



# ROADBLOCK TO ECONOMIC INDEPENDENCE:

HOW DRIVER'S LICENSE SUSPENSION POLICIES IN  
INDIANA IMPEDE SELF-SUFFICIENCY, BURDEN STATE  
GOVERNMENT & TAX PUBLIC RESOURCES

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## **ACKNOWLEDGMENTS**

This report would not have been possible without the support, commitment, and valuable feedback from several individuals. In particular, the authors would like to thank Fran Quigley, Clinical Professor of Law, Indiana University Robert H. McKinney School of Law; Andrew Bradley, Senior Policy Analyst at the Indiana Institute for Working Families; Scott DeVries, DeVries Law Offices; Michael Poletika, Research Associate at Indiana Institute for Working Families; and Jessica Fraser, Program Manager at Indiana Institute for Working Families. Any and all errors are solely the responsibility of the authors.

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## Executive Summary

State laws and procedures related to driver's license suspensions disproportionately impact low-income Hoosiers. The use of suspensions for reasons unrelated to driving safety, combined with the dramatic increase in license reinstatement fees make it difficult, if not impossible, for many to legally get back behind the wheel. Due to the lack of reliable alternative means of transportation and the growing suburbanization of jobs, these **suspensions create significant barriers for those seeking to maintain employment and, ultimately, support themselves and their families financially.**

Beside the cost to individuals, driver's license **suspensions significantly impact employers, government resources, and public safety.** Police officers spend countless hours citing, arresting, and processing suspended drivers, imposing a significant strain on law enforcement personnel and diminishing efforts at ensuring highway and public safety. The BMV likewise invests significant time and resources in processing non-highway safety violations, detracting from what should be the agency's core mission of ensuring public safety. And in the state trial court system, traffic violations represent the largest number of prosecuted cases; adjudication of license suspensions for non-driving offenses only adds to congested court dockets.

## Key Findings

- There is an **estimated 420,000** Indiana residents whose driver's licenses have been suspended; a majority of these are for reasons unrelated to driving.
- More than **216,000** Hoosiers have suspended driver's licenses for unpaid traffic fines, a number roughly proportional to the total populations of South Bend and Evansville combined.
- There are **approximately 8,000** persons in Indiana whose licenses have been suspended for failure to pay child support.
- Indiana is one of only **14 states** (soon to be 12) with laws that still provide for driver's license suspensions for controlled substance violations.
- In early 2014, the BMV reported a total of **\$131 million** in unpaid driver's license reinstatement fees.
- In 2014 the Indiana Office of Fiscal and Management Analysis projected an additional \$17,700,000 in annual revenue from increased license reinstatement fees starting FY 2015. **Actual revenue** generated came to only \$9,788,770—**nearly \$8 million short.**

## Recommendations

As a matter of public policy, state motor vehicle laws should be limited to (1) establishing standards for driving competency, (2) ensuring public safety by removing dangerous drivers from the road, and (3) penalizing those found guilty of reckless or negligent driving. To that end, Indiana should, to the greatest extent possible, **discontinue the use of license suspensions as a revenue-generating measure and tool for punishing behavior unrelated to driver safety**. Indiana drivers should still be held accountable for violating traffic laws. However, certain measures may help lessen the economic burden on the state's most financially vulnerable residents while increasing their mobility and access to jobs. Specific recommendations include the following:

- **Reduce or Eliminate License Reinstatement Fees:** A reduction or elimination of driver's license reinstatement fees could provide significant assistance to those unable to afford them and who pay their base traffic citations. Current policies result in millions of uncollected debt. By encouraging drivers to pay their parking tickets and other traffic infractions, the state may recoup a significant portion of these losses and get drivers back behind the wheel legally.
- **Implement Practical and Equitable Payment Plans:** Courts should implement practical payment plans for traffic infractions. State policymakers should also consider establishing sliding-scale, or income-based, payment plans for fines and fees related to traffic offenses. Research indicates that such systems, which consider the severity of the offense and the offender's ability to pay, have strong potential to increase collection rates.
- **Allow for Non-Pecuniary Penalties in Lieu of Fines or Fees:** State policymakers should vest discretionary authority in the courts to offer community service hours, in lieu of fines or fees, to reduce the economic burden on those who must drive to work and to access essential services such as health care and child care.

## Scope & Content of Report

This report examines the current policies, practices, and costs related to driver's license suspensions in the State of Indiana.

**Part one** outlines the use of license suspensions as a revenue-generating measure and tool for punishing behavior unrelated to driver safety. This component of the report also addresses recent legislative measures and their important, albeit limited, remedial features.

**Part two**, in turn, discusses the impact driver's license suspensions have on communities, the economy, government administration, and public safety. Here, the report focuses on license

suspensions as a barrier to employment, an outcome that contradicts the general state policy of helping welfare recipients achieve economic self-sufficiency.<sup>1</sup> This section also examines the administrative and fiscal costs to law enforcement, courts, and the BMV. Such burdens, the report concludes, ultimately detract from highway and public safety priorities.

Finally, **part three** makes various recommendations for reforming current policy and practice in Indiana. In support of these proposed solutions, this section examples of recent reform efforts in other states as potential models on which to build. While commending the Indiana General Assembly for its recent efforts at eliminating certain mandatory license suspensions for non-traffic related offenses, this report goes a step further in calling for Indiana to follow the lead of other jurisdictions in implementing much-needed change.

## A Note on Data Currency and Availability

All efforts have been made in the preparation of this report to secure up-to-date statistics. In the absence of current data, this study draws on information found in previously published studies to paint as full a picture as possible. The HHRC continues to seek more detailed driver's license suspension data and will update this report as that data becomes available.

The HHRC takes the position that public access to State data allows for in-depth analysis of the effects of government policy, opening the door to potential reform where it may be needed. Accordingly, the HHRC fully supports those provisions under the 2016 BMV omnibus bill relating to public access to agency records. Under the proposed legislation, “[a]ll records of the bureau,” with certain exceptions, “. . . must be open to public inspection . . . in accordance with [Indiana’s Access to Public Records Act].”<sup>2</sup> Moreover, the measure expressly allows for the “compilation of specific information requested for . . . research or statistical reporting purposes.”<sup>3</sup>

Adoption and codification of these provisions into the State’s motor vehicles law would significantly advance the public policy of government transparency and help ensure the production of public records, “an integral part of the routine duties of public officials and employees, whose duty it is to provide the information.”<sup>4</sup>

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<sup>1</sup> For a comprehensive analysis of income adequacy and economic security for Indiana families, see Diana M. Pearce, Ind. Inst. for Working Families, *The Self-Sufficiency Standard for Indiana 2016* [hereinafter *IWFF Report*], available at <http://www.incap.org/iwff/self-sufficiency/2016-Self-sufficiency-report.pdf>.

<sup>2</sup> H.R. 1087, 119th Gen. Assemb., 2d Reg. Sess. § 179 (Ind. 2016).

<sup>3</sup> *Id.*

<sup>4</sup> Ind. Code § 5-14-3-1.



# 1. Driver's License Suspensions in Indiana

The Indiana Bureau of Motor Vehicles is the government entity primarily responsible for suspending the privileges of those drivers who have violated or otherwise failed to comply with State motor vehicle laws.<sup>5</sup> The BMV may, upon any reasonable ground, suspend or revoke (1) the current driver's license of any person, or (2) the certificate of registration and license plate for any motor vehicle.<sup>6</sup> A “reasonable ground” may include, among other things, situations implicating (1) an individual’s acquisition, use, or renewal of a driver’s license through fraud or misrepresentation; (2) the need to prevent the misuse of a driver's license, license plate, or other BMV credential; and (3) the need to ensure public safety.<sup>7</sup> In addition to the BMV, Indiana

law provides courts with the authority to suspend an individual’s driving privileges when he or she is found to have committed certain traffic violations.<sup>8</sup>

420,000

Estimated number of Indiana motorists with suspended driver’s licenses

Today, there is an **estimated 420,000** Indiana residents whose driver’s licenses have been suspended.<sup>9</sup> The grounds for these suspensions, and the policies that exacerbate the problem, are discussed in further detail below.

## 1.1. Driver's License Suspensions as a Tool for Revenue Generation

With growing budget restrictions in recent years, states have increasingly relied on fines, fees, and surcharges to generate additional streams of revenue. Driver’s license suspensions have played a central role in this process, often with unseen—albeit adverse—consequences.

In December of 2015, the Council of Economic Advisors—an agency within the Executive Office of the President charged with offering objective advice in the formulation of economic policy—issued a brief examining the growing use of monetary sanctions for minor infractions (including traffic violations) as a source of state revenue. In its analysis, the CEA pointed to the disproportionate effect of court fines and fees on the poor and the collateral repercussions that often result from such policies: “Individuals unable to pay criminal justice debt may be further

<sup>5</sup> For a general overview, see *Points, Suspension and Insurance Requirements*, in Ind. Bureau of Motor Vehicles, *Driver's Manual 30-39* (2015), available at [http://www.in.gov/bmv/files/Drivers\\_Manual\\_Chapter\\_3.pdf](http://www.in.gov/bmv/files/Drivers_Manual_Chapter_3.pdf).

<sup>6</sup> Ind. Code § 9-30-4-1.

<sup>7</sup> 140 IAC 1-9-1.

<sup>8</sup> Ind. Code §§ 9-30-16, 9-24-11-10, 9-24-18-0.5 and 9-25-6-0.5.

<sup>9</sup> Bennett Haeberle, *Change in Law Could Restore Suspended Drivers' Privileges*, WISHTV.com (June 6, 2014), <http://wishtv.com/2014/06/06/change-in-law-could-restore-suspended-drivers-privileges>.

punished by having their drivers' licenses suspended, even for offenses unrelated to driving. . . . Loss of a driver's license can make it difficult to maintain employment, increasing the obstacles to paying off debt."<sup>10</sup>

“  
*Loss of a driver's license can make it difficult to maintain employment, increasing the obstacles to paying off debt.*

-Council of Economic Advisors (2015)

### 1.1.1. Revenue From Increased Reinstatement Fees

Driver's license reinstatement can be a complicated process because BMV requirements are strict and often expensive.<sup>11</sup> Even if a motorist can pay off all infraction fines and secure the requisite insurance coverage, the license reinstatement fees alone are often prohibitively expensive and may prevent the restoration of driving privileges indefinitely for many individuals.

In early 2014, the BMV reported a total of \$131 million in unpaid license reinstatement fees.<sup>12</sup>

Rather than analyze the underlying reasons for this uncollected debt, the legislative solution was simply to increase the fines in the hopes of recovering desperately-needed revenue.<sup>13</sup>

**\$131 Million**

Approximate amount of unpaid driver's license reinstatement fees reported in 2014

<sup>10</sup> Council of Economic Advisors, Fines, Fees, and Bail: Payments in the Criminal Justice System that Disproportionately Impact the Poor 4 [hereinafter CEA Brief], available at [https://www.whitehouse.gov/sites/default/files/page/files/1215\\_cea\\_fine\\_fee\\_bail\\_issue\\_brief.pdf](https://www.whitehouse.gov/sites/default/files/page/files/1215_cea_fine_fee_bail_issue_brief.pdf).

<sup>11</sup> For a general overview of the reinstatement process, see Ind. Bureau of Motor Vehicles, *Reinstating Your Driving Privileges*, <http://www.in.gov/bmv/2845.htm>.

<sup>12</sup> Ind. Office of Fiscal & Management Analysis, Fiscal Impact Statement Related to H.B. 1059, at 2 (2014) [hereinafter Fiscal Impact Statement], available at <http://iga.in.gov/legislative/2014/bills/house/1059#document-84e77989>.

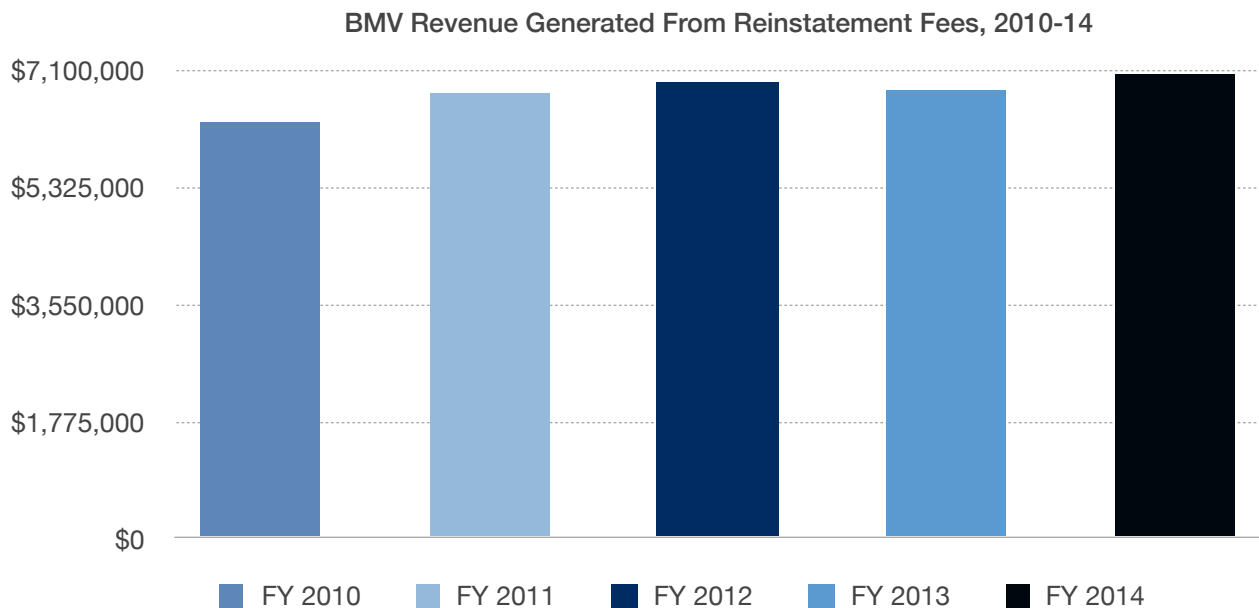
<sup>13</sup> The OFMA noted that, "if these increased fees reduce the number of reinstatement requests, actual revenue could be less than the estimated amount." *Id.* at 1 (2014).

On March 13, 2014, Governor Mike Pence signed into law House Bill 1059. Effective January 1, 2015, the legislation made various changes to the motor vehicles law, including expanded requirements for proof of future financial responsibility and increased fees for the reinstatement of suspended driver’s licenses.<sup>14</sup>

Prior to January 1, 2015, reinstatement fees ranged from \$150 for first-time suspensions, \$225 for second-time suspensions, and \$300 for third and subsequent suspensions. For violations occurring after January 1, 2015, these fees increased dramatically: \$250 for a first-time suspension, \$500 for a second second-time suspension, and \$1,000 for third-time and subsequent suspensions.<sup>15</sup> That comes to a **67%, 122%, and 233%** increase in reinstatement fees for each suspension respectively!

Table1. Reinstatement Fees

	Prior to Jan. 1, 2015	After Jan. 1, 2015	% Increase
<b>First Suspension</b>	\$150	\$250	66.67%
<b>Second Suspension</b>	\$225	\$500	122.22%
<b>Third or Subsequent Suspension</b>	\$300	\$1000	233.33%



The enhanced reinstatement fees were expected to generate considerable revenue for the State. Using the average number of reinstatement requests made of the BMV between 2011

<sup>14</sup> H.R. 1059, 118th Gen. Assemb., 2d Reg. Sess. (Ind. 2014) (enacted).

