, and the state of California.

A. Impact on Workers, Employers, and the Local Economy

The loss of the ability to drive is a major threat to economic security, particularly for people who already have little or no income. For those who are employed, the suspension might cause them to lose their job once they can no longer drive on the job or no longer have reliable transportation to work. For those who are unemployed, not having a license can be an insurmountable barrier to finding work: a license is often needed for commuting, particularly as jobs are increasingly located outside of inner-city areas; many jobs require driving as part of the work responsibilities; and even for non-driving jobs, employers often require applicants to have a valid driver's license as an indicator of reliability or responsibility.

Numerous studies have found a direct correlation between driving and employment.⁷⁰ A task force report to the Governor of New Jersey cited a survey of suspended drivers conducted by Rutgers University researchers, which found that following a license suspension, 42% of people lost their jobs as a result of the suspension.⁷¹ Of those who lost their jobs, 45% could not find another job, and this effect was most pronounced for seniors and low-income people.⁷² Of those who were able to find new employment, 88% reported decreased wages.⁷³ Similarly, the Brookings Institute found in a survey of fourteen cities across the country that while 72% of employed respondents had access to a car and a valid driver's license, only 37% of unemployed respondents did.⁷⁴ Among residents of Oakland, California, 67% of employed respondents had a valid driver's license and a car, and only 36% of unemployed respondents did.⁷⁵

Public transportation is not always a realistic option for community members living or working outside of major metropolitan areas.⁷⁶ Low-income and poor people often have to travel on various transportation lines, and make more than one transfer on their way to and from work.⁷⁷ For instance, one study found that job seekers in Alameda County had to make on average three to four transfers between home (largely in Oakland and northern parts of the county) and areas where work was available (largely in southern and eastern parts of the county).⁷⁸ Suspended licenses can trap the working poor in an impossible situation: unable to reinstate their licenses without gainful employment, and unable to work without a license.

Workers are not the only ones harmed by their reduced access to jobs. License suspensions diminish the labor force available to fill jobs in some areas. Construction jobs, which have been lauded as a critical source of growth for local economies, generally require a valid driver's license as workers often move between job sites or drive machinery on the job.⁷⁹ Other fields such as home health care, motor vehicle sales and services, and delivery services all require a valid license as a prerequisite of employment. The pool of qualified workers diminishes significantly when licenses are suspended at high rates.⁸⁰

In 2007, a valid driver's license was found to be a more accurate predictor of sustained employment than a General Educational Development (GED) diploma among Workforce Investment Act (WIA) recipients.⁸¹

REAL LIFE STORY: ALYSSA

In 2010, when Alyssa moved, she missed the ten-day deadline to notify the DMV of her address change and got a ticket as a result. She changed her address, but did not realize she still had to pay the ticket. She first realized her mistake when the DMV suspended her license. Since Alyssa worked as a bus driver, she was fired from her job. She tried to set up a payment plan, but without a license she cannot get a job and without a job she cannot make payments. She is currently receiving CalWORKS in order to support her children with basic necessities. Her debt from one address change ticket, originally a fixable ticket with a \$25 fee, has risen to \$2900.

Finally, employers are impacted as well. When employees lose their licenses, employers must internalize the cost of replacing workers who can no longer perform the job responsibilities.⁸² When qualified workers are gainfully employed, employers typically will commit valuable resources to training and preparing those workers to competently perform their jobs. Losing a valued employee due to a license suspension is a significant financial loss to an employer.

B. Impact on Financial Stability and Access to Credit

After courts impose fines and civil assessments, they send outstanding tickets to debt collectors. Fifty-four of California's fifty-eight counties contract with debt collection companies.⁸⁴ Though there are state entities that collect debts owed to the government, there are at least 10 different private companies that also collect court-ordered debt in California, and most of the traffic courts across the state have a contract with one company: AllianceOne Receivables Management Inc.⁸⁵ In some cases when a debt is more than 90 days delinquent, it is further transferred to the state Franchise Tax Board (FTB).⁸⁶ The FTB, which is empowered by the state to enforce court-ordered debt, can collect debt from individuals by garnishing wages, intercepting tax refunds, or levies against people's assets.⁸⁷ Despite the power of the FTB, uncollected court ordered debt now exceeds \$10 billion, most likely because many of the persons do not earn enough to have their wages garnished or have no assets.

Private debt collection companies use numerous collection techniques, including harassing the debtor by mail and phone and reporting the debt to the major credit bureaus to appear on an individual's credit report.⁸⁸ Reporting people to credit reporting agencies can have many adverse effects on a family's financial stability, including the ability to rent an apartment and secure housing. For people who are accused of a traffic violation, this is especially punitive because, as described above, some people are not even guilty, but simply cannot afford to pay to get into court.

Finally, unlike debt owned by private creditors, court-ordered debt is still owned by the court, and is not subject to any negotiation or settlement, even though a private agency is in charge of collection. In fact, the fines usually continue to go

A recent evaluation of a subsidized car ownership program in Vermont found that having a car led to significant increases in both employment and income. ⁸³

REAL LIFE STORY: MARIA

Maria was recently terminated from a job in her field of training, green construction, because her license was suspended for unpaid tickets, and she could not drive between job sites. With two kids and no job or savings, she is unable to pay the debt. Because the debt has been referred to a collections agency, she is also prevented from performing community service in lieu of payment. Her previous employer would hire her if her license was reinstated, but without a job or income to pay her debt, she has no way of getting her license back.

up. There are extra charges for establishing payment plans and for paying by credit card.⁸⁹ In addition, because the agencies are paid on commission, they often set arbitrary “minimum” installment payments, or refuse payment plans to those people who can only offer very small monthly payments. Even worse, if out of desperation individuals agree to installment plans that they cannot afford, they risk missing a payment and incurring further debt. In some counties, a missed payment may result in an additional “failure to pay” charge, which courts threaten to treat as a new violation that comes with an additional \$300 civil assessment fine.

C. Impact on Formerly Incarcerated People and Their Families

People who have been involved in the criminal justice system are particularly vulnerable to license suspensions.⁹⁰ When a person with an outstanding ticket is arrested or incarcerated, that person will likely miss the court hearing on their outstanding ticket, resulting in additional fines as described above. Even though the courts usually treat incarceration as a valid reason for missing a court date (and therefore dismiss the extra fines), people in this situation cannot present their case to the judge without first paying the full amount owed up front. In this way, poverty and incarceration compound each other to prevent someone from regaining their license.

