



RACIAL JUSTICE &
EQUAL ECONOMIC
OPPORTUNITY PROJECT
NATIONAL CONSUMER LAW CENTER

Driving with Debt: What Attorneys Can Do To Address the Problem of Driver's License Suspensions for Court Debt

January 31st, 2019
2:00PM-3:30PM (ET)

Angela Ciolfi, Legal Aid Justice Center

Daniel Bowes, North Carolina Justice Center

Dennis Gaddy, Community Success Initiative

With Moderator

Samuel Brooke, Southern Poverty Law Center

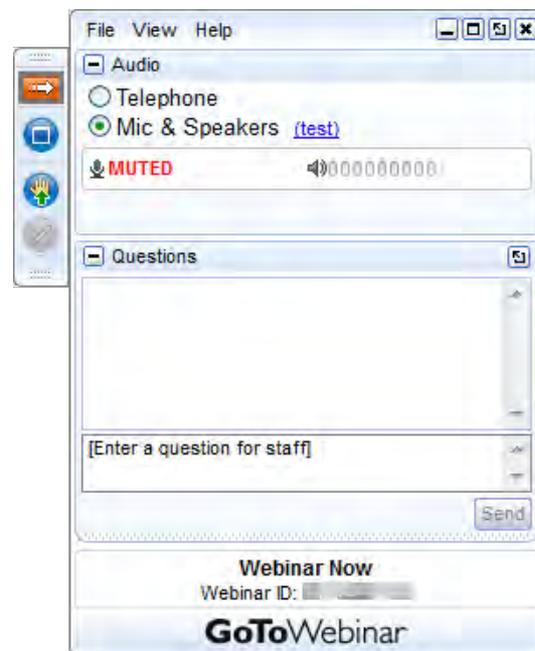
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- Note: Everyone will be muted during this Presentation and this training is being recorded

Webinar Tips

- **Questions?** Type it in the Q&A function and we will relay it to the speaker(s). We will hold a Q&A following the presentation from speakers.
- If you are having technical problems, please use the Q&A function for help and I will assist you
- You can access the PPT for this webinar by opening the “handouts” drop down. We will also post it on line and will send instructions on how to obtain a certificate of attendance.



Please join us in Las Vegas this March for NCLC's annual Fair Debt Collections Conference

March 11th and 12th, 2019



Save the date!

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FDCPA 2019
March 11-12 • Las Vegas, Nevada

The image is a promotional graphic for the FDCPA 2019 conference. It features a dark blue header with the text 'Save the date!' in white. Below the header is a wide, horizontal photograph of the New York-New York Hotel & Casino in Las Vegas at night, showing the replicas of the Empire State Building and the Big Apple Wheel, along with the illuminated fountains of the Bellagio. The bottom of the graphic has a light blue background with the text 'FDCPA 2019' and 'March 11-12 • Las Vegas, Nevada' in white. The NCLC logo is in the top right corner.

- For more details, please visit <https://www.nclc.org/conferences>



Moderator – Samuel Brooke

Sam Brooke is Deputy Legal Director of the Economic Justice Project at the Southern Poverty Law Center, where he leads a team of legal advocates in challenging public and private systems that trap people in poverty and punish them simply for being poor. He has litigated civil rights cases throughout the south challenging unlawful practices related to fines and fees, pre-trial detention, and private probation. Among other things, Sam is a member of the team pursuing a federal lawsuit challenging North Carolina's practice of revoking driver's licenses for nonpayment of traffic and court costs without due process or consideration of whether people can afford to pay, and he was part of a team that ended similar practices in Mississippi.