<sup>15</sup> Ind. Code § 9-29-10-1.

and 2013, the Office of Fiscal and Management Analysis (OFMA) estimated an increase in revenue of \$11.7 million per year for the Motor Vehicle Highway Account (MVHA), the state’s general fund for highway maintenance and repair.

**Table 2. Estimated MVHA Revenue**

	Average Number of Reinstatement Requests (FY 2011-2013)	Estimated MVHA Revenue
<b>First Suspension</b>	17,891	\$1.8 million
<b>Second Suspension</b>	9,264	\$2.5 million
<b>Third or Subsequent Suspension</b>	10,593	\$7.4 million
<b>TOTAL</b>	37,748	\$11.7 million

The estimated revenue shown in the table above reflects only a portion of the total expected revenue under the new law. In addition to the MVHA revenue base, a substantial amount of reinstatement fees are deposited in the Financial Responsibility Compliance Verification Fund (FRCVF), “established to defray expenses incurred by the [BMV] in verifying compliance with financial responsibility requirements.”<sup>16</sup> The table below illustrates the distribution of revenue under the new law.

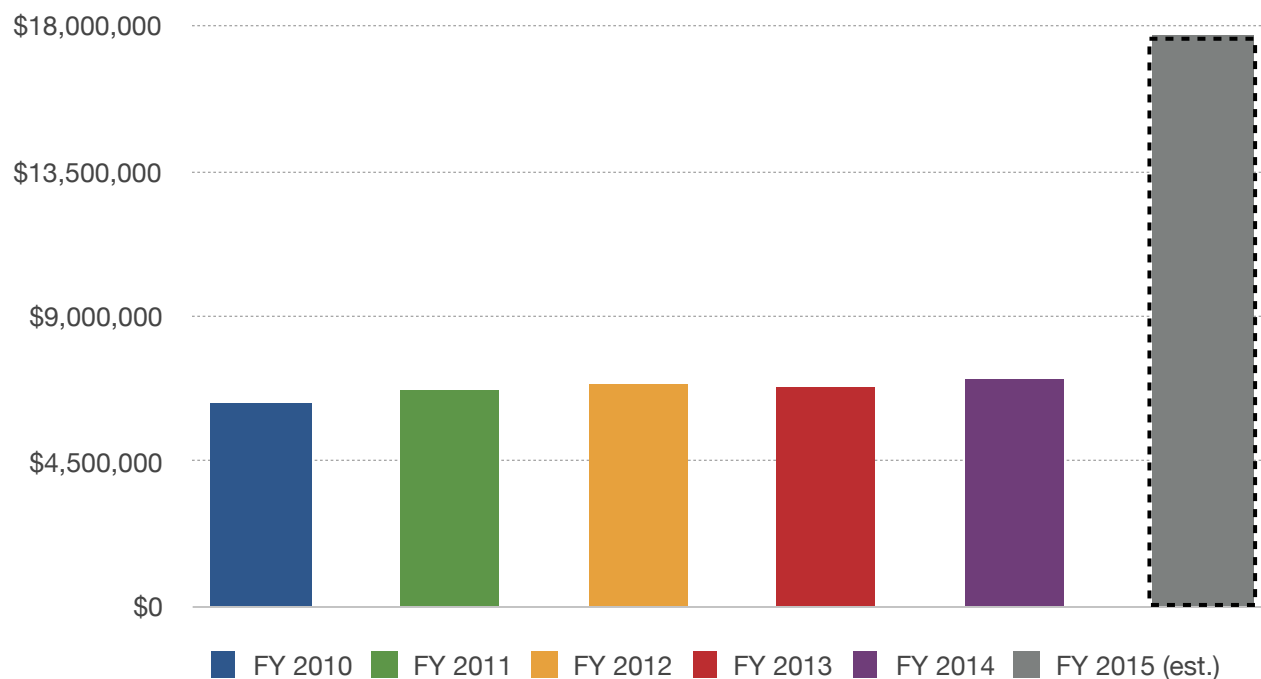
**Table 3. Distribution of Revenue**

	Financial Responsibility Compliance Verification Fund		Motor Vehicle Highway Account	
	Amount	% of Fee	Amount	% of Fee
<b>First Suspension</b>	\$120	48%	\$130	52%
<b>Second Suspension</b>	\$195	39%	\$305	61%
<b>Third or Subsequent Suspension</b>	\$270	27%	\$730	73%

Based on these distribution percentages, and using OFMA projections, the total expected revenue base from the enhanced fee structure hovers near \$17.7 million dollars, more than double the amount of fees generated in 2014 (see chart and table below).

<sup>16</sup> Ind. Code § 9-25-9-7. See also Ind. Code § 9-29-10-1(c).

### Revenue Generated from Reinstatement Fees, 2010-14 & 2015 Projections



**Table 4. Estimated Revenue from Enhanced Fees**

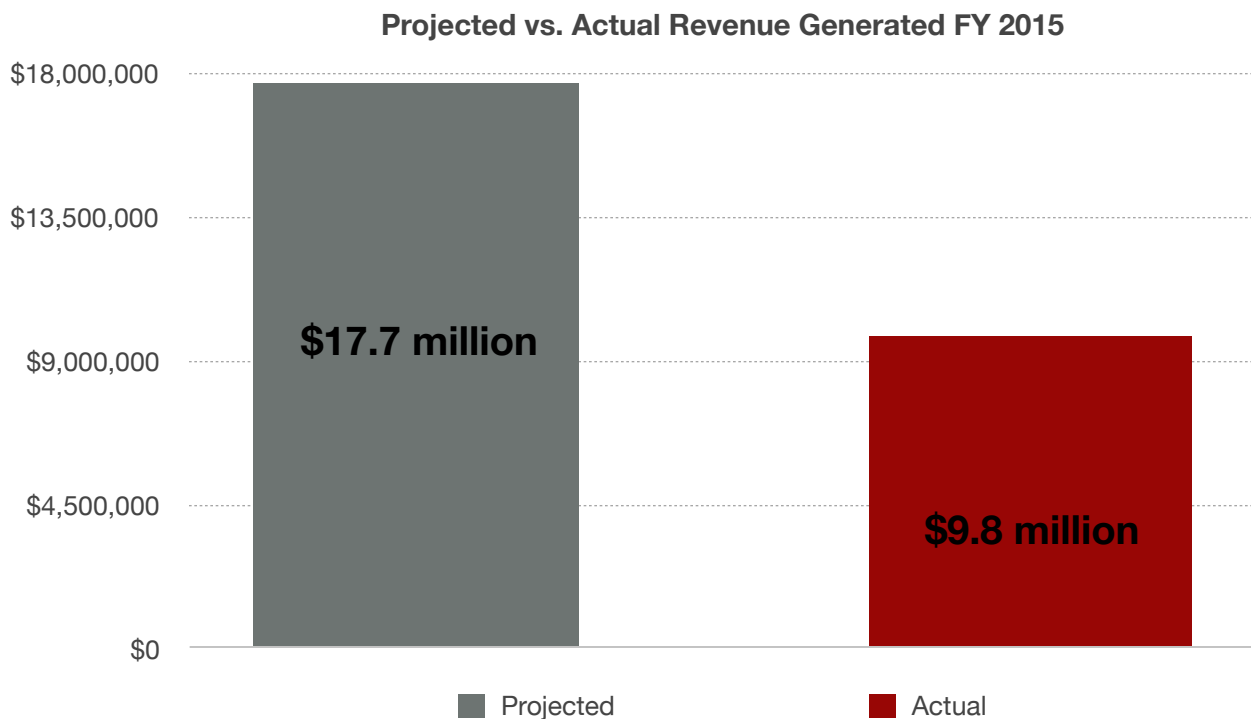
	Estimated MVHA Revenue	Estimated FRCVF Revenue
<b>First Suspension</b>	\$1.8 million	\$1.7 million
<b>Second Suspension</b>	\$2.5 million	\$1.6 million
<b>Third or Subsequent Suspension</b>	\$7.4 million	\$2.7 million
<b>Subtotal</b>	\$11.7 million	\$6 million
<b>TOTAL</b>	<b>\$17.7 million</b>	

Ironically, however, the system may be depriving itself of the very revenue it seeks to generate. A growing body of evidence suggests that states encounter low rates of collection as they increasingly rely on fines and fees without taking into account the ability to pay.<sup>17</sup> The OFMA, in its fiscal impact analysis of H.B. 1059, appears to have at least recognized this possibility, noting “if these increased fees reduce the number of reinstatement requests, actual revenue could be less than the estimated amount.”<sup>18</sup> This caveat proved correct. As reported for FY 2015, *actual* revenue generated came to only \$9,788,770. Although a modest increase over the previous year, the amount fell far short of OFMA projections—**nearly \$8 million short.**<sup>19</sup>

<sup>17</sup> CEA Brief, *supra*, at 5.

<sup>18</sup> Fiscal Impact Statement, *supra*, at 1.

<sup>19</sup> Off. of Fiscal & Mgmt. Analysis, Indiana Handbook of Taxes, Revenues, Appropriations FY 2015, at 218.



### 1.1.2. Court-Ordered Fees, Surcharges & Debt Collection

Public interest groups, judicial study committees, and other organizations routinely affirm that courts should not be treated as revenue sources. In 1986, the Conference of State Court Administrators published a study in which it adopted nationally-recommended standards related to court costs and fees.<sup>20</sup> Among these standards included the following:

- A. Fees and miscellaneous charges should be set by the legislature of each state with recommendations provided by the appropriate judicial body.
- B. Fees and miscellaneous charges should not preclude access to the courts.
- C. Fees and miscellaneous charges should not be an alternate form of taxation.
- D. Surcharges should not be established.<sup>21</sup>

<sup>20</sup> Conf. of State Ct. Administrators, *Standards Relating to Court Costs: Fees, Miscellaneous Charges and Surcharges and A National Survey of Practice* (1986) [hereinafter *CSCA Standards*], available at <http://cdm16501.contentdm.oclc.org/cdm/ref/collection/financial/id/81>.

<sup>21</sup> *Id.* at 2, 3, 4, 7.

The CSCA reiterated these principles twenty-five years later in its policy study, *Courts Are Not Revenue Centers*.<sup>22</sup> In the intervening years, however, Indiana courts—faced with growing budget cuts, especially at the local level—have struggled to embrace these standards.

In addition to their base infraction fine, offenders are likely to pay court costs and any number of add-on fees. To begin with, the court tacks on an initial “infraction or ordinance violation costs” fee of \$70.<sup>23</sup> In addition, there are several other fees that may apply, all of which quickly compound an offender’s debt into large, often unmanageable, sums. These fees, which vary in application depending on the type of offense, cover a range of court services. The table below sets out a non-exhaustive list of court costs and additional fees that offenders who have committed infractions are likely to have added to their base fines.

<b>Fee Type</b>	<b>Amount</b>	<b>Statutory Provision</b>
Document storage fee	\$5.00	Ind. Code § 33-37-4-2(b)(8)
Automated record keeping fee	\$19.00	Ind. Code § 33-37-4-2(b)(9)
Late payment fee	\$25.00	Ind. Code § 33-37-4-2(b)(10)
Public defense administration fee	\$5.00	Ind. Code § 33-37-4-2(b)(11)
Judicial insurance adjustment fee	\$1.00	Ind. Code § 33-37-4-2(b)(12)
Court administration fee	\$5.00	Ind. Code § 33-37-4-2(b)(14)

In lieu of the initial \$70 fee, a court may collect a “deferral program fee” following an “agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation.”<sup>24</sup> This fee consists of a one-time payment of \$52 and an additional \$10 “for each month the person remains in the deferral program.”<sup>25</sup>

Beyond these ancillary fees, offenders are often burdened with collection surcharges. In 2005, the Marion and Hamilton County Court systems hired private debt collection agencies in an effort to recover an estimated \$17 million in unpaid traffic fines.<sup>26</sup> To offset collection costs, the courts tacked on an additional 25% surcharge. Officials defended the courts’ “get tough

<sup>22</sup> Conf. of State Ct. Administrators, *Courts Are Not Revenue Centers* (2011), available at <http://cosca.ncsc.org/~media/Microsites/Files/COSCA/Policy%20Papers/CourtsAreNotRevenueCenters-Final.ashx>.

<sup>23</sup> Ind. Code § 33-37-4-2(a).

<sup>24</sup> Ind. Code § 33-37-4-2(e).

<sup>25</sup> *Id.*

<sup>26</sup> Will Higgins, *Drivers Are Next: Court Hires Collectors to Pursue \$17 Million in Traffic Fines*, *Indpls Star*, Nov. 19, 2005, A1.

approach” on the existing “financial crunch,” a result of the state’s “nearly \$130 million budget deficit.”<sup>27</sup> Four years later, the City of Indianapolis took similar steps “in an effort to improve the way [it] collects revenue from parking citations” by initiating a new community traffic court. To administer court operations, Indianapolis hired a private, for-profit contractor that manages the city’s parking ticket software and collections system. Again, through the assessment of surcharges, the company received a portion of revenues to finance its services.<sup>28</sup>

Monetary sanctions such as these have a disproportionate impact on low-income offenders.<sup>29</sup> The inability to pay initial traffic fines, combined with the added expense of surcharges, resulted in adverse credit reports for many poor Hoosiers, pushing them even further into the cycle of debt. Damaged credit scores, in turn, often reduce a job applicant’s employment prospects, as employers often examine an applicant’s credit history in their background checks.<sup>30</sup> Adverse credit reports are also likely to diminish a person’s chances of securing a home mortgage or other loan, which can have wider consequences for the housing market and economy. In addition, insurance providers often look at a person’s credit rating to establish premiums.<sup>31</sup> Higher rates, in turn, may encourage low-income car owners to risk driving without insurance.

Aggressive collection tactics designed to generate additional revenue have also resulted in the obstruction of access to courts. With the initiation of its parking citation court in 2009, Indianapolis made clear its intention of imposing additional fines on those seeking to contest their tickets: “If citations are not paid prior to their scheduled hearing,” a press release from the mayor’s office announced, “the City may request a fine of up to \$2,500 per citation.”<sup>32</sup> The Marion County Traffic Court imposed similar penalties at the time, assessing those who challenged a ticket, and lost, up to an additional \$500 in fines.<sup>33</sup>

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<sup>27</sup> *Id.*

<sup>28</sup> Francesca Jarosz, *The Meter is Running on Parking Tickets*, *Indpls Star* (Dec. 2, 2009), <http://www.indystar.com/article/20091202/LOCAL18/912020359>; Marcia Oddi, *Ind. Courts - A New Indianapolis Parking Citations Court Will Open Tomorrow, Dec. 1st*, *Ind. Law Blog* (Nov. 30, 2009), [http://indianalawblog.com/archives/2009/11/ind\\_courts\\_a\\_ne.html](http://indianalawblog.com/archives/2009/11/ind_courts_a_ne.html).

<sup>29</sup> CEA Brief, *supra*, at 3.

<sup>30</sup> See Alicia Bannon, Mitali Nagrecha & Rebekah Diller, Brennan Ctr. for Justice, *Criminal Justice Debt: A Barrier to Reentry 27* (2010), available at <https://www.brennancenter.org/publication/criminal-justice-debt-barrier-reentry>.