Furthermore, there are mandated fines and fees that are imposed following every criminal conviction in California.⁹¹ Unpaid fines and fees resulting from a criminal conviction have in some situations been used by the courts as an additional basis for suspending a license.⁹² As long as the debt from a prior conviction is unpaid, the courts have imposed license suspensions, even if the conviction had nothing to do with driving. Such failure-to-pay suspensions have occurred even while the defendant was still in the process of reentering the community following incarceration, for example while on probation or parole supervision.⁹³

People who have served time are overwhelmingly poor, with low education and literacy levels.⁹⁴ Post-prison debt payment is often subsidized by the person’s family, as returning individuals struggle with basic housing and employment needs, as well as other challenges of reentry.⁹⁵ In addition to creating a barrier to employment, the lack of a driver’s license impedes the ability of formerly incarcerated persons to obtain public benefits, health care, mental health services and a broad array of services which will assist the person in a successful reentry to society.⁹⁶ Imposing a license suspension on people who are in the process of community reentry, especially while they are

still on probation or parole, is directly at odds with the state’s purported goal of promoting reentry and reducing recidivism.⁹⁷

D. Impact on Communities of Color

Just as the U.S. Department of Justice found in Ferguson,⁹⁸ people of color in California are disproportionately impacted by license suspensions. From the first time the siren sounds at a traffic stop, enforcement is often discriminatory: data from several localities shows that police disproportionately make traffic stops of people of color, particularly African Americans.⁹⁹ In two Sacramento neighborhoods surveyed, African Americans comprised only 7.2% and 8.6% of the population, but accounted for 22.4% and 27.7% of the drivers stopped respectively.¹⁰⁰ In San Diego in 2014, African-American drivers made up 11.2% of traffic stops and 23.4% of searches, but they comprise only 5.5% of the San Diego population.¹⁰¹ This data demonstrates that from the very beginning of the process, citations have a disproportionate racial impact.

While neither the courts nor the DMV appear to track suspensions based on race, there is evidence that license suspensions are an especially heavy burden for African-American communities. For example, the Lawyers’ Committee for Civil Rights conducts a legal clinic in San Francisco for people with past arrests and convictions. Over the past four years, the clinic has served a total of 507 clients, and 132 of these clients sought assistance with issues related to their driver’s licenses. African Americans make up 55.6% of all clients of the clinic, and 70.4% of clients with driver’s license issues.¹⁰² These statistics are stark, but even more so given that African Americans make up just 6% of the population of San Francisco as a whole.¹⁰³ In addition, the overlap between license suspensions and criminal justice involvement also leads to racial disparities in suspensions. Because African Americans make up a disproportionate percentage of the people arrested and incarcerated,¹⁰⁴ they are particularly vulnerable to suspensions that result from contact with the criminal justice system.

The statistics above indicate that traffic stops and license suspensions fall disproportionately on people of color. Recent events in San Francisco suggest that the problem is not just one of disparate racial impact, but direct and institutionalized racism. In March 2015, the San Francisco Police Department initiated a department probe of racist text messages and emails by more than ten of its officers.¹⁰⁵ As in Ferguson, it is impossible to ignore the racial justice and civil rights issues at stake in the treatment of citation fines.

REAL LIFE STORY: BEA

Bea had been homeless for several years, and got a citation for sleeping, a charge she would not have gotten if she had a place to live. She could not afford to pay the citation. When, after waiting for years, she finally got subsidized housing, she was thrilled, only to learn that because of the outstanding fees from the citation on her credit report, the offer of housing was withdrawn.

V. The Cost: How Fines and License Suspensions Impose a Hidden Tax on Government, Public Safety and the Economy

As the number of driver's license suspensions grows, various local and state public agencies must bear the burden of a hidden tax on their resources. This section describes some of the fiscal consequences that result from license suspensions. As legislative policy solutions to this problem are considered, any fiscal analysis will be incomplete if it doesn't consider these very real costs to California.

A. Fiscal Impact on Public Safety

By imposing fees that cannot be paid and effectively creating permanent license suspensions, the system is increasing crime and decreasing public safety. In California, driving with a suspended license is a misdemeanor offense that can carry a penalty of up to 6 months imprisonment, or a fine of between \$300 and \$1,000 for the first offense.¹⁰⁶ A second offense within a 12-month period carries a mandatory incarceration penalty.¹⁰⁷ But, for too many people, the need to drive outweighs the risk

“California suspends drivers’ licenses for many reasons, but the vast majority of suspensions are for non-driving related offenses.”

of additional penalties for getting caught, and they continue to drive. Ironically, people whose licenses are suspended for failure to pay on a citation have fewer options than people whose licenses have been suspended for offenses such as driving under the influence of alcohol, commonly known as DUI offenses. People convicted of a DUI can request a restricted

license that allows them to drive to work.¹⁰⁸ There is no similar exception for people who cannot afford to pay their to drive illegally to satisfy basic life necessities.

Arresting and prosecuting people for driving on a suspended license drains law enforcement resources and does not enhance public safety. As described above, suspensions for violations unrelated to driver safety have been rising over the years. In its report *Best Practices Guide to Reduce Suspended Drivers*, the American Association of Motor Vehicle Administrators found that these types of suspensions undermine safety, as “the costs of arresting, processing, administering, and enforcing social non-conformance related driver license suspensions create a significant strain on budgets and other resources and detract from highway and public safety priorities.”¹⁰⁹ Officers who pull over a suspended driver must respond to that offense with a citation, and then later with a court appearance on the ticket. This process takes the officer away from the field, leaving a gap in law enforcement presence and services. In addition, counties must bear the costs of punishing people for these offenses. For example, in 2013 the California Board of State and Community Corrections estimated that San Francisco spends \$173 per day per county jail inmate.¹¹⁰ These are very real costs to an already over-extended criminal justice system.

License suspensions also undermine public safety to the extent that they inhibit the reentry efforts of people coming out of jail and prison. As already described, people who have been incarcerated are particularly affected by license suspensions, which create a major barrier to work. Yet, studies have shown that having a job is a crucial factor in reducing rates of recidivism.¹¹¹ By impeding efforts at employment, license suspensions decrease access to legitimate work opportunities and pose a threat to successful reentry for people who are attempting to reintegrate into their communities. In addition, damaged credit, the imposition of liens, and the garnishing of wages can also act as a disincentive for people searching for legitimate, over-the-table employment opportunities, increasing the risk that people may become engaged with black market or criminal means to survive.

REAL LIFE STORY: JOSEPH

Joseph had spent several years in and out of the criminal justice system due to his involvement selling drugs. After his fourth conviction, in 2011, he turned his life around. He moved away from his old neighborhood and got a good job for a delivery company. Four years later, he received a notice that his license had been suspended due to the fines associated with his past criminal convictions. He learned that, until he paid the full amount, totaling over \$8,000, he would not regain his license and he would lose his job as a result. Joseph feared that, without a job, he would be forced to return to the streets to support himself.

B. Fiscal Impact on the Court System

Driver's license suspensions also impose increased costs on the courts. As described above, driving with a suspended license is punishable as a criminal misdemeanor, and accordingly, individuals charged with this offense are entitled to counsel and a jury trial.¹¹² Processing cases involving driving with a suspended license contributes to undue burdens on the court system, including backlogs and costs associated with arraignment and trial, as well as administrative and security costs. Additionally, as described above, when people cannot work or they get paid less because they do not have driver's licenses, they are less able to pay court fines and fees, resulting in loss of revenue from additional uncollected court debt.

C. Fiscal Impact to State Social Services Agencies

A higher unemployment rate caused by suspended licenses also creates a significant fiscal burden on state and county safety net programs. The most obvious burden to the state and to employers is the unemployment compensation paid to those who would otherwise be employed but for their suspended license. Furthermore, when people become unemployable due to a suspended license, they often have no alternative but to apply for public benefits to support themselves and their families. Among the federal, state and local government programs that experience these higher utilization costs are CalWORKs, SNAP (CalFresh), General Assistance, Medi-Cal, and the Women, Infants, and Children (WIC) program. Unemployed people are less likely to carry private health insurance policies, and thus rely on government-subsidized medical coverage. They also do not pay state or federal income taxes, and may cut back on spending, decreasing local sales tax revenue.