License Suspension for Unpaid Court Debt Introduction

6



Presenters

7



Angela Ciolfi
**Virginia Legal Aid
Justice Center**

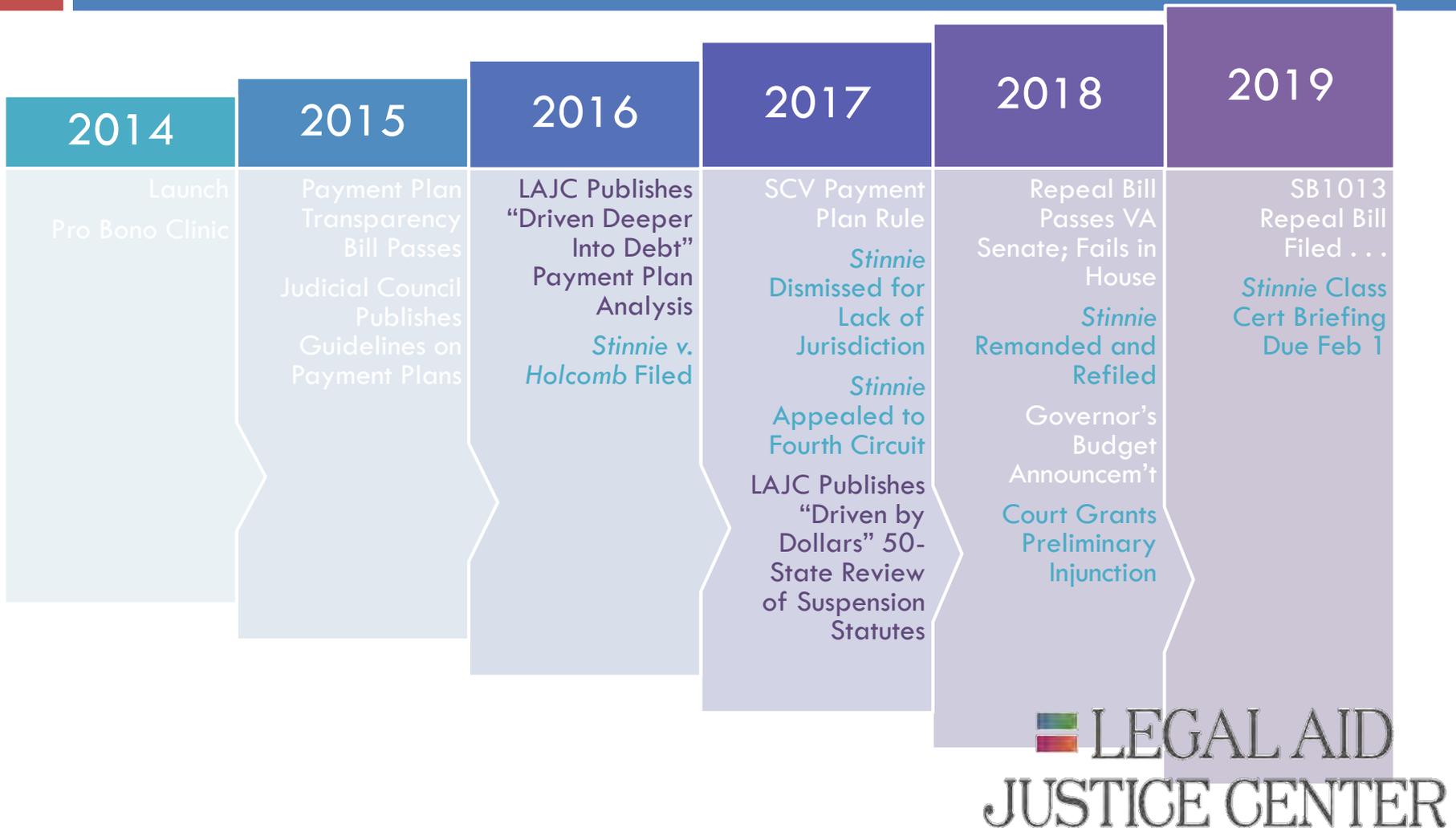


Dennis Gaddy
**Community
Success Initiative
(CSI)**

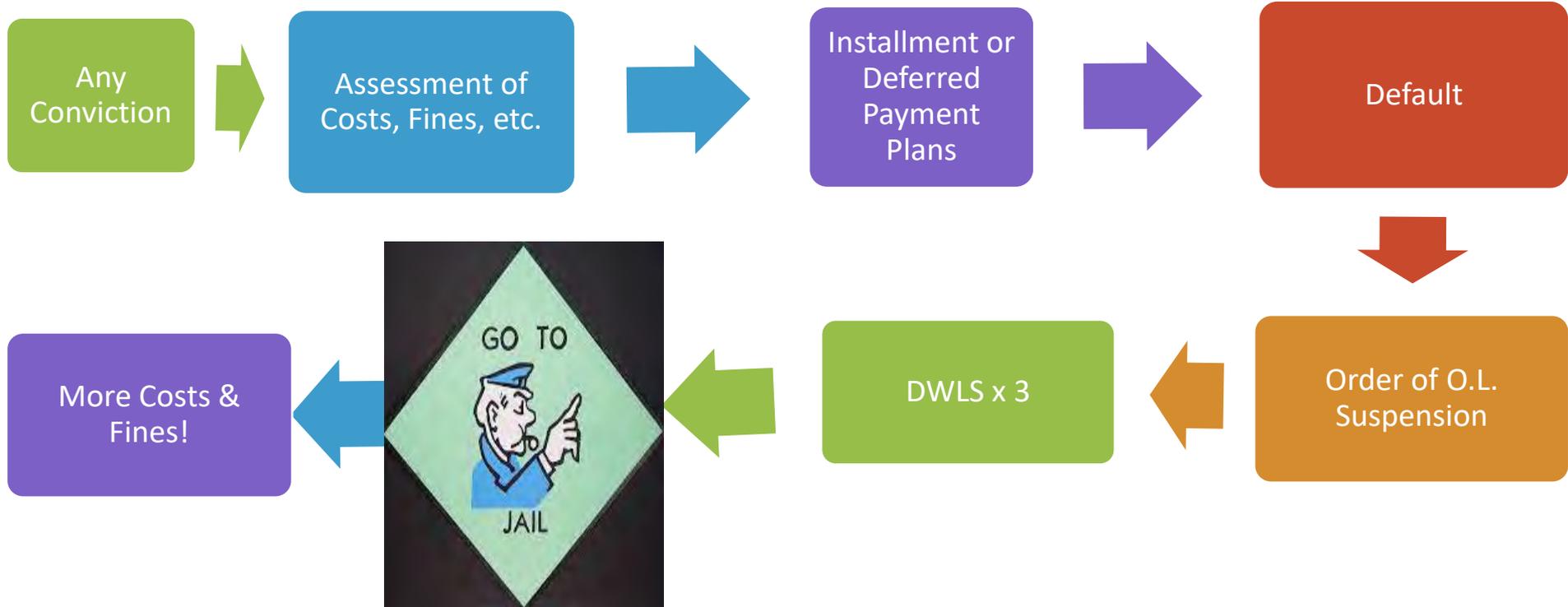


Daniel Bowes
**North Carolina
Justice Center**

Overview: Drive Down the Debt Campaign



From Driver's Seat to Detention



It's not about driving.



Report: Grading Virginia Courts

LEGAL AID
JUSTICE CENTER

Driven Deeper Into Debt:
Unrealistic Repayment Options
Hurt Low-Income Court Debtors

May 4, 2016



□ Ability to Pay

F

□ Debts Owed to Other Courts

F

□ Community Service Opportunities

F

□ Down Payments

F

□ 2nd or Subsequent Payment Plans

C_x

1 in 6 Virginia Drivers

Has their license suspended for non-payment of court costs



and, therefore, cannot drive to work, medical appointments, the grocery store, church, their children's schools, etc.

Stinnie v. Holcomb



□ “Back in my time in state court, I mean, there was sort of an assumption that if someone didn’t pay their child support, if you put them in jail, probably by the end of the week the family—somewhere the money would show up. It wouldn’t necessarily be from the person in jail, but all the family would feel bad and get together and pay it.