<sup>31</sup> Margy Waller, *High Cost or High Opportunity Cost? Transportation and Economic Family Success*, 35 CCF Brief (Dec. 2005), available at <http://www.brookings.edu/~media/research/files/papers/2005/12/poverty-waller/pb35.pdf>.

<sup>32</sup> Paul K. Ogden, *City Threatens People Who Challenge Their Parking Tickets With \$2,500 Fines For Going to Court; Policy Mirrors That Used in Traffic Court*, *Ogden on Politics* (Dec. 5, 2009), <http://www.ogdenonpolitics.com/2009/12/city-threatens-people-who-challenge.html>.

<sup>33</sup> *Id.*



While designed to discourage baseless challenges and congested court dockets, the system incidentally threatened to punish drivers with legitimate claims. And for those unable to pay their fines up front, or simply unwilling to risk the additional fines in the event of an adverse judgement, the courthouse doors remained effectively shut. The CSCA has expressly rejected the “notion that a fee schedule which is intentionally burdensome may be desirable because of a deterrent value in preventing the filing of frivolous suits.”<sup>34</sup> Whether a lawsuit is frivolous “is a matter which can only be determined by a court after a lawsuit is filed, at which time costs and sanctions may be imposed if the lawsuit is dismissed as frivolous.”<sup>35</sup>

Claims that the city’s traffic court system operated unfairly resulted in a class action lawsuit, charges of judicial misconduct, and legislation designed to remove court discretion in imposing traffic fines.<sup>36</sup> Under the new law, a court may not require a driver found to have committed a moving violation constituting a Class C infraction to pay more than certain specified amounts.<sup>37</sup> The following table displays the current fee structure for court-imposed fines.

Table 6. Fee Structure for Court-Imposed Fines

MAX FINE	CIRCUMSTANCES
\$35.50 + court costs	Driver admits, or pleads no contest, to the moving violation <i>before</i> the appearance date specified in the summons and complaint.
\$35.50 + court costs	Driver admits, or pleads no contest, to the moving violation <i>on</i> the appearance date specified in the summons and complaint.
\$35.50 + court costs	Driver unsuccessfully contests the moving violation in court, and <i>had not committed</i> a moving violation within the last 5 years.
\$250.50 + court costs	Driver unsuccessfully contests the moving violation in court, and <i>had committed</i> 1 moving violation within the last 5 years.
\$500 + court costs	Driver unsuccessfully contests the moving violation in court, and <i>had committed</i> 2 or more moving violations within the last 5 years.

While changes to the law removed—for better or for worse—judicial discretion in imposing additional fines, courts (in Marion County at least) still have a financial incentive to collect them. Funds acquired from infraction judgements in the county are transferred to a dedicated fund, a

<sup>34</sup> CSCA Standards, *supra*, at 4.

<sup>35</sup> *Id.*

<sup>36</sup> Michael W. Hoskins, *Federal Case Challenges Policies of Marion County Traffic Court*, Ind. Lawyer (Jan. 6, 2010), <http://www.theindianalawyer.com/fining-access-issues-drive-lawsuit-federal-case-challenges-policies-of-marion-county-traffic-court/PARAMS/article/22231>; Ind. Courts, Press Release, Judicial Qualifications Commission Files Misconduct Charges Against Marion Superior Court Judge (Jan. 16, 2010), <http://www.in.gov/judiciary/press/2010/0716.html>; S.E.A. 399, 116th Gen. Assemb., 1st Reg. Sess. (Ind. 2011) (codified at Ind. Code § 34-28-5-4).

<sup>37</sup> Ind. Code § 34-28-5-4(f).

portion of which pays the salaries of court commissioners.<sup>38</sup> Moreover, while statutory caps on fines may aim to ensure an equitable system of monetary sanctions, these payment ceilings often remain excessive for many impoverished offenders.<sup>39</sup> And, as the Council of Economic Advisors observes, these caps tend to “perpetuate the regressive nature of the fine and fee system by reducing the relative punishment for wealthy defendants.”<sup>40</sup> Debt collection proceedings initiated by courts, a practice which still apparently continues in some jurisdictions at the county level,<sup>41</sup> only exacerbates this vertical inequity.

## 1.2. Driver’s License Suspensions for Non-Driving-Related Offenses

In 1929, Indiana adopted the Uniform Motor-Vehicle Operators’ and Chauffeurs’ License Act, the State’s first law requiring the licensing of persons operating motor vehicles. The measure was intended to (1) establish certain standards for driving competency, (2) ensure public safety by removing dangerous drivers from the road, and (3) to punish those found guilty of reckless or negligent driving.<sup>42</sup>

In recent decades, however, Indiana, like other states, has begun suspending driver’s licenses for reasons other than ensuring public safety. In addition to suspending motorists for typical moving violations—such as for OWIs or habitually reckless driving—the BMV also suspends licenses for reasons unrelated to safe driving.<sup>43</sup>

The shift in policy can be traced to reforms at the federal level. In 1990, Congress enacted legislation compelling states, under threat of losing a portion of federal highway funds, to suspend the driver’s licenses of persons convicted of drug offenses.<sup>44</sup> Six years later, Congress passed a measure requiring states to suspend the licenses of those delinquent in

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<sup>38</sup> Ind. Code § 34-28-5-5(e)(1).

<sup>39</sup> CEA Brief, *supra*, at 4.

<sup>40</sup> *Id.*

<sup>41</sup> See Marcia Oddi, “A Fine Mess: Drivers Dunned for Tickets From Years Ago,” Ind. Law Blog (July 14, 2013) (summarizing report published in the *Bloomington Herald-Times* on Monroe County’s recent debt collection efforts), [http://indianalawblog.com/archives/2013/07/ind\\_govt\\_a\\_fine.html](http://indianalawblog.com/archives/2013/07/ind_govt_a_fine.html). The extent to which this practice occurs in other jurisdictions throughout the State is unknown.

<sup>42</sup> 1929 Ind. Acts 499.

<sup>43</sup> Meredith Castile, Driver’s License 119 (2015); Best Practices Guide, *supra*, at 2.

<sup>44</sup> Drug Offender’s Driving Privileges Suspension Act of 1990 (codified at 23 U.S.C.A. § 159). See also Aaron J. Marcus, *Are The Roads a Safer Place Because Drug Offenders Aren’t on Them?: An Analysis of Punishing Drug Offenders With License Suspensions*, 13 Kan. J.L. & Pub. Pol’y 557 (2004); and Maureen Hayden, *Do Driving Penalties Fit the Crime?*, Ind. Economic Digest (Sept. 23, 2013), <http://www.indianaeconomicdigest.org/main.asp?SectionID=31&subsectionID=135&articleID=71384>.

paying child support.<sup>45</sup> Since then, states have responded by authorizing license suspensions for a variety of other non-driving-related offenses, including unpaid traffic tickets, bouncing checks, truancy, and fuel theft convictions.<sup>46</sup>

“The license has become a behavioral modification tool,” one scholar observes, “and taking it away is the ultimate punishment. Since the 1980s, the ID has completed its transition from a driving-related document to a document of extensive, even invasive, social control.”<sup>47</sup>

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*Since the 1980s, the ID has completed its transition from a driving-related document to a document of extensive, even invasive, social control.*

-Meredith Castile, Driver’s License 119 (2015)

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According to a 2013 report by the American Association of Motor Vehicle Administrators, drivers suspended for reasons unrelated to driving safety represented 29% of all suspended motorists nationwide in 2002; four years later, that number grew to 39%.<sup>48</sup>

While non-driving related suspensions may give states the teeth to enforce child support or punish crimes, the collateral effects can be devastating for persons of low income. There is no question that criminal or socially-aberrant behavior requires appropriate sanctions to deter recidivism; however, broadly restricting driver’s licenses for offenses unrelated to a person’s

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<sup>45</sup> Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, § 369, 110 Stat. 2105 (codified at 42 U.S.C. § 666(a)(16)).

<sup>46</sup> For a 50-state survey, see American Ass’n of Motor Vehicle Administrators & Nat’l Highway Traffic Safety Administration, *Reasons for Drivers License Suspension, Recidivism and Crash Involvement Among Suspended/Revoked Drivers 7-8* (2009) [hereinafter AAMVA Report], available at <http://trid.trb.org/view.aspx?id=897746>.

<sup>47</sup> Castile, *Driver’s License*, *supra*, at 119.

<sup>48</sup> American Ass’n of Motor Vehicle Administrators, *Best Practices Guide to Reducing Suspended Drivers 2* (2013) [hereinafter Best Practices Guide], available at <http://www.aamva.org/Suspended-and-Revoked-Drivers-Working-Group>.

ability to drive safely may often be more harmful than beneficial, not only to the individual but to the state as well.<sup>49</sup>

In addition, the commonly-held belief that the threat of a driver's license suspension provides effective motivation for individuals to comply with court-ordered or legislative mandates lacks empirical support. To the contrary, evidence indicates that when people lose their license for reasons unrelated to driving safety, they fail to take those suspensions seriously.<sup>50</sup> According to a 2003 report from the National Cooperative Highway Research Program, an estimated 75% of motorists with suspended or revoked driver's licenses simply continue driving.<sup>51</sup>

### 1.2.1. Failure to Show Proof of Insurance

Indiana law requires the BMV to impose driving privilege suspensions and financial penalties, including reinstatement fees, on persons found to have operated a vehicle without proof of holding the state minimum requirement for auto insurance. Suspensions can range from 90 days to one year.<sup>52</sup> In 2003, the most recent year for which data are available, **67,831** Hoosiers had their driver's licenses suspended for failure to maintain insurance.<sup>53</sup>

Low-income drivers are particularly vulnerable to these penalties. Although car insurance rates have risen only steadily in recent years, for those struggling to make ends meet the expense ranks well below necessities such as food and housing.<sup>54</sup> Nationwide, the average auto insurance expenditure rose from \$798 in 2011 to \$815 in 2012 (the most recent year for which data are



67,000

Approximate number of Indiana motorists with licenses suspended for failure to show proof of insurance

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<sup>49</sup> A GAO study found that, while driver's license suspensions have lead "some noncustodial parents" to pay their past-due support obligations, the sanction has been ineffective in motivating other noncustodial parents, especially those who "may not be concerned about losing their driver's licenses." U.S. Gov't Accountability Off., GAO-02-239, Child Support Enforcement: Most States Collect Drivers' SSNs and Use Them to Enforce Child Support 23 (2002), available at <http://www.gao.gov/assets/240/233361.pdf>.

<sup>50</sup> Best Practices Guide, *supra*, at 5.

<sup>51</sup> Nat'l Cooperative Highway Research Prog., A Guide for Addressing Collisions Involving Unlicensed Drivers with Suspended or Revoked Licenses (2003), available at [http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp\\_rpt\\_500v2.pdf](http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rpt_500v2.pdf).

<sup>52</sup> Ind. Code § 9-25-6-3.

<sup>53</sup> Margy Waller, Jennifer Doleac & Ilsa Flanagan, Brookings Inst., Driver's License Suspension Policies 46 (2005), available at <http://www.aecf.org/resources/drivers-license-suspension-policies>.

<sup>54</sup> Teresa Wiltz, *States Look to Reduce Ranks of Uninsured Drivers*, Pew Charitable Trusts: Stateline (Feb. 20, 2015), <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2015/2/20/states-look-to-reduce-ranks-of-uninsured-drivers>.

available). In Indiana, that figure rose from \$621 to \$637 during the same period.<sup>55</sup>

There are a number of factors that affect car insurance rates, including tort liability laws, auto repair costs, and liability coverage requirements. Other factors are purely socioeconomic in nature. For example, some low-income car owners pay more for insurance when providers rely on credit ratings to establish premiums.<sup>56</sup> The insurance industry justifies this practice in asserting that drivers with poor credit scores are more likely to file claims than those with higher credit scores. Insurance companies also base premiums on where drivers live. The industry uses this pricing mechanism—a form of “redlining” known as “territorial rating”—based on claim experience in a particular geographic area. A recent study by the Consumer Federation of America found that the average insurance quote for a good driver seeking minimum coverage exceeded \$1,000 in 25.5% of the nation’s lowest-income ZIP codes. In 6.2% of low-income ZIP codes, the average figures exceeded \$2,000, while only 2.6% of drivers in moderate-income ZIP codes and 0.3% of drivers in higher-income ZIP codes encountered such estimates.<sup>57</sup>

While some low-income areas in Indiana fall below the national average,<sup>58</sup> other factors—such as driving history, education, occupation, or lapses in coverage—can affect the cost of auto insurance, making it unaffordable for many poor drivers in the State. In addition to paying the applicable reinstatement fees, those seeking to restore their suspended licenses must, by the date on which the suspension terminates, provide proof of future financial responsibility for a period of 3 years (for a first or second offense) or 5 years (for third or subsequent offenses).<sup>59</sup> Payment of insurance premiums this far in advance is simply impractical for most low-income drivers in Indiana.

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<sup>55</sup> *Average Expenditures for Auto Insurance by State, 2008-2012*, Insurance Information Inst., <http://www.iii.org/table-archive/21247> (last visited Jan. 3, 2016).

<sup>56</sup> Margy Waller, *High Cost or High Opportunity Cost? Transportation and Economic Family Success*, 35 CCF Brief (Dec. 2005), *available at* <http://www.brookings.edu/~media/research/files/papers/2005/12/poverty-waller/pb35.pdf>; *see also* Stephen Brobeck et al., Consumer Federation of America, *The Use of Credit Scores by Auto Insurers: Adverse Impacts on Low- and Moderate-Income Drivers* (2013), *available at* [http://consumerfed.org/wp-content/uploads/2010/08/useofcreditscoresbyautoinsurers\\_dec2013\\_cfa.pdf](http://consumerfed.org/wp-content/uploads/2010/08/useofcreditscoresbyautoinsurers_dec2013_cfa.pdf).

<sup>57</sup> Stephen Brobeck et al., Consumer Federation of America, *The High Price of Mandatory Auto Insurance for Lower Income Households: Premium Price Data for 50 Urban Regions 8* (2014) [hereinafter “CFA Report”], *available at* [http://consumerfed.org/wp-content/uploads/2010/08/140929\\_highpriceofmandatoryautoinsurance\\_cfa.pdf](http://consumerfed.org/wp-content/uploads/2010/08/140929_highpriceofmandatoryautoinsurance_cfa.pdf). *See also* Alice Holbrook, *In Some States, Low-Income Drivers Get Help With Car Insurance*, NerdWallet (Apr. 21, 2015), <https://www.nerdwallet.com/blog/insurance/states-low-income-drivers-car-insurance>.

<sup>58</sup> CFA Report, *supra*, at 10 (reporting average annual insurance premiums for low-income areas in Indianapolis at \$500 or below).

<sup>59</sup> Ind. Code § 9-25-8-6.