Unemployment and the resulting poverty create additional social costs that put pressure on public resources. Children who live through deep poverty (incomes below 50% of the federal poverty level) are exposed to less varied vocabulary and language, have higher truancy and dropout rates, lower earnings as adults, and increased use of public benefits.¹¹⁴ In other words, the harm of denying families the opportunity to work reverberate through each generation, leading to entrenched poverty and further public costs.

D. Fiscal Impact on DMV

The process of suspending a license also imposes costs for the DMV. While any changes to the current system will produce some implementation costs, it could be a savings on an ongoing basis. The report by the American Association of Motor Vehicle Administrators noted that DMVs incur exorbitant costs to process suspensions and maintain the IT systems for tracking these suspensions.¹¹⁶

E. Fiscal Impact of Uninsured Drivers

All licensed and insured drivers in California must additionally cover the costs associated with having unlicensed and uninsured drivers on the road. A review of the problem nationally indicated that "[e]ach year, according to some estimates, losses from automobile collisions in the United States exceed \$150 billion....Although it is very difficult to determine, the insurance industry estimates the uninsured motorist population in each U.S. jurisdiction to range from as low as five percent to as high as 30 percent."¹¹⁷

Uninsured Motorists, 2014 Edition, published by the Insurance Research Council, estimates the number of uninsured drivers at 29.7 million in 2012, with 4.1 million in California, the highest of any state. This study also estimated total uninsured motorist claim payments, discounting fatalities and total permanent disability claims, to have been \$2.6 billion in the U.S. in 2012, up 75% over the last 10 years and costing \$14 per insured individual.¹¹⁸

In Seattle, the Municipal Court of Seattle Re-licensing Program was established to reduce administrative burdens on the court system resulting from individuals caught driving with a suspended license. At the time the program started, around 7,000 such cases were filed a year and represented approximately one-third of a city attorney's caseload. Each case has costs associated with it. For example, if a suspended driver fails to appear in court, it costs about \$100 for arraignment and about \$80 per day to house them in jail.¹¹³

In a study done by University of Wisconsin-Milwaukee Employment and Training Institute, July 1998:

- ... single parents with a valid driver's license were much more likely to leave the AFDC [Aid to Families with Dependent Children] program. Nearly two-thirds (63 percent) of December 1995 AFDC recipients with a valid license left AFDC by June 1997 compared to 44 percent of recipients without a driver's license.
- Most single parent AFDC recipients expected to work had children under 4 years. For these parents the importance of transportation access was even more critical.
- Heads of household with a driver's license were more than twice as likely to leave AFDC and receive low-income child care subsidies (14 percent) than heads of households without a driver's license (6 percent).¹¹⁵

A pilot program was created in 2003 by the Milwaukee Bar Association primarily to reduce the backlog of court cases involving individuals caught driving with a suspended license, according to program staff. By the time the center was formally established in 2007, according to program staff, it also aimed to remove suspensions as a barrier to employment.

VI. Solutions: Stop the Cycle of Suspensions for Collections, Protect Jobs, and Collect More Revenue

In the past several years, efforts to reform the problem of license suspensions have hit a dead end. Legal services advocates have worked with several state legislators, the Judicial Council, and the DMV on two separate bills to attempt to address the myriad issues created by the current traffic court system and the subsequent punitive license suspension and debt collection process. While these proposed policy changes have been met with wide bi-partisan political support, the bills have thus far been unsuccessful due to the perceived high price tag that analysts on the California Senate Appropriations Committee have assigned to the proposed changes.¹¹⁹ The following detailed recommendations are intended to address the growing harm of license suspensions, while acknowledging both the fiscal impact of certain of these proposals and the very real costs of simply leaving the status quo.

There is no single solution to the problems outlined in this report. There are, however, two broad goals that, if achieved, would have wide-ranging positive impacts on the economy and on the lives of millions of people and their families. First, California must restructure its debt collection procedures for traffic court debt to end the use of license suspensions and alleviate the financial burden of citation fines. Second, California must develop a pathway forward for the more than 4 million people who currently have suspended licenses for failure to pay. The proposals below seek to address these two overarching goals.

A. End the use of license suspensions as a collection tool for citation-related debt.

1. Prohibit the use of license suspensions as a sanction for Failure to Appear and Failure to Pay violations in traffic court.

- Eliminate the use of driver's license suspensions as a tool for collecting court-ordered debt. This change should be retroactive, reinstating licenses that have been suspended for a failure to appear or pay for citations in traffic court.
- Instead of using license suspensions for debt collection, treat delinquent court-ordered debt as any other civil debt, to be collected using the array of civil debt collection tools and penalties available to the state under current law.
- Maintain current laws that allow for license suspensions to be imposed as a sanction for violations that jeopardize public safety.

2. Require that any court or county that has discharged a debt—therefore is no longer actively collecting it—must also release any existing license suspensions based on that debt.

- Under current law, court-ordered debt may be discharged, subject to certain conditions. Upon discharge, the debt is no longer actively being collected. Once debt is discharged, counties and courts should be required to direct the DMV to release all license suspensions related to the collection of that debt.
- Require that any county or court that establishes a “discharge of debt” plan must incorporate into that plan a policy of releasing any suspension that is based on discharged debt.

B. Ensure that access to the courts and due process do not depend on income.

1. Allow people to access the courts without regard to income by eliminating the requirement to pay “bail” in full before seeking relief from the court.

- Require courts to establish a bail waiver or reduction process based on income, so that low-income people can exercise their right to a trial or otherwise request relief from the court without first paying the full amount owed.
- Prohibit the requirement of bail where the court has issued a bench warrant for the failure to appear, so that an individual who is voluntarily appearing in court may have warrants cleared and avoid the disruptive and costly process of arrest for traffic court warrants.

2. Reform the use of civil assessments for failures to appear or pay.

- Prohibit courts from requiring advance payment of a civil assessment when an individual is seeking to demonstrate a “good cause” basis for vacating the civil assessment under the statute.
- Extend the window during which an individual can cure a failure to pay or failure to appear from 10 days to 60 days, and longer if the good cause reason for the delay extends beyond the 60 days.
- Allow individuals to seek a reduction of the civil assessment amount, based on inability to pay.

C. Standardize payment plans and reduce the financial burden of citation fines for low-income people based on “ability to pay.”

1. Require all courts and counties to use a state-mandated payment plan formula that is tied to a person’s current income.

- Require that counties and courts offer individuals the option of setting up a payment plan to satisfy court-ordered debt. Dictate that payment plans may be established at any time, but would not go into effect until a person’s income exceeds a threshold amount equal to the earnings of 40 hours of work per week at the state minimum wage.
- Once a person’s income meets the minimum threshold, payments under the plan could not exceed 10% of a person’s income if the income is less than the federal poverty level, 20% if the income is less than 200% of the federal poverty level, and 25% on higher incomes.
- Establish a process by which an individual can request adjustment of their payment plan based on a change of financial circumstances.
- Require that these payment plans be accepted by any private debt collection agency for accounts referred by a county or court for debt collection.
- Require that all citation notices and court courtesy notices indicate that there is a payment plan option.
- Allow a single payment plan established in one county to apply to and satisfy the debt owed on traffic tickets that have been adjudicated in any county in California.

