

Vermont Legislative Council

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MEMORANDUM

To: Members of the Vermont Child Poverty Council
From: Helena Gardner, Legislative Counsel
Date: December 30, 2013
Subject: Vermonters with licenses suspended for nonpayment of traffic fines

I. Background

Under Vermont law, the driver's license of a person who fails to pay a traffic fine is suspended 50 days after judgment on the traffic violation is entered. According to the findings of Act 147 of 2012, although a person's driver's license may be suspended for a variety of reasons, including DUI and accumulation of points, the majority of license suspensions (60 percent) are attributable to failure to pay a traffic ticket.

On December 10, 2013, the Child Poverty Council (Council) took testimony on the circumstances of persons whose licenses are suspended for failure to pay a traffic ticket. The Honorable Michael Pratt, Chief Hearing Officer of the Judicial Bureau, explained that a "waiver penalty" is assessed when a person admits, does not contest, or fails to answer a traffic ticket, and that the waiver penalty is uniform and assessed without regard to a person's ability to pay. The Council heard from witnesses that Vermonters who have difficulty paying traffic fines and lose their licenses may incur related late payment fees, license reinstatement fees, and collection agency charges; may incur additional violations and fines for driving with a license suspended; and may end up overwhelmed by the accumulated total of these financial obligations.

The Council heard that two mechanisms already exist to help Vermonters avoid suspension or regain their driver's licenses pending discharge of their financial obligations:

(1) The "30 by 30" plan of the Judicial Bureau, through which the Bureau reinstates the licenses of people who request a monthly extension of their fine payment due date and pay \$30 per month, per violation. By law, the Judicial Bureau also has authority to waive a person's license reinstatement fee and, on motion, to reduce the amount due.

(2) The DLS Diversion Program, through which a person enters into an individualized diversion contract that provides for license reinstatement while a person pays off his or her fine under a payment plan. Under the Diversion Program, upon approval of a Judicial Bureau Hearing Officer, the amount a Program participant owes may be reduced based on financial need, and community service may be performed in exchange for a portion of any reduction.

Council members raised and heard a number of policy ideas regarding additional mechanisms to help Vermonters overwhelmed with traffic ticket-related financial obligations. These are summarized in the table in Part II below.

II. Policy Ideas

Description of Idea	Pros	Cons/Issues to Consider
<p>Authorize the Judicial Bureau to reduce the amount due in exchange for a person’s participation in approved community service activities. (Reduction of traffic fees and fines due in exchange for community service is already authorized for DLS Diversion Program participants).</p>	<p>This would enable additional Vermonters who do not wish to participate in the DLS Diversion Program to discharge what may otherwise be an overwhelming financial obligation, without simply granting “amnesty.”</p>	<p>State resources would be needed to manage the community service, <i>e.g.</i> in terms of vetting service activities and monitoring and reporting hours served, and would also require Judicial Bureau staff time to receive and track reports. Willa Farrell noted that performing community service can be difficult for those Vermonters who already work long hours, though many Diversion participants are committed to performing it.</p>
<p>Authorize (require?) DMV to reinstate the license of persons suspended for nonpayment of a fine subject to a restriction on the privileges granted under the license. The restriction might be that the holder may only drive to work, school, or job training.</p>	<p>This option would allow Vermonters to engage in activities that enable them to work off their financial obligations, support their dependents, and regain their full licenses, without simply granting full “amnesty” by restoring an unrestricted license.</p>	<p>Law enforcement may find the license restrictions difficult to enforce, and without meaningful enforcement, the restricted license might be seen as tantamount to “amnesty.” Questions likely would arise about the circumstances when law enforcement may pull over vehicles registered to drivers subject to restricted licenses, and related litigation may ensue.</p>
<p>Authorize (require?) traffic violation waiver penalties to be adjusted based on a person’s ability to pay.</p>	<p>Adjusting waiver penalties based on a person’s ability to pay may be a more effective, fair, and equitable means to accomplish the objectives of fines (to deter unsafe driving) than uniform waiver penalties. It could reduce nonpayment of fines, resulting license suspensions, and the associated risk of DLS violations and demand (and associated expense) for defendants to participate in Diversion.</p>	<p>Would the waiver penalty adjustments ultimately be revenue neutral and, if not, how would the lost revenue be restored? What additional burden would fall on Judicial Bureau staff in assessing and verifying non-uniform waiver penalties, and what evidence would the defendant be required to submit? Would the imposition of varying fines for the same offense be likely to provoke costly legal challenges?</p>
<p>Establish a means for persons to participate in the CRASH (Drinking Driver Rehabilitation) Program under a payment plan. Completing CRASH counseling is a prerequisite for license reinstatement for persons suspended for a DUI. <i>Note:</i> This idea goes beyond the scope of assisting persons suspended solely for nonpayment of traffic fines.</p>	<p>CRASH Program fees are significant. Creating a payment plan option would help people with limited means to participate in CRASH and become eligible for license reinstatement.</p>	<p>Private nonprofits operate the CRASH Program, so the State presumably would need to front money owed to the private nonprofits while awaiting (and enforcing) payments under any payment plan.</p>