## 1.2.2. Failure to Appear in Court or Pay Traffic Offenses

Failing to appear before a court of law in response to a traffic citation, or failing to pay for a ticket after an entry of judgment, may lead to the suspension of driving privileges. These types of suspensions are indefinite and will only end when the court notifies the BMV that you appeared in court or paid the citation in full.<sup>60</sup>

Additionally, if a court finds a motorist to have accrued three unpaid judgments related to a parking violation, and the motorist fails to pay those fines within 30 days after notice, the court will send a referral to the BMV, resulting in the suspension of the motorist's registration. The BMV will reinstate the motorist's registration only if (1) the court furnishes adequate proof that all judgments have been paid, and (2) the motorist pays reinstatement fees of an unspecified amount.<sup>61</sup>

216,041

Number of Indiana motorists with licenses suspended for failure to pay or appear in court

Based on recent figures provided by the BMV, there are currently **216,041** Indiana motorists with suspended licenses for failure to pay or appear in court, a number roughly proportional to the total populations of South Bend and Evansville combined.<sup>62</sup>

## 1.2.3. Failure to Pay Child Support

The creation of Title IV-D of the Social Security Act, signed into law in 1975, ushered in the modern federal oversight of child support enforcement in the United States. While vesting primary responsibility in the federal Office of Child Support Enforcement, the law delegates the operational aspects of the program to the states. Subsequent to this initiative, Congress enacted the Family Support Act of 1988, which imposed several requirements on states for obtaining and enforcing child support agreements.<sup>63</sup> To avoid burdening state court systems, the Act encouraged the use of administrative procedures. As a result, license suspension programs became a popular tool for many states. The Personal Responsibility and Work

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<sup>60</sup> Ind. Code § 9-30-3-8.

<sup>61</sup> Ind. Code §§ 9-30-11-3, 9-30-11-6.

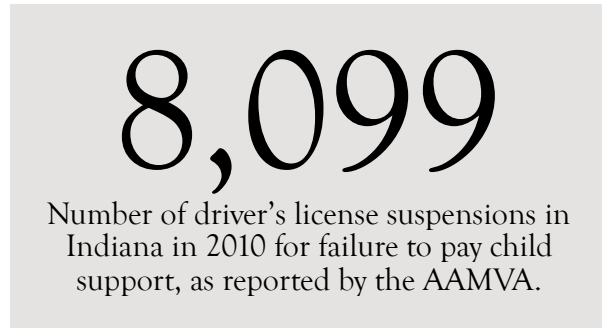
<sup>62</sup> U.S. Census Bureau, State and County QuickFacts: South Bend, Ind. and Evansville, Ind., <http://quickfacts.census.gov> (last updated Dec. 2, 2015).

<sup>63</sup> Family Support Act of 1988, Pub. L. No. 100-485, 102 Stat. 2346 (1989) (codified at 42 U.S.C. § 667).

Opportunity Reconciliation Act of 1996 requires states to suspend or restrict driver's licenses of non-custodial parents delinquent on their child support payments.<sup>64</sup>

In Indiana, a court (or local agency responsible for enforcing child support payments) that finds a parent delinquent in paying child support may order the BMV to suspend that parent's driving privileges. This suspension remains in effect until the parent has paid his or her obligation in full, or establishes a payment plan with the child support bureau, and the BMV receives an order from the court (or agency) reinstating the parent's driving privileges.<sup>65</sup>

According to the American Association of Motor Vehicle Administrators, there were **over 8,000 driver's license suspensions** in Indiana in 2010 for failure to pay child support.<sup>66</sup> In 2015 alone, the child support division of the Allen County Prosecutor's Office reported opening **nearly 150 new suspension cases every month**.<sup>67</sup>



#### 1.2.4. Failure to Complete Driver Safety Improvement Course

The BMV may require a person to attend and satisfactorily complete a defensive driving school program if, during any 12-month period, that person has (1) been convicted of at least two traffic misdemeanors, (2) had at least two traffic judgments entered against the person, or (3) been convicted of at least one traffic misdemeanor and has had at least one traffic judgment entered against the person. In addition, a court may independently order a person to attend a defensive driving school program.<sup>68</sup> The BMV may suspend the driving privileges of any person who fails to either attend or satisfactorily complete a driver safety program.<sup>69</sup>

<sup>64</sup> Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105 (codified at 42 U.S.C. § 666(a)(16)).

<sup>65</sup> Ind. Code §§ 9-30-13-7, 31-25-4-32. Before a driver's license is reinstated, most states will also check the National Driver Registry to ensure the noncustodial parent does not have a suspended or revoked license in another jurisdiction. Carmen Solomon-Fears, Cong. Research Serv., RL41762, Child Support Enforcement and Driver's License Suspension Policies 9 (2011), available at [http://greenbook.waysandmeans.house.gov/sites/greenbook.waysandmeans.house.gov/files/2012/documents/R41762\\_gb.pdf](http://greenbook.waysandmeans.house.gov/sites/greenbook.waysandmeans.house.gov/files/2012/documents/R41762_gb.pdf).

<sup>66</sup> Best Practices Guide, *supra*, at 62.

<sup>67</sup> Rebecca Green, *Prosecutor Offers Driver's License Amnesty Day*, J. Gazette (June 8, 2015), <http://www.journalgazette.net/news/local/courts/Prosecutor-offers-driver-s-license-amnesty-day-7092390>.

<sup>68</sup> Ind. Code §§ 9-30-3-12; 9-30-3-16.

<sup>69</sup> Ind. Code § 9-30-3-12(c).

## 1.2.5. Controlled Substance Offenses

In 1990, Congress passed legislation requiring states, under penalty of losing a portion of federal highway funds, to suspend the driver’s licenses of persons convicted of drug offenses.<sup>70</sup> That same year, Indiana took steps to comply with this measure.<sup>71</sup> Under the present law, if a person is convicted of a drug-related offense “and the court finds that a motor vehicle was used in the commission of the offense,” the court may order the suspension of that person’s driving privileges by the BMV for a period of “not more than two (2) years.”<sup>72</sup>

## 1.2.6. Other Reasons

Other reasons for driver’s license suspensions include making payment to the BMV with dishonored funds; truancy, suspension, and expulsion for students under 18 years of age; graffiti; juvenile delinquency; and fuel theft convictions. The table presented on the following page provides a comprehensive list of non-moving violations for which a driver’s license may be suspended, cross-referenced with their respective statutory provisions and periods of suspension.

**Table 7. Driver’s License Suspensions for Non-Moving Violations**

Non-Moving Violation	Statutory Provision	Period of Suspension
Failure to show proof of insurance	Ind. Code § 9-25-6-3	Between 90 days and 1 year
Failure to appear in court or pay traffic offenses	Ind. Code §§ 9-30-3-8, 34-28-5-6	Indefinite (when DF appears in court and case has been disposed, or date on which court receives payment)
Failure to pay 3 accrued parking violations within 30 days of notice	Ind. Code §§ 9-30-11-3, 6	Indefinite (when court furnishes proof of payments for all judgments, and the motorist pays reinstatement fees of an unspecified amount)
Payment to BMV with dishonored check	Ind. Code § 9-30-12-1	Indefinite (when original amount, along with service, collection, and reinstatement fees of unspecified amounts, are paid in full)

<sup>70</sup> 23 U.S.C.A. § 159.

<sup>71</sup> 1990 Ind. Acts 1555, § 13 (codified as amended at Ind. Code § 35-48-4-15).

<sup>72</sup> Ind. Code § 35-48-4-15.



Non-Moving Violation	Statutory Provision	Period of Suspension
Failure to pay child support	Ind. Code §§ 9-30-13-7, 31-25-4-32	Indefinite (when child support arrearage is paid in full, or when payment plan is established)
Failure to attend or satisfactorily complete driver safety improvement course	Ind. Code §§ 9-30-3-12, 9-30-3-16	30 days
Truancy; suspension, or expulsion from school	Ind. Code §§ 9-24-2-1, 9-24-2-4	120 days, or upon turning 18 years of age
Graffiti	Ind. Code § 35-43-1-2	Up to 1 year
Juvenile delinquency (including running away; habitual disobedience of parents; curfew, alcohol, or fireworks violations; and any other act that would be a criminal offense if committed by an adult)	Ind. Code §§ 31-37-1, 31-37-2, 31-37-19-4	Between 90 days and 1 year
Attempted purchase of alcohol by minor	Ind. Code § 7.1-5-7-5.1	Up to 1 year
Controlled substance violations	Ind. Code §§ 9-24-2-2 (minors), 35-48-4-15 (adults)	Up to 2 years
Fuel theft convictions	Ind. Code § 9-30-13-8	30 days

### 1.2.7. Penalties for Driving While Suspended

A motorist caught driving with a suspended license (including for reasons listed above) commits a Class A infraction. If that person’s suspension or revocation was the result of a criminal conviction, the penalty becomes a Class A misdemeanor.<sup>73</sup>

In addition, the BMV assesses a point value for driving-while-suspended violations, which may lead to extended periods of suspension (see chart below) and even jail time. In a 2014 interview with the *Washington Post*, the executive director of Indiana’s Public Defender Council

<sup>73</sup> Ind. Code §§ 9-24-19-1, 9-24-19-3.

reported that “200 people whose most serious offense is repeated driving without a license” are incarcerated in State prisons.<sup>74</sup>

**Table 8. Penalties for Driving While Suspended**

Statutory Provision	Violation Description	Point Value
Ind. Code § 9-24-18-5	Driving while license is suspended or revoked	8 + MS
Ind. Code §§ 9-25-4-1, 9-25-8-5	Suspension of license and registration for violation of financial responsibility requirements	2 + MS
Ind. Code § 9-30-4-8	Operating a vehicle with suspended registration; violation of conditions of restricted license	8

“MS” means mandatory suspension for a period of up to 1 year or as provided by statute or court order.

**Table 9. Point Values for Driving-While-Suspended Violations**

Total Points (Within 24-Month Period)	Corresponding Penalty
18	12 month probation
20	1 month suspension and 11 months probation
22	2 months suspension and 10 months probation
24	3 months suspension and 9 months probation
26	4 months suspension and 8 months probation
28	5 months suspension and 7 months probation
30	6 months suspension and 6 months probation
32	7 months suspension and 5 months probation
34	8 months suspension and 4 months probation
36	9 months suspension and 3 months probation

<sup>74</sup> Tina Griego, *States Are Taking Away Your Driver’s License in the Name of ‘Social Engineering,’* Wash. Post (Oct. 22, 2014), <https://www.washingtonpost.com/news/storyline/wp/2014/10/22/4935>. In this context, see *Frink v. State*, 568 N.E.2d 535 (Ind. 1991) (holding that a driver could not be convicted of driving with a suspended license where the automatic period of suspension had expired, even though his license had not been reinstated by payment of the reinstatement fee).

Total Points (Within 24-Month Period)	Corresponding Penalty
38	10 months suspension and 2 months probation
40	11 months suspension and 1 months probation
42+	12 months suspension

### 1.3. Recent Legislative Amendments and Proposals

On March 27, 2014, Governor Pence signed into law House Bill 1279. The legislation, which took effect on January 1, 2015, created a “specialized driving privilege” program and eliminated certain mandatory license suspensions for non-traffic offenses.<sup>75</sup> In addition to helping some of Indiana’s “more than 420,000” suspended motorists get back behind the wheel, the measure sought to alleviate the state’s congested court dockets.<sup>76</sup> The following chart summarizes the various changes under the law.

**Table 10. Changes Under H.B. 1279 (2014)**

Non-Moving Violation	Description of Changes	Statute(s) Affected
Attempted purchase of alcohol by minor	Amendment to remove a mandatory driver’s license suspension for minors convicted of attempting to purchase an alcoholic beverage	Ind. Code § 7.1-5-7-1.
Attempted purchase of alcohol by minor using another’s driver’s license	Repealed provisions of the law which had allowed the BMV to suspend the driver’s license of a minor found to have used the driver’s license of another in an attempt to purchase alcohol	Ind. Code § 9-24-18-8
Possession, consumption, or transportation of alcohol by minor	Amendment to remove driver’s license suspension for minors convicted of possessing, consuming, or transporting an alcoholic beverage.	Ind. Code §§ 7.1-5-7-7 and 9-24-18-12
Counterfeiting of title or registration	Repealed provisions of the law which had allowed the BMV to suspend the driver’s license of a person who counterfeits a certificate of title or registration for a motor vehicle.	Ind. Code §§ 9-17-2-16 and 9-18-2-42
Minor found patronizing a tavern	Amendment to remove mandatory driver’s license suspension for minors convicted of patronizing a tavern.	Ind. Code § 7.1-5-7-10

<sup>75</sup> H.R. 1279, 118th Gen. Assemb., 2d Reg. Sess. (Ind. 2014) (enacted).

<sup>76</sup> Haeberle, *Change in Law Could Restore Suspended Drivers’ Privileges*, *supra*.

Non-Moving Violation	Description of Changes	Statute(s) Affected
Truancy; suspension, or expulsion from school	Amendment to allow a minor whose driver's license has been suspended for school suspensions, expulsion, or truancy to apply for "specialized driving privileges" under Ind. Code § 9-30-16.	Ind. Code § 9-24-2-4
Restricted driver's license	Repealed provisions of the law which provided for the issuance of a restricted driver's license because of hardship.	Ind. Code § 9-24-15
Driver's license suspensions pursuant to court order	Added a new code section providing that "[i]f a court orders the suspension of a person's driving privileges, the bureau shall suspend the person's driving privileges in accordance with the court order, even if the court's order conflicts with a previous bureau action."	Ind. Code § 9-25-6-0.5
Violating terms of probation	Repealed provisions of the law which had required the BMV to suspend a person's driver's license for violating the terms of his or her probation.	Ind. Code § 9-30-10-12
Failure to pay child support	Amendment to allow a parent delinquent in paying child support to apply for "specialized driving privileges" under Ind. Code § 9-30-16.	Ind. Code § 9-30-13-7
Fuel theft	Amendment to allow a person whose driver's license has been suspended for fuel theft to apply for "specialized driving privileges" under Ind. Code § 9-30-16.	Ind. Code § 9-30-13-8
Juvenile delinquency	Amendment to allow a minor whose driver's license has been suspended for a delinquent act to apply for "specialized driving privileges" under Ind. Code § 9-30-16.	Ind. Code § 31-37-19-17.3
Delinquency in paying probation or pre-trial services fees	Amendment prohibiting courts from barring reinstatement of a driver's license for persons delinquent in paying probation fees or pre-trial services fees.	Ind. Code §§ 31-40-2-1.7 and 35-33-8-3.3
Controlled substance violations	Amendment allowing (rather than mandating) courts to suspend the driver's license of a person convicted of certain drug offenses involving the use of a motor vehicle.	Ind. Code § 35-48-4-15

While giving judges greater discretion than before in granting driving privileges, the law does not end completely the use of license suspensions as a tool to punish individuals for non-driving-related reasons. More importantly, so long as the State continues to rely on license

suspensions as a source of revenue—a policy made especially prominent with the recent increase in reinstatement fees—there seems to be little opportunity for meaningful reform.