2. Reduce the burden of exorbitant fines, fees, and assessments.

- Reduce by 50% all existing add-on penalty assessments, and prohibit the imposition of any new assessments.
- Allow persons who are low-income to request a waiver of a portion of fines, fees, and civil assessments owed, based on proof of indigence, calculated by a standardized schedule according to income. This opportunity for waiver should apply to any debt that has been adjudicated, regardless of which entity is currently charged with collecting the debt.

3. Redirect the revenue from civil assessment penalties to the state general fund to eliminate conflict of interest

- As the direct recipient of the revenue collected from civil assessment penalties, courts are incentivized to impose the full \$300 fee each time, despite the statutory requirement under Vehicle Code § 42003 to consider a defendant’s ability to pay. Redirect these funds to the General Fund to alleviate this pressure.
- Courts would need increased funding in the state budget to accommodate potential costs of administration and loss of revenue.

4. Offer additional opportunities for low-income individuals to utilize community service as an alternative to payment of court-ordered debt.

- Allow people to work off traffic fines and fees, including civil assessment penalties, through performing community service hours that are credited at a rate of at least the state or applicable local minimum wage.
- Permit individuals to request community service as an alternative to payment even if they are paying under an installment payment plan, if their financial circumstances change and they are unable to pay the agreed-upon monthly amount.
- Require that all citation notices and court courtesy notices indicate that there is an option to request community service.

5. Reduce the burden of license suspensions for people being released from jail or prison who are struggling towards successful community reentry.

- Establish an explicit statutory prohibition on the use of license suspensions for collection of court-ordered fines and fees related to a criminal conviction as a counter-productive barrier to reentry.
- Expand current law under Vehicle Code § 41500, which allows people serving a sentence in state prison to have outstanding traffic citations dismissed, to include people serving a county jail sentence.

D. Implement additional procedures by which the millions of people with current license suspensions can seek relief¹²⁰

1. **Develop a “fine amnesty” program that will result in restoration of licenses.**
 - Enact an amnesty program for individuals who have unpaid traffic court fines, without regard to when the fines were incurred.
 - The program should restore the driver’s license if the person agrees to make payments using the standardized payment plan proposed above.
 - The program should also reduce the debt owed, using a sliding scale based on ability to pay. Persons on public assistance and those with income or earnings are below the federal poverty level, up to 100% of the poverty level, would receive an 80% reduction of the amount owed. Persons with incomes between 100% and 250% of the federal poverty level would get a 50% reduction.
 - The program should also include an opportunity to complete community service of the reduced amount, in lieu of payment, if the individual is below 250% of the federal poverty level.
 - The DMV would be required to send a notice to all persons with suspended licenses for failure to appear or pay under Vehicle Code § 13365, informing them that, under the new Amnesty Program, they can have their driving privileges restored. The notice must be compliant with the Dymally-Alatorre language access provisions.
 - The amnesty legislation should provide funding for a public relations campaign to inform the public about the new amnesty program, and should also provide funding for services to assist individuals in applying for the program.
2. **Require that the DMV purge any license suspensions based on failure to appear or pay after 3 years.**
 - Under current law, Vehicle Code § 12808(c), the DMV may remove a failure to appear or pay notice and issue a license after five years. Modify this law to require the DMV to take this action, and reduce the term to three years.

VII. Conclusion

In today’s society, driving is often a lifeline to work, health care, and education. When cities discriminatorily enforce traffic laws, when we suspend licenses for people who cannot pay a citation, when we close the courthouse doors to people who are poor, we are limiting families’ growth and survival. California should stop suspending licenses for failure to pay, allow poor people access to the courts, and move millions of Californians back toward economic security.

Endnotes

1. To preserve clients' privacy, the names used in this report are pseudonyms.
2. See Civil Rights Div., U.S. Dep't of Justice, Investigation of the Ferguson Police Dep't, Mar. 4, 2015, http://www.justice.gov/crt/about/spl/documents/ferguson_findings_3-4-15.pdf.
3. As noted by Vanita Gupta, Acting Assistant Attorney General of the Civil Rights Division of the U.S. Department of Justice, "The Ferguson report really does highlight some issues that jurisdictions around the country are plagued with." Campbell Robertson et al., *Ferguson Became Symbol, but Bias Knows No Border*, N.Y. TIMES, Mar. 7, 2015, <http://nyti.ms/1A7DRza>.
4. Ben Worthen, *Sharp Acceleration in Traffic Tickets*, WALL ST. J., July 8, 2010, <http://on.wsj.com/1yHLnVv>.
5. In its Ferguson report, the U.S. Department of Justice criticized Ferguson's municipal court for the very same "onerous" practice of requiring payment in full and not offering the possibility of a payment plan after a defendant's failure to appear in court. See U.S. DEP'T OF JUSTICE, *supra* note 2, at 3.
6. See *infra* Section IV.
7. MARIANNE BERTRAND & SENDHIL MULLAINATHAN, NAT'L BUREAU OF ECON. RESEARCH, ARE EMILY AND GREG MORE EMPLOYABLE THAN LAKISHA AND JAMAL? A FIELD EXPERIMENT ON LABOR MARKET DISCRIMINATION (July 2003), *available at* <http://www.nber.org/papers/w9873.pdf>.
8. MARCUS NIETO, CAL. RESEARCH BUREAU, WHO PAYS FOR PENALTY ASSESSMENTS IN CALIFORNIA? (Feb. 2006), *available at* <https://www.library.ca.gov/crb/06/03/06-003.pdf>.
9. See *id.* at 3-5.
10. See *id.* at 7.
11. Respondent's Return to Sept. 12, 2012 Order to Show Cause at Attached Exhibit (Second Declaration of Greg Blair, Senior Administrator for the Metro. Courthouse of the Superior Ct. of L.A. County.), *Steen v. App. Div., Superior Ct. of L.A. County* (Cal. 2012) (No. S174733).
12. GEOFF LONG, CAL. ASSEMBLY COMMITTEE ON APPROPRIATIONS, ANALYSIS OF AB 1657 (May 9, 2012), *available at* http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1651-1700/ab_1657_cfa_20120508_155056_asm_comm.html.
13. Veto Letter from Gov. Edmund G. Brown, Jr. to the Members of the Cal. State Assembly (Sep. 17, 2012), *available at* http://gov.ca.gov/docs/AB_1657_Veto_Message.pdf.
14. See JUDICIAL COUNCIL OF CAL., UNIFORM BAIL & PENALTY SCHEDULES 16 (2015), *available at* <http://www.courts.ca.gov/documents/2015-JC-BAIL.pdf>.
15. SUSPENDED/REVOKED WORKING GROUP, AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS (AAMVA), BEST PRACTICES GUIDE TO REDUCING SUSPENDED DRIVERS 4 (Feb. 2013), *available at* <http://www.aamva.org/WorkArea/DownloadAsset.aspx?id=3723>.
16. All fifty states now suspend driver's licenses for non-traffic safety reasons. See *id.* at 5. In its March 2015 Ferguson report, the U.S. Department of Justice strongly critiqued Missouri's state law mandating driver's license suspensions for non-traffic safety reasons such as failing to appear in court or make a required payment, noting that such suspensions, apart from making the resolution of court cases more difficult, can have "broad ramifications for individuals' ability to maintain a job and care for their families." See U.S. DEP'T OF JUSTICE, *supra* note 2, at 50-51.
17. See, e.g., CAL. VEH. CODE §§ 13201.5, 13202.4, 13202.6, 13202.7.
18. Interview with Meredith Desautels, Staff Attorney, Lawyers' Committee for Civil Rights of the San Francisco Bay Area, in San Francisco, Cal. (Mar. 9, 2015).
19. MAC TAYLOR, CAL. LEGISLATIVE ANALYST'S OFFICE, RESTRUCTURING THE COURT-ORDERED DEBT COLLECTION PROCESS 6 (Nov. 10, 2014), *available at* <http://www.lao.ca.gov/reports/2014/criminal-justice/debt-collection/court-ordered-debt-collection-111014.pdf>.
20. *Id.* at 9.
21. CAL. PENAL CODE § 1463.007(c).
22. *Id.* § 1463.007(a).
23. *Id.* § 1463.010(b).
24. Master Agreement for Collection Services between Judicial Council/Administrative Office of the Courts and AllianceOne Receivables Management Inc., Master Agreement No. MA-201302 (Jan. 1, 2014), *available at* <http://www.courts.ca.gov/documents/lpa-allianceone-ma201302.PDF> (last visited Apr. 3, 2015).
25. *Id.* at Exhibit B, 1-3.
26. See Nieto, *supra* note 8, at 4.
27. See *id.* The Trial Court Funding Act of 1985 changed the fine distribution formula to require counties to fund the trial court system by remitting monies generated from fines to the states. In 2002, the State Court Facilities Construction Fund required counties to remit up to \$5 for every \$10 in fines collected by the courts to the State Judicial Council for the purpose of improving county court facilities.
28. *Id.* at 12-13.
29. *Id.*
30. Maura Dolan, *New California budget fails to ease court woes, chief justice says*, L.A. TIMES, June 20, 2014, <http://www.latimes.com/local/lanow/la-me-chief-justice-budget-20140620-story.html>.
31. Press Release, Chief Justice Tani G. Cantil-Sakauye, Cal. Sup. Ct. (June 20, 2014), *available at* <http://www.courts.ca.gov/26498.htm>.
32. In general, total bail refers to the base fine on a citation plus the penalty assessments. Each year the Judicial Council promulgates a "Uniform Bail & Penalty Schedule" for traffic offenses to standardize the handling of these cases across the state. See UNIFORM BAIL & PENALTY SCHEDULES, *supra* note 14. Traditionally, payment of bail has been used to guarantee a person's appearance in court, as well as a way for a person to forfeit the right to contest a ticket, essentially pleading guilty of the offense and eliminating the need for further court appearances.
33. See, e.g., Superior Ct. of Cal., County of San Francisco, Local Rules, Rule 17.1 (Jan. 1, 2015), *available at* <http://www.sfsuperiorcourt.org/sites/default/files/pdfs/Local%20Rules/Local-Rules-of-Court-Effective-January-1-2015.pdf>.
34. Interview with Meredith Desautels, Staff Attorney, Lawyers' Committee for Civil Rights of the San Francisco Bay Area, in San Francisco, Cal. (Mar. 9, 2015).

