



Myths vs. Facts - Driving for Opportunity Act (H.R. 1924; S. 998)

Claim: Driver's license suspensions incentivize individuals to pay their court debt.

Reality: Such suspensions prevent individuals from paying the underlying debts. A previous study on the impact of driver's license suspension policies found that 42% of individuals who lost their license also lost their jobs.¹ Taking away someone's ability to get to work or take care of their family will further harm their ability to repay their debts to society and our criminal justice system. Even the most well-meaning person who is striving to pay such debts will struggle with the choice between taking care of their family and paying these court fees. The benefit of allowing people to keep driving for the collection of underlying debts is displayed by the more than thirty times growth in collections Palm Beach County, Florida saw after implementing payments plans as an alternative to license suspensions.²

Claim: Driver's license suspensions do not take up significant public safety resources.

Reality: These policies divert thousands of hours in police, administrative, and court processing time that could be used to improve public safety on our roads and in communities across the country. A previous report found that Washington State Patrol officers spent more than 31,000 hours a year dealing with drivers who have their license suspended for court debt and that Colorado's Motor Vehicle Division spends more than 8,500 hours each year to process these non-driving suspensions.³ These resources would be better spent on clearing the massive backlog of criminal cases our courts and justice system employees are facing on account of COVID-19.⁴

Claim: The Driving for Opportunity Act will force states to change their laws concerning driver's license suspensions.

Reality: This bill fully respects state sovereignty by neither forcing states to make any changes to their laws or penalizing them if they decide not to adopt or retain such policies. The Driving for Opportunity Act will only equip states who want to end driver's license suspensions for court debt to take such an action even if they might be unable to afford the up-front cost of implementing such a policy. The amount of funding in this bill will not act as an effective

¹ Motor Vehicles Affordability and Fairness Task Force, *Final Report*, New Jersey Motor Vehicle Commission (2006), https://www.state.nj.us/mvc/pdf/about/AFTF_final_02.pdf.

² Brief of Amici Curiae Members of the Free to Drive Coalition in Support of Plaintiff-Appellant and Reversal, *Motley v. Taylor*, No. 20-11688 (11th Cir. July 20, 2020), available at <https://www.docketbird.com/court-cases/Sharon-Motley-v-Hal-Taylor/ca11-2020-11688>.

³ American Association of Motor Vehicle Administrators, *Reducing Suspended Drivers and Alternative Reinstatement Best Practice*, American Association of Motor Vehicle Administrators (2018), <https://www.aamva.org/Suspended-Driver-Alternative-Reinstatement-Working-Group/>.

⁴ Diane Robinson & Sarah Gibson, *Pandemic Caseload Highlights*, National Center for State Courts (2021), https://www.courtstatistics.org/data/assets/pdf_file/0022/61519/2020_4Q_pandemic.pdf.

financial incentive to encourage states into a policy change they otherwise would not choose to make.⁵ States will also retain the complete freedom to further revise such policies in the future.

Claim: The Driving for Opportunity Act will encourage states to adopt an unproven policy solution.

In recent years, states as diverse as Virginia, Utah, New York, Montana, and Texas have reformed their policies that suspend or revoke an individual's driver's license for a mere failure to pay court debt. These states have not seen their traffic fatalities or crime rates diverge from the national trends.⁶ Early evidence from such places shows that some jurisdictions adopting similar reforms see the amount of fines and fees collected increase in future years.⁷

Claim: The Driving for Opportunity Act will help people avoid accountability for traffic violations and other crimes.

Reality: This bill only authorizes the appropriation of funds to a new Department of Justice grant program that will reimburse states for the costs to reinstate driver's licenses – *not* the underlying fines, fees, or restitution – if they choose to make a voluntary policy change in this area. This means that the person will still be liable to pay these underlying sums and the state can pursue other enforcement mechanisms such as wage garnishment if the person is willfully failing to pay these debts to the justice system.

It will also not reimburse states for any action they take to reinstate the licenses of those who have them suspended on account of a public safety or traffic-related reason. States would still have complete freedom to take the necessary steps to remove dangerous drivers from our roads.

Claim: The Driving for Opportunity Act will allow states to grow their budgets and secure another permanent funding stream from the federal government.

Reality: This bill does not provide permanent funding to states and will only reimburse them for the upfront cost of reinstating the driver's licenses of those subject to such penalties for a failure to pay court-imposed fines and fees. The total amount of reimbursement states receive is also capped at 5% of the amount they are allocated under the Byrne Justice Assistance Grant program.⁸ States also cannot use these funds to subsidize the budgets of related government agencies and must still ensure their balanced budgets provide the necessary resources for courts, police, and prosecutors.

⁵ The Driving for Opportunity Act only authorizes the appropriation of \$20 million over the next 5 years. The cost of reinstatement in just one state – Virginia – initially cost the state \$10 million in lost reinstatement fees alone.

⁶ National Highway Traffic Safety Administration, *Early Estimate of Motor Vehicle Traffic Fatalities for the First Quarter of 2021*, U.S. Department of Transportation (2021), <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813149>; Federal Bureau of Investigation, *Crime Data Explorer*, U.S. Department of Justice (2021), <https://crime-data-explorer.app.cloud.gov/pages/explorer/crime/crime-trend>.

⁷ Judicial Council of California, Report on the Statewide Collection of Delinquent Court Ordered Debt for 2018–19, Judicial Council of California (2019), https://www.courts.ca.gov/documents/lr-2019-JC-statewide-court-ordered-debt-2018-19-pc1463_010.pdf; L. William Seidman Research Institute, The City of Phoenix Municipal Court's Compliance Assistance Program, 2016: An Economic Assessment, Arizona State University (2017), <https://finesandfeesjusticecenter.org/content/uploads/2018/11/Phoenix-license-restoration-pilot-THE-CITY-OF-PHOENIX-MUNICIPAL-COURT%E2%80%99S-COMPLIANCE-ASSISTANCE-PROGRAM.pdf>.

⁸ For examples of state's 2021 allocations see <https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/FY21-State-JAG-Allocations.pdf>.

Claim: Ability to pay (ATP) hearings are a completely effective alternative to ending driver's license suspensions or revocations.

Reality: Some states already have ATP hearing requirements in statute, however, in practice, no state truly conducts a meaningful assessment of a person's ability to pay before sentencing them to fines and fees or prior to suspending their licenses. There are typically no standards or guidelines around this process that apply from judge to judge or jurisdiction to jurisdiction. While there may be a role for a meaningful ATP determination in setting an adult's fine at sentencing, experience shows that ATP hearings for driver's license suspension will not work and will continue to only punish those living in lower economic circumstances.