On January 5, 2016, state legislators introduced House Bill 1087.<sup>77</sup> The BMV omnibus bill, which affects numerous provisions throughout the Indiana Code, preserves the status quo for both for driver’s license suspensions and reinstatement fees.<sup>78</sup>

## 1.4. Existing Remedies

### 1.4.1. Indiana’s “Specialized Driving Privilege” Program

Perhaps the most extensive change resulting from House Bill 1279 involved the creation of a “specialized driving privilege” program. Under this provision, a court that orders a suspension of driving privileges for persons convicted of a criminal offense involving a motor vehicle may stay the suspension for a term of no less than 180 days.<sup>79</sup> In addition, a person whose driving privileges have been suspended by an administrative action of the BMV may petition a court for a specialized driving privilege.<sup>80</sup> A court may restrict a person’s driving privileges (1) to certain hours of the day or specific locations in relation to the person’s residence, or (2) by requiring the use of certified ignition interlock devices.<sup>81</sup>

The specialized driving privilege is not available to persons who (1) have never been an Indiana resident, (2) refused to submit to a chemical test either while operating a motor vehicle or in accidents involving serious injury or death, (3) have been sentenced for causing death as a result of operating a motor vehicle, or (4) have more than one conviction for violating certain conditions imposed by the issuance of a previous specialized driving privilege.<sup>82</sup> In addition, a person granted specialized driving privileges may not, for the duration of the stayed suspension, operate any vehicle that requires a commercial driver’s license.<sup>83</sup>

While the program, which offers flexible arrangements by way of judicial discretion, is certainly a step in the right direction, its success ultimately depends on the number of participating eligible drivers. The absence of current data, however, prevents analysis of the program’s

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<sup>77</sup> H.R. 1087, 119th Gen. Assemb., 2d Reg. Sess. (Ind. 2016).

<sup>78</sup> See, e.g., *id.* §§ 403 (graffiti; delinquent acts); 406 (truancy, suspension, or expulsion); 522 (mandatory, rather than discretionary, suspension for failure to provide proof of financial responsibility more than once during a 3-year period); 523 (reinstatement fees); and 574 (failure to attend driver safety program).

<sup>79</sup> Ind. Code § 9-30-16-3.

<sup>80</sup> Ind. Code § 9-30-16-4.

<sup>81</sup> Ind. Code § 9-30-16-3.

<sup>82</sup> Ind. Code § 9-30-16-1.

<sup>83</sup> Ind. Code § 9-30-16-3.

effectiveness to date. The extent of public knowledge of the program is likewise indeterminable, although there is little to suggest its promotion by either the courts or the BMV.<sup>84</sup>

## 1.4.2. Fee Waivers and Installment Plans

In paying court costs and additional fees, an offender, if “determined by the court . . . to be indigent,” may be exempt from late payment fees.<sup>85</sup> A court may also suspend this fee if it “finds that the defendant has demonstrated good cause for failure to make a timely payment of court costs, a fine, or a civil penalty.”<sup>86</sup> Code provisions further authorize courts to suspend half of court costs and fees for those who complete driver safety programs.<sup>87</sup>

Indiana law permits a court, upon its own motion or upon a petition filed by an individual, to waive a driver’s license reinstatement fee. The court must determine that (1) the individual (a) is indigent, and (b) has presented proof of future financial responsibility; and (2) that the waiver is appropriate in light of the individual’s character and the nature and circumstances surrounding the license suspension.<sup>88</sup> Alternatively, an individual, who offers proof of financial responsibility for at least three years following reinstatement, may apply to the trial court for the privilege of paying the judgment in fixed installments. The court, in its discretion, may grant the order.<sup>89</sup>

Despite these provisions, they remain effectively out of reach for many low-income offenders. First, there is little evidence to suggest that the courts or the BMV publicize either option.<sup>90</sup> And

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<sup>84</sup> A search of state and local government websites revealed next to nothing related to the program (the majority of search results led to the websites of private attorneys). The BMV, in its inconspicuously-posted driver’s manual (unavailable directly from the agency’s homepage) provides only cursory information on requirements under the program. *Points, Suspension and Insurance Requirements*, in Ind. Bureau of Motor Vehicles, *Driver’s Manual* 34, 38 (2015), available at [http://www.in.gov/bmv/files/Drivers\\_Manual\\_Chapter\\_3.pdf](http://www.in.gov/bmv/files/Drivers_Manual_Chapter_3.pdf). There is no information related to the program available on the agency’s “Suspension and Reinstatement” webpage. See *Suspension and Reinstatement*, Ind. Bureau of Motor Vehicles, <http://www.in.gov/bmv/2330.htm> (last visited Jan. 20, 2016).

<sup>85</sup> Ind. Code § 33-37-5-22(a)(3).

<sup>86</sup> Ind. Code § 33-37-5-22(d).

<sup>87</sup> Ind. Code § 9-30-3-12(d).

<sup>88</sup> Ind. Code §§ 9-29-10-2, 9-29-10-3.

<sup>89</sup> Ind. Code § 9-25-6-6.

<sup>90</sup> For its part, the BMV simply notes that “[a]ll insurance reinstatement fees must be paid in full.” *Reinstating Your Driving Privileges*, Ind. Bureau of Motor Vehicles, <http://www.in.gov/bmv/2845.htm> (last visited Jan. 20, 2016). The agency’s website requires those with “a court ordered, indefinite suspension” to “contact the court that has suspended [the driver] to determine who [sic] to satisfy their requirements.” *Id.*

in Marion County, payment plans are simply unavailable.<sup>91</sup> Second, for those with knowledge of these remedies but unable to afford an attorney or secure pro bono legal counsel, the complexities of navigating the court system present significant hurdles. Indiana Legal Services, the Indianapolis Bar Association, and other organizations provide useful “self-help” guides,<sup>92</sup> but lacking proficiency in procedural rules, pro se litigants may find themselves overwhelmed.

## 2. The Impact of License Suspensions on the Economy, Government, and Public Safety

Besides the cost to the individual, driver’s license suspensions have a significant impact on the community and local economy, government resources, and public safety. This section considers these effects greater detail.

### 2.1. Impact on Workers and Employers

Car ownership for low-wage workers not only provides significant benefits for individuals and families, but also plays a critical role in a strong economy. Numerous studies have shown a positive correlation between car ownership, job security, and higher earnings.<sup>93</sup> As one study reported, “[c]ars ensure that more people can fully contribute to the local economy because vehicle ownership increases employment opportunities, hours worked, and wages earned.”<sup>94</sup>

For employers, current State policies are counterproductive: there is a cost to hiring and re-training a new person each time an employee loses his or her job from lack of transportation. This becomes an unnecessary expense for the state as well: payment of unemployment insurance to a former employee who would otherwise have remained on the job.

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<sup>91</sup> On its website, the Marion County Superior Court Traffic Division provides no information on alternative payment options; rather, it clearly states (in bright red text) that “[f]ull payment [is] required.” City of Indpls, Marion County Superior Court Traffic Division, *Traffic Ticket Payment Options*, <http://www.indy.gov/eGov/Courts/Superior/CourtInfo/Pages/Traffic-Tickets-Payment-Options-and-Responses.aspx> (last visited Nov. 28, 2015); City of Indpls, Marion County Clerk, *Traffic Ticket Payment Center: FAQ* (noting that the “Traffic Court does not offer payment plans”), <https://www.biz.indygov.org/pdfs/TrafficTicketFAQs.pdf> (last visited Nov. 28, 2015).

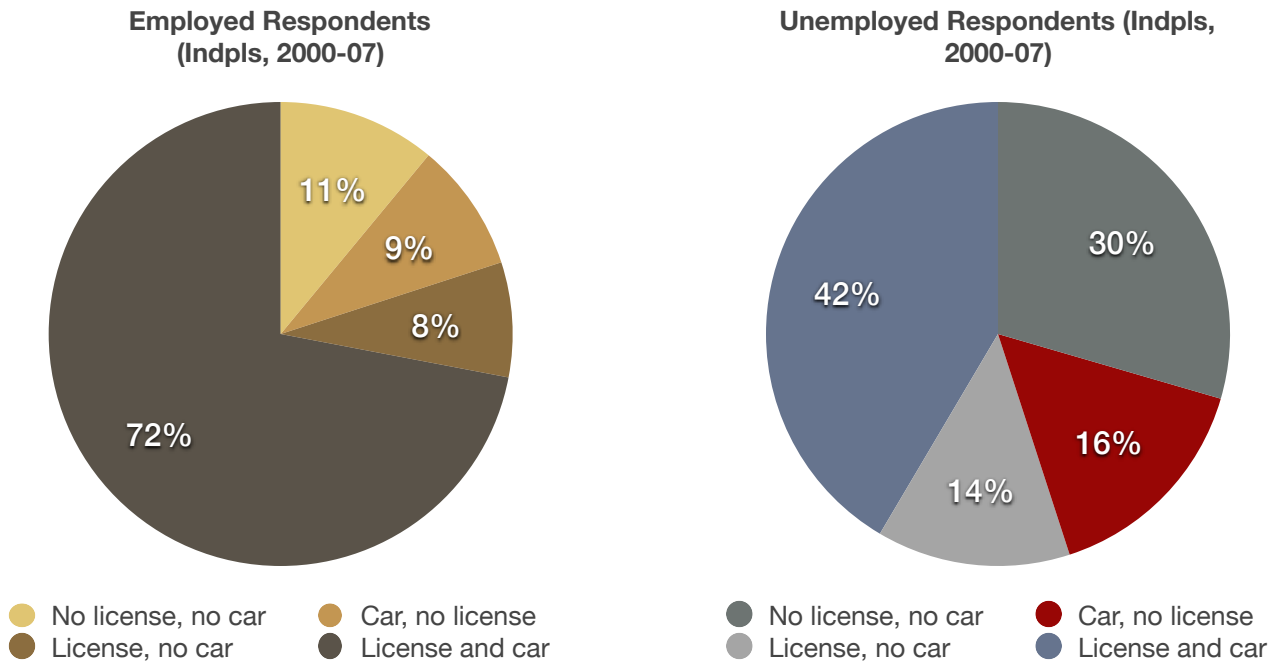
<sup>92</sup> *My Driver’s License is Suspended . . . What Can I Do?*, Ind. Legal Services, <http://www.indianalegalservices.org/node/157/my-drivers-license-suspended-what-can-i-do> (last updated Oct. 2015); *Reinstatement Fee Waiver: Things You Need to Do*, Indpls Bar Ass’n, [http://www.indybar.org/\\_files/reinstatement%20fee%20waivers.pdf](http://www.indybar.org/_files/reinstatement%20fee%20waivers.pdf).

<sup>93</sup> See, e.g., Steven Raphael & Lorien Rice, *Car Ownership, Employment, and Earnings*, 52 J. Urb. Econ. 109 (2002); Tami Gurley & Donald Bruce, *The Effects of Car Access on Employment Outcomes for Welfare Recipients*, 58 J. Urb. Econ. 250 (2005).

<sup>94</sup> *Access to Driving*, The Mobility Agenda, <http://www.mobilityagenda.org/home/page/Access-to-Driving.aspx> (last visited Nov. 9, 2015); see also Griego, *States Are Taking Away Your Driver’s License*, *supra*; and Gustitus, Simmons & Waller, *supra*.

### 2.1.1. Lack of Access to Reliable Alternative Forms of Transportation

Driver’s license suspensions and enhanced reinstatement fees diminish job opportunities for many people, especially where there is insufficient or unreliable alternative forms of transportation. Central Indiana in particular provides an extremely low level of mobility for those without regular access to a car. Between 2000 and 2007, *The Mobility Agenda*, a nonprofit policy research group focused on community economic growth, conducted surveys across ten U.S. cities, including Indianapolis, collecting data on car ownership, license holding, and employment.<sup>95</sup> The results of the survey, illustrated in the charts below, indicate a strong correlation between these data. In Indianapolis, while approximately 81% of employed respondents have a car, only 57% of unemployed respondents have one.<sup>96</sup>



In major metropolitan areas such as Chicago, New York, or Washington, D.C., a person with a suspended license could reasonably rely on public transportation for commuting to work. For many Hoosiers, however, mass transit rarely affords such an opportunity. A 2010 report from the Central Indiana Transit Task Force observes that “the current public transportation system

<sup>95</sup> Margy Waller, *The Mobility Agenda, Making Connections: Indianapolis* (2015), available at <http://www.mobilityagenda.org/MakingConnectionsIndianapolis.pdf?attredirects=0>.

<sup>96</sup> *Id.*



is inadequate for the community's transportation needs. For those without regular access to a car, access to jobs, medical care, and leisure are incomplete, inefficient and inconvenient."<sup>97</sup>

IndyGo, the city's bus system, runs infrequently, often requiring passengers to wait 30 minutes or longer between pickups.<sup>98</sup> According to a 2009 study conducted by IndyGo and the Indianapolis Metropolitan Planning Organization, a majority of passengers use multiple buses to complete a one-way trip; only 38% have a "one-seat" ride while nearly half use two.<sup>99</sup> Transfers mean the possibility of multiple 30-minute waits for a trip to work and back. A more recent study conducted by IndyGo indicated that its buses were late in arriving at their destination nearly a quarter of the time.<sup>100</sup>

## 2.1.2. Lack of Access to Jobs: The Challenge of "Spatial Mismatch"

Changes in the commercial and residential landscape in the last century dramatically altered the transportation needs of American workers. By the 1950s, suburbanization had separated many workers from employment opportunities by distance and travel time.<sup>101</sup> Changing economic conditions during the late 1990s and early 2000s resulted in increased decentralization of employment throughout the United States. A 2009 study of the spatial location of private-sector jobs in 98 of the country's largest metropolitan areas by employment revealed that an average of only 21% of employees work within three miles of downtown while more than double that share, 45%, work more than 10 miles away from the city center.<sup>102</sup> This resulted from an increasing shift in jobs in nearly every major industry away from the city center in recent years.<sup>103</sup> Between 1998 and 2006, the City of Indianapolis, for example (which exceeded the national average in employment decentralization), the share of jobs within three miles of the urban core dropped by 3% (from 24% to 21%); the share of jobs between three

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<sup>97</sup> Central Ind. Transit Task Force, Summary Report on Transportation Alternatives in Central Indiana 3 (2010) [hereinafter CITTF Report], available at <http://www.indyconnect.org/UserFiles/docs/CentrallIndianaTransitTaskForceReport.pdf>. See also IWF Report, *supra*, at 45 (indicating that "[n]o counties in Indiana had rates of public transportation use among work commuters that meet" the threshold percentage of the working population to be considered adequate).

<sup>98</sup> *Id.*

<sup>99</sup> Indpls Metro. Planning Org. & IndyGo, On-Board Passenger Travel Survey 38 (2009), available at [http://www.indympo.org/Data/SurveyData/Documents/On-Board\\_Survey\\_Final\\_Report\\_4.8.10.pdf](http://www.indympo.org/Data/SurveyData/Documents/On-Board_Survey_Final_Report_4.8.10.pdf).