35. *See, e.g.*, Superior Ct. of Cal., County of Marin, Traffic Court – Plead Not Guilty – Court Trial, http://marincourt.org/traffic_plead_not_guilty.htm (last visited Apr. 3, 2015) (“Individuals who wish to plead ‘not guilty’ on a citation may schedule a court trial date by appearing in the Traffic Clerk’s Office on or before the due date on the citation. Pursuant to Vehicle Code section 40519 (a) and (b), they must post the full bail before a trial date will be set. The Court places the bail in a trust account until after the court trial has been conducted and the judicial officer has made a ruling. If the Court finds the individual not guilty or if the case is dismissed for any reason, the bail is refunded within a few days after the trial. If the Court finds the individual guilty, the bail held in trust is applied to the fines and fees ordered by the judicial officer.”); Interview with Maura Prendiville, Senior Staff Attorney, Legal Aid of Marin, in Marin, Cal. (Jan. 12, 2015).

36. KATHLEEN SHORT, U.S. CENSUS BUREAU, ECONOMICS AND STATISTICS ADMIN., U.S. DEP’T OF COMMERCE, THE SUPPLEMENTAL POVERTY MEASURE: 2013, at 9 (Oct. 2014), available at http://www.census.gov/content/dam/Census/library/publications/2014/demo/p60-251.pdf?eml=gd&utm_medium=email&utm_source=govdelivery.

37. SARAH BOHN ET AL., PUBLIC POLICY INSTITUTE OF CALIFORNIA, THE CALIFORNIA POVERTY MEASURE: A NEW LOOK AT THE SOCIAL SAFETY NET 8 (Oct. 2013), available at http://www.facc.org/wp-content/uploads/2014/11/ca_poverty_measure_ppic.pdf.

38. SARAH BOHN & MATT LEVIN, PUBLIC POLICY INSTITUTE OF CALIFORNIA, JUST THE FACTS: POVERTY IN CALIFORNIA (Aug. 2013), available at http://www.ppic.org/content/pubs/jtf/JTF_PovertyJTF.pdf.

39. *Id.*

40. This data was obtained directly from the California DMV. It captures only suspension and reinstatement actions, as opposed to a total number of suspended licenses, as the DMV does not specifically track that data point. As a result, the estimate of 4.2 million suspended licenses reflects our best assessment of the suspension problem. Notably, it only includes suspension and reinstatement actions based on failures to appear or pay, as reported by the courts to the DMV (under Vehicle Code section 13365). These numbers do not include other types of suspension actions, for example suspensions following a DUI.

Our estimate may include some licenses that have been reinstated, as the DMV does not track the people who request to have their licenses reinstated after five years based on no additional failures to appear or pay during that period (under Vehicle Code section 12808). However, this number is likely to be low, as this possibility is not widely known, and in general, the DMV takes very few reinstatement actions in comparison to suspension actions.

Moreover, any uncounted reinstatements are likely outweighed by the suspensions not captured in this estimate. The cumulative estimate is based on data only as far back as 2006, and there are most likely suspensions that occurred prior to 2006 that are not included in the 4.2 million estimate. Additionally, data was not received for 2014, which according to the data trend would add around 500,000 more suspension actions.

41. Cal. Dep’t of Motor Vehicles, DMV Newsroom, DMV Facts, Top 10 DMV Facts (as of 1/1/2014), <https://www.dmv.ca.gov/portal/dmv/dmv/dmvhomes/pressroom> (last visited Apr. 3, 2015).

42. *See* Taylor, *supra* note 19, at 10-11. Note that this \$10 billion estimate includes all court-ordered debt, both debt related to infractions and debt related to criminal convictions. *See id.* at 5.

43. *See* CAL. VEH. CODE §§ 40509.5(a)-(b), 40509(a)-(b).

44. *See id.* § 13365.

45. *See* CAL. PENAL CODE § 1214.1.

