

MEMO

TO: Maxine Grad, Chair House Committee on Judiciary

FROM: Brian J. Grearson, Chief Superior Judge

DATE: June 11, 2020

SUBJECT: S. 234

Dear Representative Grad in anticipation of my testimony relating to S. 234 I offer the following:

- 1) The original bill included language that involved a technical correction that was inadvertently omitted from a bill last year at the end of the session. S. 234 originally included the following language:
Sec. 22. 24 V.S.A. § 1981 is amended to read:
§ 1981. ENFORCEMENT OF ORDER FROM JUDICIAL BUREAU
(a) Upon the filing of the complaint and entry of a judgment after admission, hearing or entry of default by the hearing officer, subject to any appeal pursuant to 4 V.S.A. § 1107, the person found in violation shall have up to 30 days to pay the penalty to the Judicial Bureau. Upon the expiration of the period to pay the penalty, the person found in violation shall be assessed a surcharge of \$10.00 for the benefit of the municipality. All the civil remedies for collection of judgments shall be available to enforce the final judgment of the Judicial Bureau.

At the same time, I have recently learned that there is the possibility that the \$10.00 municipal surcharge may be eliminated. In that event, the above language would not be necessary but if the surcharge remains, we renew our request for inclusion of the above language.

- 2) Section 28 of the bill relating to the Amnesty Program raises significant issues:
 - a. The bill should refer to “all unpaid traffic ~~tickets~~ fines, fees, and surcharges associated with motor vehicle operators whose licenses have been suspended for noncriminal reasons if the suspension has lasted for one year or longer.” Clarifying that it is unpaid penalties avoids issuing refunds for tickets already paid. Using “fines” rather than “tickets” clarifies that the record of the violation itself isn’t being struck, only the fine and associated fees and surcharges are.
 - b. The scope of the section in its current form is very broad in that it captures many judgments that have not and will not cause the operator to have their license suspended. Until July 1, 2014, all suspensions for failure to pay a penalty imposed by the Judicial Bureau were indefinite. Act 128 of 2013, Section 3,

provided that motorists whose licenses were suspended for unpaid tickets would be eligible for reinstatement after 120 days. The reinstatement was not automatic (a reinstatement fee was required) and DMV did not apply this retroactively to suspensions already in existence on 7/1/14 when the Act took effect. The time limit means that the person can get their license reinstated by paying the reinstatement fee after 120 days even if they never pay the penalty itself. The 120-day limit was shortened to 30 days by Act 147 of 2016, Section 5. Again, the reinstatement fee is required and DMV did not apply this retroactively to suspensions already in existence on 5/31/16 when that provision took effect. The language in the current bill seems to address those who have been suspended for one year or longer even if they've been eligible for reinstatement but have not paid the reinstatement fee. The language in the current bill also seems to encompass tickets issued to those under suspension for one year or longer even if the ticket was issued in the last year and even if the ticket did not cause a suspension. Failure to pay a ticket for a violation that carries no points will not result in a suspension (see 4 V.S.A. § 1109(b)(2)). In other words, an operator could have gotten a speeding ticket in February of 2019, failed to pay it (resulting in a 30-day suspension which is still in effect for failure to pay the reinstatement fee) and then gotten seven more tickets within the last year for driving with a suspended license or other violations that don't carry points. Fines, surcharges and fees in all eight judgments would be struck under this provision even though the last seven have not caused a suspension and never will cause a suspension. It is unclear whether the legislature intended for the sweep of this bill to be so broad.

- c. Staff time involved in executing the waivers is considerable. According to DMV, there are 25,712 drivers under suspension for non-criminal reasons for longer than one year. The waivers will have to be done manually and each case will take 2 to 3 minutes. Many of the suspended drivers will have multiple cases. We estimate, therefore, that executing the waivers contemplated by the bill will take well over 1,000 hours of staff time (likely more than 2,000 hours).
- d. We don't have the ability to know exactly how much unpaid money is at issue without getting a list of the tens of thousands of operators under suspension for longer than one year and then manually searching for those operators' outstanding judgments. However, the Legislature should be aware that waiving all of the fines, fees and surcharges will likely mean writing off approximately \$4 to \$5 million in unpaid penalties (Vermonters only). We arrive at that conclusion as follows. According to judiciary records, there are approximately 155,000 operators under suspension. This is because operators can get reinstated without paying the tickets and DMV does not notify the judiciary when a license is reinstated. According to DMV as of 6/4/20, there are 25,712 operators (Vermonters only) under suspension for non-criminal reasons predating 9/19/19. Of the approximately 155,000 people who the JB shows to be under suspension, therefore, we expect that approximately 16.6% will have all fines, fees and surcharges struck. Unpaid tickets for those 155,000 from the creation of

the Judicial Bureau to the end of May, 2019 total \$27,867,845. We assume that approximately that same percentage (16.6%) of unpaid judgments will be waived by S. 234. 16.6% of \$27,867,845 is \$4,626,062.27. Of course, this number will increase if the language in the bill is interpreted to mean that even tickets issued within the last year (whether or not they lead to a suspension) will also have their penalties waived.

Respectfully submitted,

Brian J. Grearson
Chief Superior Judge