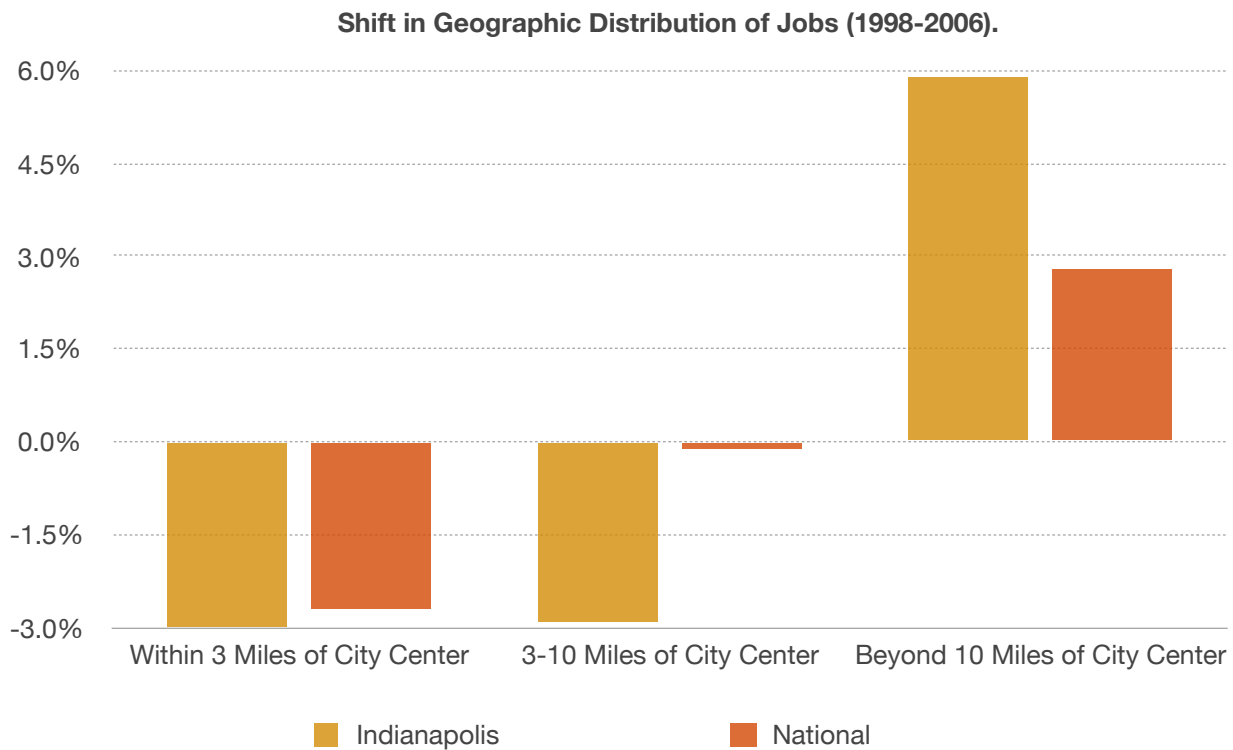
<sup>100</sup> IndyGo, Indpls Pub. Transportation Corp., Title VI Program 12 (2014), available at [http://www.indygo.net/wp-content/uploads/2015/01/IndyGo\\_Title\\_VI\\_Program\\_2014-01-10\\_Clean\\_Version\\_reduced.pdf](http://www.indygo.net/wp-content/uploads/2015/01/IndyGo_Title_VI_Program_2014-01-10_Clean_Version_reduced.pdf).

<sup>101</sup> Gustitus, Simmons & Waller, *supra*, at 4.

<sup>102</sup> Elizabeth Kneebone, Job Sprawl Revisited: The Changing Geography of Metropolitan Employment 1 (2009), available at <http://www.brookings.edu/research/reports/2009/04/06-job-sprawl-kneebone>.

<sup>103</sup> *Id.*

and ten miles fell by 2.9% (48.3% to 45.4%); and the share of jobs beyond ten miles grew by 5.9% (27.8% to 33.6%).<sup>104</sup>



This “spatial mismatch” has had a disproportionate effect on low-income populations concentrated in inner cities and rural areas with little access to jobs.<sup>105</sup> Again, in central Indiana, mass transit provides few options for workers commuting from urban centers to the surrounding suburbs, where a growing number of jobs are available.<sup>106</sup> In fact, IndyGo is limited to the borders of Marion County, providing no connectivity for commuters traveling to and from jobs and other activities that lie beyond the County.<sup>107</sup>

<sup>104</sup> *Id.* at 18. The national average stood at -2.7%, -0.1%, and +2.8% respectively. *Id.* at 17-19.

<sup>105</sup> Waller, *High Cost*, *supra*, at 5; Castile, *Driver’s License*, *supra*, at 120.

<sup>106</sup> See Lindsey Erdody, *Retailers, Restaurants Struggle to Find Staff in North ‘Burbs*, *Indpls Business J.* (Nov. 7, 2015) (pointing to “Hamilton County’s extremely low unemployment rate, lack of public transportation and general economic growth” as factors contributing to the low number of job applicants despite the growing need for their services. Notably, the president of Carmel’s Chamber of Commerce stated that “We’re presuming that anyone who wants to work for us must drive a car to get there.”), <http://www.ibj.com/articles/55686-retail-restaurants-struggle-to-find-staff-in-northern-suburbs>.

<sup>107</sup> CITTF Report, *supra*, at 8. See also Erdody, *Retailers*, *supra* (noting that one employer “recently hired an employee who takes a bus to 96th and Meridian streets, then rides a bike three miles north”).

### 2.1.3. Welfare to Work: The Barrier to Economic Self-Sufficiency

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 marked a major shift in national welfare policy.<sup>108</sup> The measure—which created the Temporary Assistance for Needy Families (TANF) program and vests key decisional authority in the states—replaced the existing entitlement scheme for low-income families with one that includes work requirements and time limits on assistance. With the increasing suburbanization of jobs, welfare recipients—a majority of whom, as indicated above, live in either central cities or rural areas—face significant barriers in making the transition from welfare to work.<sup>109</sup> Driver’s license suspensions for non-highway safety reasons, combined with exorbitant reinstatement fees, exacerbate these barriers. In addition, this directly undermines the state policy of ensuring that welfare recipients achieve economic self-sufficiency.<sup>110</sup>

## 2.2. Impact on State Government

### 2.2.1. Costs to Law Enforcement and the BMV

Police officers spend countless hours citing, arresting, and processing persons found driving on suspended licenses. This not only imposes a significant strain on law enforcement budgets and other resources, but also detracts from highway and public safety priorities.<sup>111</sup> A 2013 study conducted by the American Association of Motor Vehicle Administrators raises these very concerns:

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<sup>108</sup> Pub. L. No. 104-193, 110 Stat. 2105.

<sup>109</sup> U.S. Gov’t Accountability Off., *Welfare Reform: Transportation’s Role in Moving From Welfare to Work 1* (1998), available at <http://www.gao.gov/assets/230/225766.pdf>. See also Gurley & Bruce, *Effects of Car Access*, *supra* at 250.

<sup>110</sup> Indiana Manpower and Comprehensive Training (IMPACT), a component of the state’s Welfare-to-Work program, “seeks to address a broad range of barriers that may inhibit individuals from seeking and maintaining employment.” Ind. Family & Soc. Serv. Admin., IMPACT (Job Training) (last visited Nov. 23, 2015), <http://www.in.gov/fssa/dfr/2682.htm>; see also, Ind. Family & Soc. Serv. Admin., State Plan: Temporary Assistance for Needy Families (TANF) Block Grant 7 (2014), available at [http://www.in.gov/fssa/files/Indiana\\_TANF\\_State\\_Plan\\_eff\\_Jan\\_2014.pdf](http://www.in.gov/fssa/files/Indiana_TANF_State_Plan_eff_Jan_2014.pdf).

<sup>111</sup> AAMVA Report, *supra*, at 23-24; Best Practices Guide, *supra*, at 2. There is a common assumption among motor vehicle agencies, law enforcement, and others that suspended motorists who continue driving pose significant traffic safety risks. For example, a 2014 investigative report by News Channel 13 referred to (without citing) a “recent study” showing “suspended drivers are almost four times as likely to be involved in a fatal crash.” Cat Anderson, *More Indiana Drivers Are Suspended, Uninsured*, WTHR News (Feb. 25, 2014), <http://www.wthr.com/story/11480121/more-indiana-drivers-are-suspended-uninsured>. The report is misleading, however, in that it fails to distinguish between motorists suspended for driving reasons and those suspended for non-driving reasons. In a recent study, the National Highway Traffic Safety Administration reported that, nationally, “[l]ess than 1 percent (0.09%) of drivers suspended for non-driving reasons . . . are involved in a crash while their driver’s license is suspended.” AAMVA Report, *supra*, at iv. Comparatively, “over 3 percent (3.4%) of drivers suspended for driving reasons . . . are involved in a crash while their driver’s license is suspended.” *Id.*

The fact that a driver may be suspended for a non-highway safety related violation makes no difference in the action taken by the officer. When a law enforcement officer encounters a suspended driver, their ability to help ensure the safety of drivers on the roadways and their availability to respond to calls for service are reduced. The officer must take appropriate action for the violation and later appear in court for adjudication of the ticket(s). While the officer is in court, there may be little or no enforcement presence in their patrol area. Officers are made unavailable for 911 responses, crash investigation, criminal interdiction, and other enforcement activities, potentially increasing the threat to public safety.<sup>112</sup>

The BMV itself faces similar burdens. The agency invests significant time and resources in processing non-highway safety violations. Administrative tasks, to name a few, include document analysis and data entry; issuance of suspensions, probationary licenses, and reinstatements; responses to subpoenas; and preparation of mail verifications—all of which detracts from (what should be) the BMV's core mission of ensuring public safety by removing dangerous drivers from the road.<sup>113</sup>

### **2.2.2. Costs to the Court System**

Traffic violations represent the largest number of charges prosecuted in courts throughout Indiana. According to the National Center for State Courts, Court Statistics Project, there were 699,983 incoming traffic cases reported by Indiana courts in 2013.<sup>114</sup> The table on the following page displays Indiana's statewide incoming caseload for each of the five major categories of cases decided from 2012 to 2013.

Cases involving adjudication of license suspensions for non-driving violations only add to congested court dockets.<sup>115</sup> This problem is made worse by the fact that, despite the sanctions imposed, many people continue driving with suspended licenses. As the Franklin City Court clerk noted in a 2014 interview, "[o]ver 50 percent of the docket is driving while suspended. More people are getting arrested. I think more people are taking chances and just driving trying to get around."<sup>116</sup>

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<sup>112</sup> Best Practices Guide, *supra*, at 13.

<sup>113</sup> *Id.*

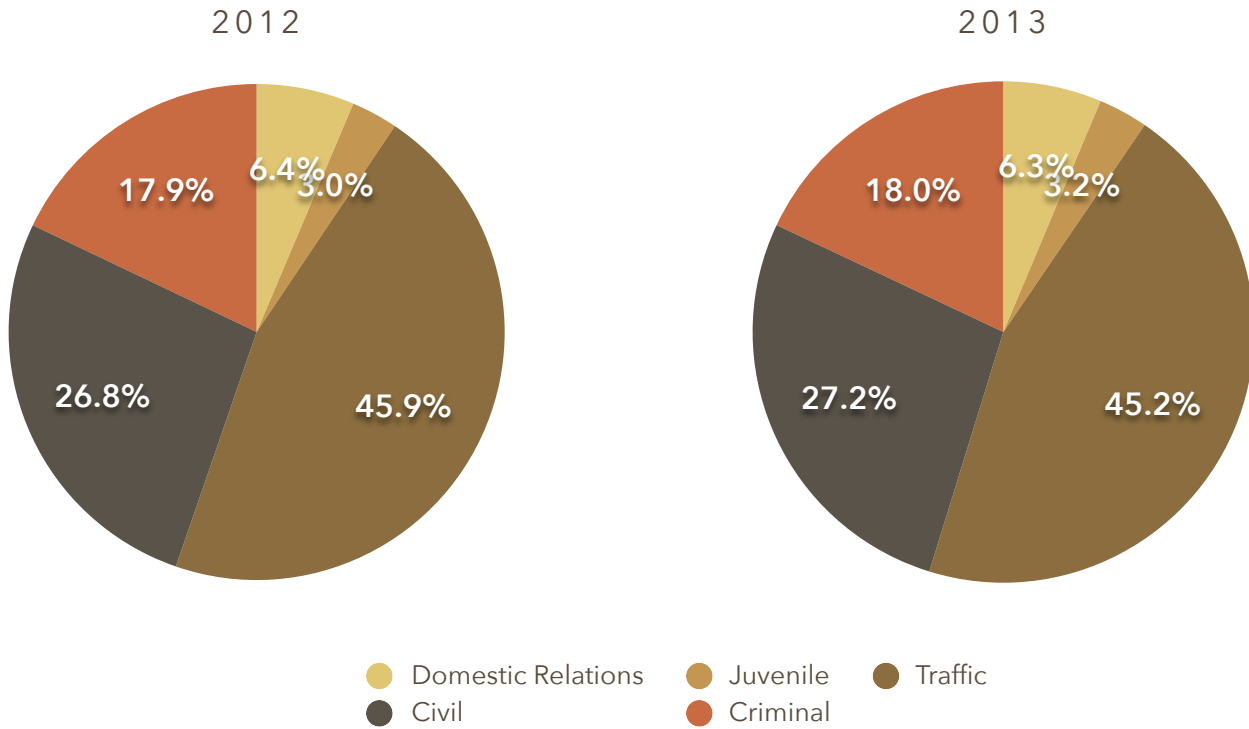
<sup>114</sup> *Trial Court Caseloads, 2013 Overview: Indiana*, Nat'l Ctr. for State Courts, Court Statistics Project, <http://www.ncsc.org>.

<sup>115</sup> Best Practices Guide, *supra*, at 13.

<sup>116</sup> Anderson, *More Indiana Drivers Are Suspended, Uninsured*, *supra*.

# INDIANA COURTS CASELOAD SUMMARY

A caseload is the sum of all incoming cases reported by the state, and comprise newly filed, reopened, and reactivated cases. **Source:** National Center for State Courts, Court Statistics Project.



## CASELOAD BY CATEGORY

Category	2012	2013
Domestic Relations	106,358	98,179
Juvenile	50,687	49,368
Traffic	765,765	699,983
Civil	447,351	421,456
Criminal	299,134	278,359
<b>Total</b>	<b>1,669,295</b>	<b>1,547,345</b>

## 3. Recommendations

As a matter of public policy, state motor vehicle laws should be limited to (1) establishing standards for driving competency, (2) ensuring public safety by removing dangerous drivers from the road, and (3) penalizing those found guilty of reckless or negligent driving. To that end, Indiana should, to the greatest extent possible, discontinue the use of license suspensions as a revenue-generating measure and tool for punishing behavior unrelated to driver safety.

Indiana drivers should still be held accountable for violating traffic laws. However, certain measures may help lessen the economic burden on the state's most financially vulnerable residents while increasing their mobility and access to jobs. The following recommendations include specific policies or programs instituted in other states to serve as illustrative examples. For further guidance, the **appendix** contains several pieces of model legislation.

### 3.1. Build Public Support for Policy Reform

As a preliminary matter, it is critical to develop public understanding and support for policies that recognize the importance of access to driving. Absent an effective communication strategy, the public may prove resistant, claiming that certain policy solutions amount to government “handouts,” a “get out of jail free card” for lawbreakers, or an improper use of tax dollars.<sup>117</sup>

### 3.2. End the Use of License Suspensions as Tool for Revenue Collection

Indiana should end the use of license suspensions as a collection tool for citation-related debt, allowing more people to work and pay their financial obligations. Suspensions should only be used as a means of keeping unsafe drivers off the road. Additionally, Indiana courts must ensure that access to the courts do not depend on income; individuals should not have to pay up front to get a hearing, pay additional surcharges in settling their debt, or face the possibility of private debt collection.