46. In fact, given the rise of anti-homeless laws across California, many traffic courts hear a high volume of cases against homeless people who did little more than be homeless in public; things like sleeping, sitting or standing (loitering). *See generally* MARINA FISHER ET AL., BERKELEY LAW POLICY ADVOCACY CLINIC, CALIFORNIA’S NEW VAGRANCY LAWS: THE GROWING ENACTMENT AND ENFORCEMENT OF ANTI-HOMELESS LAWS IN THE GOLDEN STATE (Feb. 2015),

ssrn.com/sol3/papers.cfm?abstract_id=2558944. The resulting fines, arrests, and criminal records often prevent people from getting jobs or housing, in effect keeping people homeless.

47. *See* CAL. VEH. CODE §§ 40509.5(a)-(b), 40509(a)-(b) (noting noting that “the magistrate or clerk of the court may give notice . . . to the [DMV]” upon a failure to appear in court or failure to pay a fine) (emphasis added).

48. Courts typically withhold reporting to the DMV if there is a court appearance scheduled on the ticket before the deadline. But when the person misses a court appearance, courts decide the case solely on the basis of the ticket. *See id.* § 40903. In practical terms, this means that the person is automatically found guilty, and the ticket (now a conviction) gets reported to the DMV. *See, e.g.*, Superior Ct. of Cal., County of Alameda, Local Rules, Rule 4.320 (Jan. 1, 2015), available at <http://www.alameda.courts.ca.gov/Pages.aspx/Local-Rules%281%29>; Superior Ct. of Cal., County of Santa Barbara, Local Rules, Rule 2107 (July 1, 2014), available at <http://www.sbcourts.org/ff/local-rulesTOC.shtm>; Superior Ct. of Cal., County of Stanislaus, Local Rules, Rule 4.29 (Jan. 1, 2015), available at <http://www.stanct.org/local-rules-fee-schedule>; Superior Ct. of Cal., County of Sonoma, Local Rules, Rule 23.1 (Jan. 2015), available at <http://sonoma.courts.ca.gov/info/local-rules>; Superior Ct. of Cal., County of Santa Clara, Local Crim. Rules, Rule 12 (Jan. 1, 2015), available at http://www.scsccourt.org/court_divisions/criminal/criminal_rules/criminal_rules.shtml; Superior Ct. of Cal, County of Mendocino, Local Rules, Rule 18.9 (Jan 1, 2015), available at <http://www.mendocino.courts.ca.gov/ctrules.html>.

49. *See* CAL. VEH. CODE § 13365. Note that when the court sends notice under section 40509 (rather than section 40509.5), the DMV will suspend the driver’s license only if the individual already has at least one prior notice of a failure to appear in court or pay a fine on their record. It appears that most courts rely on section 40509.5 for this reason.

50. *See id.* §§ 13365(b), 12807(c). Note that after five years, the DMV has the authority to remove and destroy the court’s notification of a person’s failure to pay their ticket. *See id.* §§ 12808(c), 4760.1(c). However, the removal and destruction does not happen automatically, and it is not clear when the DMV actually exercises this authority. Neither is it clear whether the

the DMV's destruction of the record would automatically result in a reinstated driver's license.

51. Interview with Meredith Desautels, Staff Attorney, Lawyers' Committee for Civil Rights of the San Francisco Bay Area, in San Francisco, Cal. (Mar. 24, 2015); Interview with Anna Kirsch, Staff Attorney, East Bay Community Law Center, in Berkeley, Cal. (Mar. 24, 2015).

52. See, e.g., FISHER, *supra* note 46.

53. See CAL. PENAL CODE § 1214.1 ("In addition to any other penalty in infraction, misdemeanor, or felony cases, the court may impose a civil assessment of up to three hundred dollars (\$300)..."). The civil assessments collected under this section are deposited in the "Trial Court Trust Fund," which is administered by the Administrative Office of the Courts. See CAL. GOV'T CODE § 68085.1.

54. See CAL. PENAL CODE § 1214.1.

55. This is even true in the case of identity theft. See story of Tammi, *supra* p. 1.

56. See CAL. PENAL CODE § 1214.1.

57. In most jurisdictions, the court will only cancel a civil assessment if, in addition to showing "good cause," the defendant submits payment in full for both the \$300 civil assessment and the underlying citation amount. Further, even though the statute itself does not define "good cause," the only grounds allowed by most jurisdictions are (1) hospitalization, (2) incarceration, (3) active military duty, or (4) death of an immediate family member. In order to prove death of an immediate family member, the San Francisco Traffic Court requires people to produce a copy of the death certificate and proof of relationship to the deceased. See Superior Ct. of Cal., County of San Francisco, Traffic Div., Courtesy Notice (Sept. 14, 2014), available at <http://www.sfsuperiorcourt.org/sites/default/files/pdfs/Courtesy%20Notice%20-%202014.pdf> (last visited Apr. 3, 2015).

58. Interview with Meredith Desautels, Staff Attorney, Lawyers' Committee for Civil Rights of the San Francisco Bay Area, in San Francisco, Cal. (Mar. 24, 2015).

59. See CAL. PENAL CODE § 1214.1; CAL. GOV'T CODE § 68085.7(b). This law requires that the amount of each county's annual contribution to the state Trial Court Trust Fund be reduced by the amount that the county received from civil assessments in that fiscal year.

60. See CAL. PENAL CODE § 1209.5. Some courts will allow a defendant to perform community service in lieu of paying the fine if the fine presents a hardship to him and his family. See, e.g., Superior Ct. of Cal., County of Sutter, Application and Declaration for Community Service, (June 2014), available at http://www.suttercourts.com/sites/default/files/forms/App%20%26%20Dec%20for%20Community%20Service%202_0.pdf; Superior Ct. of Cal., County of Sutter, Declaration of Financial Circumstances for Community Service, (June 2014), available at <http://www.suttercourts.com/sites/default/files/forms/Declaration%20of%20Financial%20Circumstances%20for%20Community%20Service%202.pdf>.

61. See CAL. VEH. CODE § 42003(c).

62. See Interview with Elisa Della-Piana, Director of Programs, East Bay Community Law Center, in Berkeley, Cal. (Mar. 12, 2015).

63. See *supra* Section II.C.

64. Effective January 1, 2015, the minimum wage in San Francisco is \$11.05 per hour. Minimum Wage Ordinance, CITY AND COUNTY OF S.F., OFFICE OF LABOR STANDARDS ENFORCEMENT, <http://www.sfgsa.org/index.aspx?page=411> (last visited Mar. 19, 2015). However, the hourly rate for community service in San Francisco is \$10 per hour. See Superior Ct. of Cal., County of S.F., *When You're In Court*, <http://www.sfsuperiorcourt.org/divisions/traffic/when-in-court> (last visited Apr. 3, 2015). In Los Angeles, some people are credited only \$8.00 for each hour of work when the minimum wage is \$9 per hour. See Interview with Theresa Zhen, Skadden Fellow, A New Way of Life Reentry Project, in Los Angeles, Cal. (Mar. 18, 2015).

65. Interview with Mariella Castaldi, Program Coordinator, East Bay Community Law Center, in Berkeley, Cal. (Dec. 1, 2014).

66. Josh Richman, *East Bay Stand Down Helps Veterans Get Back On Their Feet*, CONTRA COSTA TIMES, Sept. 13, 2014, http://www.contracostatimes.com/contra-costa-times/ci_26528163/east-bay-stand-down-helps-veterans-get-back.

