



The New York Times | <http://nyti.ms/1CKoJI8>

U.S.

Driver's License Suspensions Create Cycle of Debt

By **SHAILA DEWAN** APRIL 14, 2015

LEBANON, Tenn. — The last time Kenneth Seay lost his job, at an industrial bakery that offered health insurance and Christmas bonuses, it was because he had been thrown in jail for legal issues stemming from a revoked driver's license. Same with the three jobs before that.

In fact, Mr. Seay said, when it comes to gainful employment, it is not his criminal record that is holding him back — he did time for dealing drugs — but the \$4,509.22 in fines, court costs and reinstatement fees he must pay to recover his license.

Mr. Seay's inability to pay those costs has trapped him in a cycle that thousands of other low-income Tennesseans are struggling to escape. Going through the legal system, even for people charged with nonviolent misdemeanors, can be expensive, with fines, public defender fees, probation fees and other costs running into hundreds and sometimes thousands of dollars. Many people cannot pay.

As a result, some states have begun suspending driver's licenses for unsatisfied debts stemming from any criminal case, from misdemeanors like marijuana possession to felonies in which court costs can reach into the tens of thousands of dollars. In Tennessee, almost 90,000 driver's licenses have been suspended since its law was enacted in 2011.

Tennessee's law has become part of a broader debate over criminal justice debt, a national issue since a Justice Department report faulted Ferguson, Mo., for a law enforcement system that focused aggressively on raising revenue and jailing people who could not pay.

Many drivers who have lost their licenses in Tennessee, too poor to pay what they owe and living in places with limited public transportation, have done what Mr. Seay did. They have driven anyway, resulting in courts so clogged with "driving while suspended" cases that some judges dispatch them 10 at a time.

Each time Mr. Seay was caught, he racked up new fines and fees on top of the old. As a repeat offender, he would often be jailed, causing him to lose his job, and placed on probation, which carries an additional fee of \$40 a month. More recently, he has been jailed for violating probation because he fell behind on those payments. Except for odd jobs, he has been unemployed for about a year, partly because he finally swore off driving.

"If I could get my license back, that would be the most wonderful thing that happened to me in my life," Mr. Seay, 44, said.

Tennessee is not alone in the practice: Five of the 15 states with the largest prison populations have it, according to Alicia Bannon at the Brennan Center for Justice. Most states also suspend licenses for failure to pay traffic fines, another policy that critics say creates a quicksand of debt. The American Association of Motor Vehicle Administrators has complained that suspensions should be reserved for dangerous drivers, not indebted ones.

But in recent years, a few states have reconsidered the policy amid concerns that it hurts low-income residents without achieving its intended goals. In 2013, Washington stopped suspending licenses for failure to pay nonmoving violations like expired registrations. Suspensions dropped by half, said Brad Benfield, a spokesman for the Washington State Department of Licensing, and each month, there have been 500 fewer arrests for driving while suspended, saving an estimated 4,500 hours of patrol officers' time.

And this month, a California lawmaker introduced a bill that would make it easier for people to reinstate their licenses, after a report said that four million California licenses had been suspended for failure to pay or failure to appear in court.

“For many families, a driver’s license suspension is the beginning of a descent into abject poverty for which there is no escape,” the proposed law says.

In Tennessee, court clerks already had the power to pursue unpaid court debts by garnishing wages or turning the cases over to a collection agency. The new law was intended to give them extra leverage. Now, even some of those clerks say they have mixed feelings about the policy.

“Though it does give us some kind of teeth to be able to go after people who don’t pay their court costs,” said Howard Gentry, the Davidson County Criminal Court clerk in Nashville, “it also has some collateral damage to it for those who are unable to pay.”

Typical court costs can vary widely. Asked for an average, a lawyer at the public defender’s office in Nashville picked up some files from her desk and read off the outstanding debts: \$598, \$1,100, \$5,600, \$14,872 and \$3,800. That does not include a separate license reinstatement fee based on the number of offenses. In Mr. Seay’s case, the reinstatement fee, solely from minor traffic violations and driving-while-revoked charges, is \$1,822.