### 3.3. End the Use of License Suspensions for Non-Driving Related Offenses

#### 3.3.1. Generally

Driver's license suspensions should penalize drivers for highway safety-related offenses only. Suspensions for offenses unrelated to driver safety—such as for delinquency in child support payments or controlled substance violations—impose additional economic hardships on offender's and unduly burden the courts, the BMV, and the criminal justice system. To minimize

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<sup>117</sup> Gustitus, Simmons & Waller, *supra*, at 14.

these burdens while maintaining driver accountability, Indiana should revise its current laws to more appropriately reflect standards of ensuring public safety by removing dangerous drivers from the road.

### 3.3.2. Child Support Arrearages

Child support suspensions should be used as a last resort when other enforcement tools fail to result in payment. Although federal law requires states to suspend the driver's licenses of those who fail to pay child support, the states can determine the criteria for such suspensions. In establishing payment plans, child support agencies in Indiana should consider various factors, including whether the suspension would impede access to work, impede the best interests of the child, or cause undue economic hardship.<sup>118</sup>

Policymakers may also consider offering an exemption, "amnesty," or extended grace period for those non-custodial parents who are unable to pay. For a period during 2015, the Huntington County Prosecuting Attorney's Office instituted an "amnesty" program for driver's suspended for failing to pay child support. Suspended drivers could reinstate their license if they made a "lump sum payment equivalent to one full month of current child support, plus the weekly amount the court has ordered to pay towards their arrearage." This amount was "in addition to their regular weekly payments."<sup>119</sup>

In the State of Washington, the DMV may not suspend the licenses of a non-custodial parent if, upon the parent's timely request for an adjudicatory hearing, an administrative law judge determines that the suspension unduly burdens the parent who has otherwise demonstrated a "good faith effort to comply" with the child support order. In making a determination, and in formulating a payment schedule, the judge considers "the responsible parent's payment history, ability to pay, and efforts to find and maintain gainful employment."<sup>120</sup>

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<sup>118</sup> If a non-custodial parent with a suspended license "proves to the satisfaction" of the child support agency that "public transportation is unavailable for travel" (1) to and from that parent's regular place of employment during working hours, (2) to and from his or her place of worship, or (3) to engage in court-ordered parenting time, "the Title IV-D agency may order the [BMV] to issue . . . a restricted driving permit." Ind. Code § 31-25-4-33(d). However, the parent only has 20 days from the date of suspension notice to contest the agency's determination and the "only basis for contesting an order issued under this section is a mistake of fact." Ind. Code § 31-25-4-33(b).

<sup>119</sup> *Prosecuting Attorney's Office Offers License Amnesty Program*, Huntington County TAB (Nov. 5, 2015), <http://www.huntingtoncountytat.com/community/35918/prosecuting-attorney%E2%80%99s-office-offers-license-amnesty-program>. The Allen County Prosecutor's Office offered a similar program for one day in June of 2015. Green, *supra*, *Prosecutor Offers Driver's License Amnesty Day*.

<sup>120</sup> Wash. Rev. Code § 74.20A.322.

### 3.3.3. Controlled Substance Violations

As noted above, federal law requires states to suspend or revoke the driver's licenses of anyone convicted of a drug offense. However, states can opt out of this requirement *without losing federal highway funds* by submitting (1) a certified statement by the Governor opposing enforcement of the law, and (2) a resolution by the state legislature expressing opposition to the law.<sup>121</sup> To date, 36 states have passed resolutions in opposition to the Act; two others appear slated to do the same.<sup>122</sup>

### 3.4. Allow for a Reinstatement Fee “Amnesty”

Between September 15 and November 16, 2015, Indiana's “Tax Amnesty” program gave individuals and businesses an opportunity to pay past-due base taxes free of penalty, interest, and collection fees. Tax liabilities, for approximately 40 different tax types for periods ending prior to January 1, 2013, were eligible to participate in the program. The Indiana Department of Revenue identified nearly \$545 million in outstanding liabilities as eligible for collection during the period. Of the outstanding taxes collected, portions were allocated to the Indiana Regional Cities Development Fund, the Indiana Department of Transportation, and the State general fund.<sup>123</sup>

A similar amnesty program should be implemented to reduce or eliminate driver's license reinstatement fees for those unable to afford them and who pay their base traffic citations. Current policies result in millions of uncollected debt. As noted above, the BMV in 2014 reported a total of \$131 million in unpaid license reinstatement fees.<sup>124</sup> By encouraging drivers to pay their parking tickets and other traffic infractions, the state may recoup a significant portion of these losses and get drivers back behind the wheel legally. The effectiveness of such a program depends on the extent of its publicity and a meaningful timeframe for suspended drivers to apply.

For a six-month period prior to the increase in reinstatement fees on January 1, 2015, individuals suspended for driving without insurance qualified for a significant reduction in these fees. A sunset provision under the current motor vehicles law, which expired on January 1, 2015, authorized the BMV to “negotiate, with an individual whose driver's license or driving

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<sup>121</sup> 23 CFR 192.4(c)(2).

<sup>122</sup> Maura Ewing, *Why Restoring Driving Rights to Former Inmates Matters*, Nat'l J. (Jan. 22, 2016) (discussing progress of bills in Massachusetts and Ohio), <http://www.nationaljournal.com/next-america/criminal-justice/massachusetts-will-restore-driving-rights-inmates>; see also Steven W. Tompkins, *Ending Driver's License Suspensions for Drug Offenders*, Commonwealth (Jan. 11, 2016), <http://commonwealthmagazine.org/criminal-justice/ending-drivers-license-suspension-for-drug-offenders>.

<sup>123</sup> *Tax Amnesty '15*, Ind. Dep't of Revenue, <http://www.in.gov/dor/amnesty> (last visited Jan. 20, 2016).

<sup>124</sup> Fiscal Impact Statement, *supra*, at 2.



privileges were suspended before July 1, 2014, a reinstatement fee that is lower than the reinstatement fee specified in subsection (a).<sup>125</sup> Policymakers should renew this section of the law, providing suspended motorists with a similar relief or “amnesty” period, on an annual basis, to either pay their reinstatement fees at a reduced rate or apply for a waiver.

Other states provide for similar measures. Recently-enacted legislation in Arkansas provides that between Jan. 1, 2016, and June 30, 2016, a person whose driving privileges are suspended or revoked, solely as a result of outstanding driver's license reinstatement fees, is eligible to pay a one-time driver's license reinstatement fee of \$100. The person must pay all costs associated with the suspension and successfully complete a specialty court program.<sup>126</sup>

In 2015, California passed a law implementing a one-time amnesty program from October 1, 2015 to March 31, 2017. Under the program, all infractions qualify for amnesty, including unpaid tickets and related “failure to appear” violations with an initial payment due date on or before January 1, 2013. Suspensions related to reckless driving or DUIs are not eligible. Qualified participants pay no civil assessments and their remaining balances are reduced by 50 to 80% depending on income or receipt of public benefits. The program requires payment of a \$55 driver's license reinstatement fee and permits courts, counties, and collection agencies to collect an additional \$50 amnesty program fee.<sup>127</sup>

### 3.5. Implement Practical Payment Plans

Monetary sanctions “often place a disproportionate burden on poor individuals who have fewer resources available to manage debt.”<sup>128</sup> Moreover, by neglecting to consider an offender's ability to pay, state and local governments—despite increasing reliance on fines and fees as sources of revenue—often face low rates of debt collection.<sup>129</sup>

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<sup>125</sup> Ind. Code 9-29-10-1(c). The fees listed under subsection (a) were those in effect prior to the increase on January 1, 2015.

<sup>126</sup> 2015 Ark. Acts 1193 (codified at Ark. Code § 27-16-508); *Arkansas House: New Laws Impact Taxes, Drivers Licenses, Abortions*, Magnolia Reporter (Dec. 6, 2015), [http://www.magnoliareporter.com/news\\_and\\_business/opinion/article\\_dde6ca0e-9b12-11e5-9090-b3ba5b19ab1b.html](http://www.magnoliareporter.com/news_and_business/opinion/article_dde6ca0e-9b12-11e5-9090-b3ba5b19ab1b.html).

<sup>127</sup> *Traffic Tickets / Infractions Amnesty Program*, Cal. Courts, <http://www.courts.ca.gov/trafficamnesty.htm> (last updated Dec. 14, 2015).

<sup>128</sup> CEA Brief, *supra*, at 3.

<sup>129</sup> *Id.* at 5 (pointing to studies in Florida and Maryland); see also Don K. Murphy, Inst. for Ct. Management, Nat'l Ctr. for State Courts, *Why Crime Doesn't Pay: Examining Felony Collections* (analyzing low rates of debt collection in Florida's criminal justice system), available at <http://www.ncsc.org/~media/Files/PDF/Education%20and%20Careers/CEDP%20Papers/2015/Why%20Crime%20Doesnt%20Pay-Examining%20Felony%20CollectionsMurphy.ashx>.

Provisions of the Indiana Code allow for, under specified circumstances and at a court's discretion, the payment of certain traffic judgments in fixed installments.<sup>130</sup> However, as noted above, there is little evidence that courts offer, let alone publicize, this option. To mitigate the financial burden on offenders, and to increase rates of collection, courts should implement practical payment plans for traffic infractions and publish information on these plans—both online and in print—to increase general public awareness.

West Virginia allows a court to “collect a portion of any costs, fines, fees, forfeitures, restitution or penalties at the time the amount is imposed by the court so long as the court requires the balance to be paid in accordance with a payment plan.”<sup>131</sup> The plan must specify (1) the total number of payments to be made, (2) the amounts due for each payment, and (3) the dates on which payments are due.<sup>132</sup> “The written agreement represents the minimum payments and the last date those payments may be made. The obligor . . . may accelerate the payment schedule at any time by paying any additional portion of any costs, fines, fees, forfeitures, restitution or penalties.”<sup>133</sup> If the obligor fails to pay within 180 days from the date of judgment, the Division of Motor Vehicles, upon notice from the court, will suspend the individual's driver's license “until all costs, fines, fees, forfeitures, restitution or penalties are paid in full.”<sup>134</sup> If, however, the suspension results from the inability to pay, the obligor may, “if he or she is employed on a full- or part-time basis, petition to the circuit court for an order authorizing him or her to operate a motor vehicle solely for employment purposes.”<sup>135</sup>

### 3.6. Implement Equitable Monetary Sanctions

State policymakers should also consider establishing sliding-scale, or income-based, payment plans for fines and fees related to traffic offenses. These “day fine” programs, as they are often referred to, consider the severity of the offense and the offender's ability to pay (rather than a fixed dollar amount, the fine is typically based on a percentage of the offender's daily income, hence the name).<sup>136</sup> Research indicates that such systems have the potential to “increase collection rates, as all defendants should be capable of paying proportional fines, [and] to increase total fine revenue collected.”<sup>137</sup>

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<sup>130</sup> Ind. Code §§ 9-25-6-6, 9-29-10-2, 9-29-10-3.

<sup>131</sup> W. Va. Code § 50-3-2a(b).

<sup>132</sup> *Id.*

<sup>133</sup> *Id.*

<sup>134</sup> W. Va. Code § 50-3-2a(c)(1).

<sup>135</sup> *Id.*

<sup>136</sup> Tina Rosenberg, *Instead of Jail, Court Fines Cut to Fit the Wallet*, N.Y. Times (Oct. 9, 2015), <http://opinionator.blogs.nytimes.com/2015/10/09/scaling-fines-to-what-offenders-can-pay>.

<sup>137</sup> CEA Brief, *supra*, at 5.

Long used by courts in Europe and Latin America, day fines are not a completely foreign concept in the United States. To begin with, the system is based on the principle of vertical equity, the basic standard used to assess the fair distribution of tax burdens in the country.<sup>138</sup> In addition, several U.S. jurisdictions have experimented with day fines.<sup>139</sup> For example, criminal provisions under the Alabama Code include “day fines or means-based fines” in the continuum of punishments.<sup>140</sup> And Oklahoma requires courts to consider day fines when imposing sentences under the state’s Elderly and Incapacitated Victim’s Protection Program.<sup>141</sup> By statute, day fines are “not to exceed fifty percent (50%) of the [offender’s] net wages earned” and “shall be paid to the local community sentencing system as reparation to the community.”<sup>142</sup>

Several other states experimented with day fine pilot programs during the early 1990s, albeit with mixed results.<sup>143</sup> The primary challenges at the time, according to the Council of Economic Advisors, “included high start-up costs, personnel training, and complications with easily accessing income data in the courts.”<sup>144</sup> However, by “[r]ecognizing these challenges and capitalizing on modern technology, new forms of progressive fine systems may be more successful in today’s digital era.”<sup>145</sup> The limited use of day fines in the past also resulted, in part, from an inhospitable political climate. Today, by contrast, growing bipartisan support for criminal justice reform has largely supplanted the “lock ‘em up” mentality of the 1980s and 1990s.<sup>146</sup>

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<sup>138</sup> Joseph J. Cordes, *Vertical Equity*, Tax Policy Center, <http://www.taxpolicycenter.org/taxtopics/encyclopedia/Vertical-equity.cfm> (last visited Jan. 20, 2016); see also David Orentlicher, *Stop Using Traffic Violations as Revenue Source*, *Indpls Star* (May 14, 2015) (“[I]ncome taxes are assessed on a percentage basis rather than at a fixed amount per person, and income tax rates often increase at higher incomes.”), <http://www.indystar.com/story/opinion/2015/05/14/orentlicher-stop-using-traffic-violations-revenue-source/27312063>.

<sup>139</sup> Edwin W. Zedlewski, Nat’l Inst. of Justice, *Alternatives to Custodial Supervision: The Day Fine 4-6* (2010) (discussing programs and statutory provisions in Alabama; Alaska; Oklahoma; Richmond County, N.Y.; Milwaukee, Wisc.; Maricopa County, Ariz.; Polk County, Iowa; Bridgeport, Conn; and several counties in Oregon), available at <https://www.ncjrs.gov/pdffiles1/nij/grants/230401.pdf>.

<sup>140</sup> Code of Ala. § 12-25-32.

<sup>141</sup> 22 Okla. Stat. § 991a(A)(y).

<sup>142</sup> *Id.*

<sup>143</sup> Susan Turner & Joan Petersilia, Rand Corp., *Day Fines in Four U.S. Jurisdictions iii* (1996) (discussing temporary programs funded by the U.S. Dep’t of Justice during the early 1990s), available at <https://csgjusticecenter.org/wp-content/uploads/2013/07/1996-RAND-day-fines-4-BJA-pilot-sites.pdf>.

<sup>144</sup> CEA Issues Brief, *supra*, at 6.

<sup>145</sup> *Id.*

<sup>146</sup> Rosenberg, *Instead of Jail, supra*.

Despite the lack of broad reception in the United States, day fines offer several benefits: (1) they are punitive in nature for both the rich and the poor, thus serving as an effective deterrent for all potential offenders; (2) they reduce administrative burdens on courts, law enforcement, and state agencies; (3) they impose fewer costs to the criminal justice system by diverting offenders from expensive forms of custody, probation, or parole; and (4) because of their income proportionality, day fines are collected at higher rates than with traditional flat fines.<sup>147</sup>

### **3.7. Allow for Non-Pecuniary Penalties in Lieu of Fines or Fees**

State policymakers should vest discretionary authority in the courts to offer community service hours, in lieu of fines or fees, to reduce the economic burden on offenders who must drive to work or access healthcare and other essential services. This alternative to license suspensions allows the individual to legally drive, and significantly reduces the burden on law enforcement, courts, and the BMV. Moreover, it presents an opportunity for the offender to network and engage in the local community, which benefits directly from his or her services.