67. Interview with Mariella Castaldi, Program Coordinator, East Bay Community Law Center, in Berkeley, Cal. (Dec. 1, 2014).

68. See CAL. PENAL CODE § 19.6.

69. See *generally* LEGAL SERVICES CORP., DOCUMENTING THE JUSTICE GAP IN AMERICA: THE CURRENT UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS (2009); Rebecca L. Sandefur, The Impact of Counsel: An Analysis of Empirical Evidence, SEATTLE J. FOR SOC. JUST., 2010, at 9(1):56-59.

70. There is a substantial empirical literature on transportation's relationship to poverty and employment. Researchers have consistently found that among welfare recipients, transportation can lead to increased access to job opportunity, higher earnings, and increased employment stability. See, e.g., Evelyn Blumenberg, *On the Way to Work: Welfare Participants and Barriers to Employment*, ECON. DEV. Q., Nov. 2002, at 314-25; Robert Cervero et al., *Transportation as a Stimulus of Welfare-to-Work – Private versus Public Mobility*, J. OF PLAN. EDUC. AND RES. Sept. 2002, at 50-63; Sandra Danziger et al., *Barriers to the Employment of Recipients*, in PROSPERITY FOR ALL? THE ECONOMIC BOOM AND AFRICAN AMERICANS (2000); Paul Ong, *Work and Car Ownership Among Welfare Recipients* (U. of Cal. Transp. Center, Working Paper No. 19, 1996), at 20; Paul Ong & Evelyn Blumenberg, *Job Access, Commute, and Travel Burden Among Welfare Recipients*, URB. STUD., Jan. 1998, at 77-93; Steven Raphael & Michael Stoll, *Car Ownership, Employment, and Earnings*, J. OF URB. ECON., Feb. 2000, at 109-30. Most studies find that transportation is a barrier to employment for the poor in general. For example, in a study conducted in Illinois, more than 25% of former Temporary Assistance to Needy Families (TANF) clients interviewed reported having transportation problems. Of the unemployed clients, 41% had transportation problems. Of the employed clients, only 19% had transportation problems. See George Julnes & Anthony Halter, *Illinois Study of Former TANF Clients*, INST. FOR PUB. AFF., U. OF ILL., July 2000, at 103, 105.

71. ALAN M. VOORHEES, TRANSP. CENTER ET AL., MOTOR VEHICLES AFFORDABILITY AND FAIRNESS TASK FORCE FINAL REPORT xii (2006), available at http://www.state.nj.us/mvc/pdf/About/AFTF_final_02.pdf.

72. *Id.*

73. *Id.*

74. MARGY WALLER ET AL., BROOKINGS INSTITUTION, DRIVER'S LICENSE SUSPENSION POLICIES 2 (June 2005), *available at* <http://www.aecf.org/m/resourcedoc/AECF-driverslicensesuspension-policies-2005.pdf>.

75. *Id.* at 87.

76. Evelyn Blumenberg & Michael Manville, *Beyond the Spatial Mismatch: Welfare Recipients and Transportation Policy*, J. OF PLANNING LITERATURE, Vol. 19, No. 2, 2004, at 4.

77. In a study of three California counties (Alameda, Fresno, and Los Angeles), researchers Evelyn Blumenberg and Daniel Baldwin Hess examined welfare recipients' access to jobs and the county's corresponding public transit systems. The study found that commuting by car enables greater access to jobs, while those commuting by public transit face numerous barriers, including "long headways, limited service hours, costs, difficulty using transit to make multiple stops on the way to or from work [,] and safety issues after dark." Evelyn Blumenberg & Daniel Baldwin Hess, *Measuring the Role of Transportation in Facilitating the Welfare-to-Work Transition: Evidence from Three California Counties*, J. OF THE TRANSP. RESEARCH BOARD 1859 (2003), *available at* <https://escholarship.org/uc/item/2ww4c93w>.

78. Waller, *supra* note 74, at 84.

79. *See generally* John Pawasarat & Frank Stetzer, The EARN (Early Assessment and Retention Network) *Model for Effectively Targeting WIA and TANF Resources to Participants*, U. OF WIS. EMP. & TRAINING INST., 2007, *available at* <https://www4.uwm.edu/eti/2007/EARNModel.pdf>.

80. Margy Waller, *High Cost or High Opportunity Cost? Transportation and Family Economic Success*, THE BROOKINGS INSTITUTION POLICY BRIEF (Center on Children and Families, Washington D.C.), Dec. 2005, at 7, *available at* <http://www.brookings.edu/es/research/projects/wrb/publications/pb/pb35.pdf>.

81. *See* MARGY WALLER & MARK ALAN HUGHES, WORKING FAR FROM HOME: TRANSPORTATION AND WELFARE REFORM IN THE TEN BIG STATES 4 (1999) (describing "a market failure" that "lead[s] employers to bear as a cost of doing business a chronic labor shortage and high turnover rates among those who do attempt the difficult commute.").

82. Margy Waller, *High Cost or High Opportunity Cost? Transportation and Family Economic Success*, THE BROOKINGS INSTITUTION POLICY BRIEF (Center on Children and Families, Washington D.C.), Dec. 2005, at 7, *available at* <http://www.brookings.edu/es/research/projects/wrb/publications/pb/pb35.pdf>.

83. SANDRA GUSTITUS ET AL., THE MOBILITY AGENDA, ACCESS TO DRIVING AND LICENSE SUSPENSION POLICIES FOR THE TWENTY-FIRST CENTURY ECONOMY 9 (2008), *available at* <http://www.kidscount.org/news/fes/sep2008/DriversLicense.pdf>.

84. Waller, *supra* note 74, at 2.

85. *See* Administrative Office of the Courts, Statewide Collection Services for Court-Ordered and Other Debt, Programs and Vendors List, Req. for Proposal No. ECU-2013-01, *available at* http://www.courts.ca.gov/documents/ECU-2013-01-Programs-Vendors_List.pdf (last visited Apr. 3, 2015).

86. *See* Master Agreement, *supra* note 24. The Judicial Council is required to set best practices for collection of court-ordered debt. *See* CAL. PENAL CODE § 1463.010. *See also* Judicial Council

of Cal., Judicial Council Approved Collections Best Practices (rev. Mar. 3, 2014), *available at* <http://www.courts.ca.gov/partners/documents/collectbp.pdf> (last visited Apr. 3, 2015).

87. Taylor, *supra* note 19, at 7.

88. *See, e.g.*, Master Agreement, *supra* note 24, at Exhibit A, p. 2.

89. In Alameda County, a one-time \$35.00 fee is charged just to initiate a payment plan, and then a \$6.00 processing fee is added to each installment payment. *See* Superior Ct. of Cal., County of Alameda, Look Up or Pay Your Traffic Ticket, <https://apps3.alameda.courts.ca.gov/webpay/views/citation-entry.aspx> (last visited Apr. 3, 2015). In San Francisco County, an additional \$10 is charged by AllianceOne for making a credit card payment over the phone. Interview with Stephanie Funt, Second Chance Legal Clinic Coordinator, Lawyers' Committee for Civil Rights of the San Francisco Bay Area, in San Francisco, Cal. (Mar. 17, 2015).