Many defendants are forced to choose between paying court debt or essentials like utility bills and child support. Mr. Seay said his tax refund this year went toward child support debt accumulated during his time in prison and periods of unemployment. For even low-level offenders, debt can make a valid license unattainable.

Stephanie Newhouse, a divorced mother of two in Pulaski, Tenn., had her license suspended for a time after a drunken-driving conviction in Georgia. She said that the suspension was fair punishment, but that having to pay hundreds of dollars to reinstate the license was not. Ms. Newhouse has been able to work only part time

since the suspension because her hours are contingent on when she can get a ride to work at an insurance office two counties away.

“You really have to have a full-time, really good job to be able to pay it back,” she said.

Though the law was projected to raise more than \$20 million a year, it has not come close, according to state agencies. Revenue from litigation taxes, the primary court fee collected by the state, has remained flat and even declined a bit in 2014, and license reinstatement fees have increased far less than was anticipated.

But since suspensions under the law began in mid-2012, almost 90,000 licenses have been suspended. Over the same period, 170,000 Tennessee licenses were suspended for unpaid traffic tickets. In both categories, more than 40 percent of the suspended drivers were black, compared with 16 percent of state residents.

Still, State Senator Jack Johnson, one of the sponsors of the 2011 law, said it was needed to rein in shirkers. “It’s usually not a tremendous amount of money; it’s just that folks are just blowing it off,” he said.

Mr. Johnson, a Republican from Williamson County, just south of Nashville, pointed out that the law gives people a year to pay and that it allows people to petition for a hardship license to get to work — a provision that some court officials, public defenders and even one judge said they were unfamiliar with.

“Not a single person has approached me about changing this,” Mr. Johnson said. “Every one of these people ending up with these court fines and fees and expenses, it’s as a result of violating the law in some capacity.”

In Nashville, Cathie Sweat, 21, said she had gone to apply for a license so she could work as a home health care aide and learned that it had already been suspended for unpaid fines relating to a minor drug charge and driving without a license. “How do you suspend a person’s license that they never had?” she asked.

The burden of criminal justice debt often falls on family members. Mr. Seay’s wife, Terrica, uses her income from a \$12.50-an-hour factory job to pay all the household bills and has provided money time and again to bail her husband out of

jail, pay his probation fees and contribute toward the backlog of fines. Asked how much this had added up to, Ms. Seay choked back tears.

"I'm just crying all day at work," she said, adding that she had recently smoked marijuana to relieve the stress, failed a drug test at work and had to attend counseling. "I got a good job, and I don't have no money."

In Tennessee, judges have the discretion to waive court fees and fines for indigent defendants, but they do not have to, and some routinely refuse. Judges also have wide discretion over how much time to allow defendants to pay traffic tickets before suspending a license. The new law on criminal court debt allows defendants one year to keep their license as long as they stay current on a payment plan approved by a judge.

Nashville has also set up an "indigency docket" where the court debt of poor defendants — at least, those who hear about the option — is routinely waived. But they still have to pay a license reinstatement fee to the Department of Safety based on the number and type of violations.

Other courts do not take the time to examine defendants' ability to pay. At a recent court session in Robertson County, north of Nashville, Erin McKissick — who said she had been placed on probation, required to pay for drug tests and threatened with losing her children after being convicted of driving while suspended and other counts — filled out an affidavit of indigency, saying she had a part-time cashier job and received \$200 a month in food stamps. When Judge Joel W. Perry of General Sessions Court declined to look at it, she crumpled it into a ball.

Reached by phone, Judge Perry said that he did not recall the details of Ms. McKissick's case, but that if she had previously been able to pay a bail bond, he would most likely have assumed that she was not indigent.

Even when people finally manage to get their license back, their ordeal may not be over. James Goodwin, whose blended family includes six young children, failed years ago to pay a \$35 traffic fine and then was repeatedly caught driving while suspended. After thousands of dollars and seven months in jail, he said, last month

he was able to show a judge his new license. The judge dismissed his latest charge of driving while suspended, but assessed him \$275 in court costs.

Mr. Goodwin was given 30 days to pay.

A version of this article appears in print on April 15, 2015, on page A1 of the New York edition with the headline: Driver's License Suspensions Create Cycle of Debt.

© 2016 The New York Times Company