In 2014, Michigan lawmakers enacted legislation allowing state residents to pay for “Driver Responsibility Fees” by performing community service. The legislation permitted drivers, within 45 days of application, to “engage in 10 hours of community service as an alternative to paying that fee or any unpaid portion of that fee.”<sup>148</sup> The program officially ended on December 31, 2015; however, successive legislation ultimately phases out all Driver Responsibility Fees by 2019.<sup>149</sup>

Under Seattle’s *Relicensing Program*, low-income drivers with suspended driving privileges resulting from unpaid fines or failure to respond to a ticket or appear for a hearing may have their charges dismissed either by establishing a payment plan or performing community service. The program is offered on a one-time basis and participants must not have been involved in an accident or charged with a DUI. The program is administered by a Relicensing Coordinator who, at an initial intake hearing, screens defendants for eligibility, enrolls participants, and explains to them the details of the program.<sup>150</sup>

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<sup>147</sup> Zedlewski, *The Day Fine*, *supra*, at 6-7; Rosenberg, *Instead of Jail*, *supra*.

<sup>148</sup> 2014 Mich. Pub. Act No. 283. See also Gov. Rick Snyder Signs Bill Allowing Residents to Volunteer as Payment for Driver Responsibility Fees, State of Michigan (Sept. 23, 2014), [http://www.michigan.gov/som/0,4669,7-192-53480\\_56421-338013--,00.html](http://www.michigan.gov/som/0,4669,7-192-53480_56421-338013--,00.html).

<sup>149</sup> 2014 Mich. Pub. Act No. 250.

<sup>150</sup> *Relicensing*, Seattle Municipal Court, <http://www.seattle.gov/courts/relicensing/relicensing.htm> (last visited Jan. 4, 2016).

### 3.8. Provide Special Auto Insurance Policies for Low-Income Drivers

In addition to facing steep fines and fees, many low-income drivers have a difficult time paying for car insurance. A few states offer assistance programs that make auto insurance more affordable for low-income drivers. These programs are separate from the “residual” or “shared” market programs in each state that guarantee basic coverage for “high risk” drivers (i.e., those with a poor driving record or who live in areas where the risk of theft or vandalism is substantial).<sup>151</sup>

The State of California offers an insurance program for low-income drivers, covering “those making less than \$60,625 per year for a family of four – who are at least 19 and own a car worth less than \$25,000.”<sup>152</sup> The program is self-funding and drivers pay between \$213 and \$472 depending on what part of the state they live in, but the liability limits are lower than California state minimums.

New Jersey’s Special Automobile Insurance Policy is an initiative to help make limited auto insurance coverage available to drivers who are eligible for Federal Medicaid with hospitalization. The policy, which costs \$365 a year, covers accident-related emergency medical services, including treatment of serious brain and spinal cord injuries up to \$250,000 and provides a \$10,000 death benefit. The policy does not include liability coverage (for bodily injury or property damage) or collision and comprehensive coverage (for damages to the insured’s car).<sup>153</sup>

### 3.9. Improve Access to Indiana’s “Specialized Driving Privilege” Program

The success of Indiana’s “specialized driving privilege” program depends on the number of participating eligible drivers. Participation ultimately depends on the extent of the program’s public knowledge. Yet a basic online search reveals little in the way of promotion or guidance. To mitigate this informational gap, traffic courts and the BMV should publish and disseminate basic materials, both online and in print, in an effort to improve meaningful access to the program.

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<sup>151</sup> Holbrook, *supra*; *Residual Markets*, Insurance Information Inst. (Mar. 2015), <http://www.iii.org/issue-update/residual-markets>.

<sup>152</sup> Cal. Insurance Code § 11629.7. See also *California's Low Cost Auto Insurance Program*, Cal. Dep’t of Insurance, <http://www.insurance.ca.gov/01-consumers/105-type/95-guides/01-auto/lca> (last visited Jan. 24, 2016); and Holbrook, *Help With Car Insurance*, *supra*.

<sup>153</sup> *Special Automobile Insurance Policy (SAIP)*, State of New Jersey Dep’t of Banking & Insurance, [http://www.state.nj.us/dobi/division\\_consumers/insurance/saip.htm](http://www.state.nj.us/dobi/division_consumers/insurance/saip.htm) (last visited Jan. 24, 2016).

### 3.10. Enable Greater Public Access to BMV Data

In 2010, the State of Indiana launched the Indiana Transparency Portal. The ITP—which provides a range of information on budgets and expenditures, state contracts, agency performance measures and other data—is designed to give taxpayers an inside look at state government spending and operations. The ITP has been recognized, and rightfully so, as one of the country’s best state government websites for its high standards of transparency.<sup>154</sup> The development and release of Indiana’s Management and Performance Hub in 2014 builds on this openness principle by increasing accessibility to key financial data.<sup>155</sup>

Despite these accomplishments, however, there are significant disparities in the types of State data publicly available.<sup>156</sup> This informational lacuna includes records from the BMV, namely statistics on driver’s license suspensions, reinstatements, revenue generated from fines and fees, and related data. The lack of transparency inhibits thorough analysis of the effects of government policy and, ultimately, the potential for reform where it may be needed.

Fortunately, the 2016 BMV omnibus bill contains provisions for a new chapter in Indiana’s motor vehicles law relating to public access to agency records. Under the proposed legislation, “[a]ll records of the bureau,” with certain exceptions, “. . . must be open to public inspection . . . in accordance with [Indiana’s Access to Public Records Act].”<sup>157</sup> Records include data on driver’s license “suspensions, revocations, or reinstatements.”<sup>158</sup> Moreover, the measure expressly allows for the “compilation of specific information requested for . . . research or statistical reporting purposes.”<sup>159</sup>

Adoption and codification of these provisions into the State’s motor vehicles law would significantly advance the public policy of government transparency and help ensure the production of public records, “an integral part of the routine duties of public officials and employees, whose duty it is to provide the information.”<sup>160</sup>

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<sup>154</sup> *Evaluation of Indiana State Website*, BallotPedia (last visited Nov. 20, 2015), [http://ballotpedia.org/Evaluation\\_of\\_Indiana\\_state\\_website](http://ballotpedia.org/Evaluation_of_Indiana_state_website).

<sup>155</sup> Jessica Hughes, *Indiana Management and Performance Hub Takes Transparency to the Next Level*, GovTech (Sept. 11, 2014), <http://www.govtech.com/data/Indiana-Management-and-Performance-Hub-Takes-Transparency-to-the-Next-Level.html>.

<sup>156</sup> For a recent analysis of the State’s overall poor performance in accommodating public access to information, see Ctr. for Public Integrity, *Indiana Gets D- Grade in 2015 State Integrity Investigation*, <http://www.publicintegrity.org/2015/11/09/18387/indiana-gets-d-grade-2015-state-integrity-investigation> (last updated Nov. 12, 2015).

<sup>157</sup> H.R. 1087, 119th Gen. Assemb., 2d Reg. Sess. § 179 (Ind. 2016).

<sup>158</sup> *Id.*

<sup>159</sup> *Id.*

<sup>160</sup> Ind. Code § 5-14-3-1.

# MODEL LEGISLATION

## Payment Plans

Source	W. Va. Code § 50-3-2a(b)-(c)(1)
Summary	A court may collect a portion of any costs, fines, fees, forfeitures, restitution or penalties at the time the amount is imposed by the court so long as the court requires the balance to be paid in accordance with a payment plan.
Text of Legislation	<p>(a) A magistrate court may accept credit cards in payment of all costs, fines, fees, forfeitures, restitution or penalties in accordance with rules promulgated by the Supreme Court of Appeals. Any charges made by the credit company shall be paid by the person responsible for paying the cost, fine, forfeiture or penalty.</p> <p>(b) Unless otherwise required by law, a magistrate court may collect a portion of any costs, fines, fees, forfeitures, restitution or penalties at the time the amount is imposed by the court so long as the court requires the balance to be paid in accordance with a payment plan which specifies: (1) The number of payments to be made; (2) the dates on which the payments are due; and (3) the amounts due for each payment. The written agreement represents the minimum payments and the last date those payments may be made. The obligor or the obligor's agent may accelerate the payment schedule at any time by paying any additional portion of any costs, fines, fees, forfeitures, restitution or penalties.</p> <p>(c) (1) If any costs, fines, fees, forfeitures, restitution or penalties imposed by the magistrate court in a criminal case are not paid within one hundred eighty days from the date of judgment and the expiration of any stay of execution, the magistrate court clerk or, upon judgment rendered on appeal, the circuit clerk shall notify the Commissioner of the Division of Motor Vehicles of the failure to pay: Provided, That in a criminal case in which a nonresident of this state is convicted of a motor vehicle violation defined in section three-a, article three, chapter seventeen-b of this code, the appropriate clerk shall notify the Division of Motor Vehicles of the failure to pay within eighty days from the date of judgment and expiration of any stay of execution. Upon notice, the Division of Motor Vehicles shall suspend any privilege the person defaulting on payment may have to operate a motor vehicle in this state, including any driver's license issued to the person by the Division of Motor Vehicles, until all costs, fines, fees, forfeitures, restitution or penalties are paid in full. The suspension shall be imposed in accordance with the provisions of section six, article three, chapter seventeen-b of this code: Provided, That any person who has had his or her license to operate a motor vehicle in this state suspended pursuant to this subsection and his or her failure to pay is based upon inability to pay, may, if he or she is employed on a full- or part-time basis, petition to the circuit court for an order authorizing him or her to operate a motor vehicle solely for employment purposes. Upon a showing satisfactory to the court of inability to pay, employment and compliance with other applicable motor vehicle laws, the court shall issue an order granting relief.</p>

## Reinstatement Fee Reductions

Source	Ark. Code § 27-16-508
Summary	Between Jan. 1, 2016, and June 30, 2016, a person whose driving privileges are suspended or revoked solely as a result of outstanding driver's license reinstatement fees is eligible to pay a one-time driver's license reinstatement fee of \$100 if the person has paid all costs, fines and fees associated with his driver's license suspension and has successfully completed a specialty court program.
Text of Legislation	<p>(a) (1) The Office of Driver Services shall collect a reinstatement fee of one hundred dollars (\$100), to be multiplied by the number of administrative orders to suspend, revoke, or cancel a driver's license . . . .</p> <p>(2) (A) If a person's driving privileges are suspended or revoked solely as a result of outstanding driver's license reinstatement fees imposed under the laws of this state, the office shall collect only one (1) reinstatement fee of one hundred dollars (\$100) to cover all administrative orders to suspend, revoke, or cancel a driver's license for a person ordered to pay a reinstatement fee . . . that were in existence on or before January 1, 2016, if a district court or circuit court verifies to the office that the person has:</p> <p style="padding-left: 20px;">(i) Paid all other court costs, fines, and fees associated with the criminal offense that led to his or her driver's license suspension; and</p> <p style="padding-left: 20px;">(ii) Successfully completed one (1) of the following:</p> <p style="padding-left: 40px;">(a) A court-ordered diversion program;</p> <p style="padding-left: 40px;">(b) A drug court program;</p> <p style="padding-left: 40px;">(c) A diversion program for veterans;</p> <p style="padding-left: 40px;">(d) A preadjudication probation; or</p> <p style="padding-left: 40px;">(e) Any other court-ordered program designed to rehabilitate the person.</p> <p>(B) Subdivision (a)(2)(A) of this section does not apply to:</p> <p style="padding-left: 20px;">(i) A reinstatement fee ordered under:</p> <p style="padding-left: 40px;">(a) Section 5-65-119;</p> <p style="padding-left: 40px;">(b) Section 5-65-304; or</p> <p style="padding-left: 40px;">(c) Section 5-65-310; or</p> <p style="padding-left: 20px;">(ii) A fee ordered to reinstate commercial driving privileges.</p> <p>(3) A district court or circuit court that operates one (1) of the court programs listed under subdivision (a)(2)(A)(ii) of this section shall notify the Department of Finance and Administration when a person eligible to have his or her reinstatement fees reduced under this subsection completes the court program.</p> <p>(b) The revenues derived from this fee shall be deposited into the State Treasury as special revenues to the credit of the Department of Arkansas State Police Fund.</p> <p>(c) The fee under this section is supplemental to and in addition to any fee imposed under § 5-65-119, § 5-65-304, § 5-65-310, or §27-16-808.</p>



## Day Fines

Source	Alaska Stat. § 12.55.036 (Repealed)
Summary	Certain misdemeanors can be punished with day fines. The statute sets forth a day fine plan that the State Supreme Court should adopt when assessing the fine, which includes instructions on how to compute the range of units for each class of crime, how to convert the defendant's income, and how to collect the money judgment.
Text of Legislation	<p>(a) Upon conviction of a misdemeanor, a defendant may be sentenced to pay a day fine as authorized by this section. If a day fine is imposed under this section, the defendant may not be sentenced to serve a term of imprisonment, or be placed on probation.</p> <p>(b) The State Supreme Court shall adopt a day fine plan that includes:</p> <p>(1) an assessment of the gravity of all misdemeanor offenses, which assessment must include the existence of prior offenses, and the assignment of presumptive penalties to them in day fine units within the following ranges:</p> <p>(A) for class A and unclassified misdemeanors, not to exceed 365-day fine units;</p> <p>(B) for class B misdemeanors, not to exceed 90-day fine units;</p> <p>(2) a schedule of the presumptive day fine penalties;</p> <p>(3) procedures for a court to increase or decrease the presumptive day fine penalties if the court finds the existence of an aggravating factor or a mitigating factor;</p> <p>(4) a table for the conversion of a defendant's actual, potential, or estimated gross income, less one-third for a defendant above the federal poverty guideline as determined by the U.S. Department of Health &amp; Human Services, and less one-half for a defendant below the federal poverty guideline into net daily income amounts; the table must include adjustments for the number of dependents actually supported by the defendant;</p> <p>(5) procedures for a court to gather information about the defendant's occupation, actual, estimated, and potential income, number of dependents, and other facts necessary or relevant to sentencing a person to a day fine; a court may order the production of the financial or other records of a person it determines to be relevant to a determination under this section; the procedures must include a requirement that the facts shall be received</p> <p>(A) under oath by the defendant; or</p> <p>(B) in a writing or recording that bears notice that false statements made in it are punishable by law; and</p> <p>(6) other information the court determines to be necessary for implementing the day fine plan.</p> <p>(c) The amount of a day fine shall be the product of the net daily income of the defendant, adjusted for the number of dependents actually supported by the defendant, times the day fine penalty. When imposing a sentence of a day fine, the court shall</p> <p>(1) state on the record the</p> <p>(A) presumptive day fine penalty for the offense, and whether the court is adjusting the presumptive day fine penalty for the existence of aggravating or mitigating factors;</p> <p>(B) net daily income of the income of the defendant, adjusted for the number of dependents actually supported by the defendant; and</p> <p>(C) amount of the day fine;</p> <p>(2) make written findings of the facts considered in</p> <p>(A) finding the existence of aggravating or mitigating factors and in assigning a value to those factors; and</p> <p>(B) determining the defendant's gross and daily net incomes.</p> <p>(d) When imposing a sentence of a day fine, the court may permit the payment of the day fine in specified installments or within a certain period of time, provided the entire day fine is paid within 180 days of imposition.</p>

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