90. In a study of Workforce Investment Act (WIA) participants, only 7% of male participants with a history of incarceration in state adult correctional facilities had a valid driver's license. *See* Pawasarat & Stetzer, *supra* note 79, at 2. The worst employment and earnings outcomes were for participants with Department of Corrections histories. Measures of post-program outcomes were dismal with only 15% employed at earnings of \$4,000 or more in the quarter after exit (the poverty level at that time for a family of 4). *Id.* at 14.

91. *See, e.g.*, CAL. GOV'T. CODE § 29550 ("actual administrative costs" for a criminal justice administrative fee); § 70372 ("five dollars (\$10) for every ten dollars (\$10)" for the "state court construction penalty"); § 70373 ("thirty dollars (\$30)" for felonies and misdemeanors for "court facilities assessment fee"); § 76000 ("additional penalty in the amount of seven dollars (\$7) for every ten dollars (\$10) or part of ten dollars (\$10)"); § 76104.6 ("one dollar for every ten dollars (\$10), or part of ten dollars (\$10)" for the "DNA Identification Fund").

92. Interview with Meredith Desautels, Staff Attorney, Lawyers' Committee for Civil Rights of the San Francisco Bay Area, in San Francisco, Cal. (Mar. 9, 2015). Desautels cited two clients of the Second Chance Legal Clinic whose licenses were suspended in San Francisco in 2014 as a result of unpaid fines and fees related to their criminal convictions.

93. *Id.*

94. It is estimated that 80-90% of those charged with criminal offenses qualify for indigent defense. Nearly 65% of those incarcerated in the U.S. did not receive a high school diploma; 70% of prisoners function at the lowest literacy levels. *See* ALICIA BANNON ET AL., BRENNAN CENTER FOR JUSTICE, CRIMINAL JUSTICE DEBT: A BARRIER TO REENTRY 4 (2010), *available at* <http://www.brennancenter.org/sites/default/files/legacy/Fees%20and%20Fines%20FINAL.pdf>.

95. MITALI NAGRECHA & MARY FAINSDOD KATZENSTEIN, CENTER FOR COMMUNITY ALTERNATIVES, WHEN ALL ELSE FAILS, FINING THE FAMILY 3 (2015).

96. Bannon, *supra* note 94, at 27-29.

97. *See e.g.*, CAL. PENAL CODE § 17.5(a).

98. *See* U.S. DEP'T. OF JUSTICE, *supra* note 2, at 63-70.

99. MICHELLE ALEXANDER, AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF NORTHERN CAL., THE CALIFORNIA DWB REPORT: A REPORT FROM THE HIGHWAYS, TRENCHES AND HALLS OF POWER IN CALIFORNIA 51 (2002).

100. *Id.* at 49.
101. Andie Adams et al., SDPD Traffic Stop Data Raises Concerns Over Racial Profiling, NBC SAN DIEGO, Feb. 26, 2015, <http://www.nbcsandiego.com/news/local/SDPD-Traffic-Stop-Data-Raises-Concerns-Over-Racial-Profiling-294275111.html>.
102. Interview with Meredith Desautels, Staff Attorney, Lawyers' Committee for Civil Rights of the San Francisco Bay Area, in San Francisco, Cal. (Mar. 9, 2015).
103. U.S. CENSUS BUREAU, STATE & COUNTY QUICKFACTS – SAN FRANCISCO, CAL. (2014), *available at* <http://quickfacts.census.gov/qfd/states/06/06075.html>.
104. *See* Bannon, *supra* note 94, at 4.
105. Phillip Matier & Andrew Ross, SFPD Looking at More Officers in Offensive-Text Probe, SFGATE.COM, Mar. 17, 2015, <http://www.sfgate.com/bayarea/matier-ross/article/M-R-SFPD-looking-at-10-more-officers-in-6139314.php>.
106. CAL. VEH. CODE § 14601(b)(1).
107. *Id.* § 14601.3(d)(1).
108. *See id.* §§ 13352(a)(4), 13352.4(c).
109. *See* SUSPENDED/REVOKED WORKING GROUP, *supra* note 15, at 2.
110. Chris Roberts, San Francisco Pays Top Dollar to House County Jail Inmates, S.F. EXAMINER, Mar. 31, 2013, <http://www.sfexaminer.com/sanfrancisco/san-francisco-pays-top-dollar-to-house-county-jail-inmates/Content?oid=2336209>.
111. For example, an Illinois study of individuals released from prison found that only 8% of those who were employed for a year committed another crime, compared to the state's 54% average recidivism rate. Presentation by Dr. Art Lurigio (Loyola U.) Safer Foundation Recidivism Study, Am. Correctional Assoc., 135th Congress of Correction (Aug. 8, 2005).
112. U.S. Const. amend. VI.
113. U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-10-217, LICENSE SUSPENSIONS FOR NONDRIVING OFFENSES: PRACTICES IN FOUR STATES THAT MAY EASE THE FINANCIAL IMPACT ON LOW-INCOME INDIVIDUALS 26-27, 31-32, 38 (2010).
114. Greg J. Duncan & Katherine Magnuson, *The Long Reach of Early Childhood Poverty*, PATHWAYS, Winter 2011, at 22-27, *available at* https://web.stanford.edu/group/scspi/_media/pdf/pathways/winter_2011/PathwaysWinter11_Duncan.pdf.
115. John Pawasarat & Frank Stetzer, *Removing Transportation Barriers to Employment: Assessing Driver's License and Vehicle Ownership Patterns of Low-Income Populations*, U. OF WIS. EMP. & TRAINING INST., July 1998, at v, *available at* <https://www4.uwm.edu/eti/reprints/DOTbarriers.pdf>.
116. *See* SUSPENDED/REVOKED WORKING GROUP, *supra* note 15, at 16-19.
117. *See* AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS (AAMVA), AAMVA FINANCIAL RESPONSIBILITY AND INSURANCE RESOURCE GUIDE 6 (2005), *available at* http://www.aamva.org/uploadedFiles/MainSite/Content/DriverLicensingIdentification/Auto_Insurance_Financial_Responsibility/FR%20Guide.pdf. *See also* NAT'L ASS'N OF INS. COMMISSIONERS, UNINSURED MOTORISTS: A GROWING PROBLEM FOR CONSUMERS: A PROPERTY AND CASUALTY INSURANCE COMMITTEE WHITE PAPER EXPLORING PUBLIC POLICY ISSUES (2006), *available at* <http://www.naic.org/store/free/UMC-OP.pdf>.
118. Press Release, Insurance Research Council, *New Study Reveals a Declining Trend in the Percentage of Uninsured Motorists* (Aug. 5, 2014), *available at* http://www.insurance-research.org/sites/default/files/downloads/IRC%20UM_NewsRelease_1.pdf.
119. SENATE APPROPRIATIONS COMMITTEE FISCAL SUMMARY, AB 2724 (BRADFORD) – FAILURE TO APPEAR IN COURT; FINES (Aug. 4, 2014), *available at* http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_2701-2750/ab_2724_cfa_20140804_122649_sen_comm.html.
120. Note that not all the recommendations under this section would not be necessary if the Legislature retroactively applies a new policy to end all use of license suspension for collection of court-ordered debt, pursuant to Recommendation A.1, above.