□ But that’s not proper, to put people in jail in the hope that somebody will come along . . . They shouldn’t be punished if they cannot pay.”

□ Judge N.K. Moon, Tr. of Hearing

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

FILED
12/21/2018
JULIA C. DUDLEY, CLERK
BY: /s/ J. JONES
DEPUTY CLERK

DAMIAN STINNIE, *ET AL*,

Plaintiffs,

v.

RICHARD D. HOLCOMB, IN HIS OFFICIAL
CAPACITY AS THE COMMISSIONER OF THE
VIRGINIA DEPARTMENT OF MOTOR VEHICLES,

Defendant.

CASE No. 3:16-CV-00044

PRELIMINARY INJUNCTION

JUDGE NORMAN K. MOON

In accordance with the accompanying memorandum opinion, Plaintiffs’ Motion for Preliminary Injunction, (dkt. 88), is **GRANTED**.¹ As used in this preliminary injunction, the term “Plaintiffs” means Damian Stinnie, Melissa Adams, Adrainne Johnson, Williest Bandy, and Brianna Morgan. Defendant, Richard D. Holcomb, the Commissioner of the Virginia Department of Motor Vehicles (“Commissioner”) is hereby **ORDERED** as follows:

- (1) The Commissioner is preliminarily enjoined from enforcing Virginia Code § 46.2-395 against Plaintiffs unless or until the Commissioner or another entity provides a

Adrainne Johnson – 1 Adult; 2 Children

Current income of \$1,399/month < \$1,994 (SSS for Food and Housing)

Family Type:

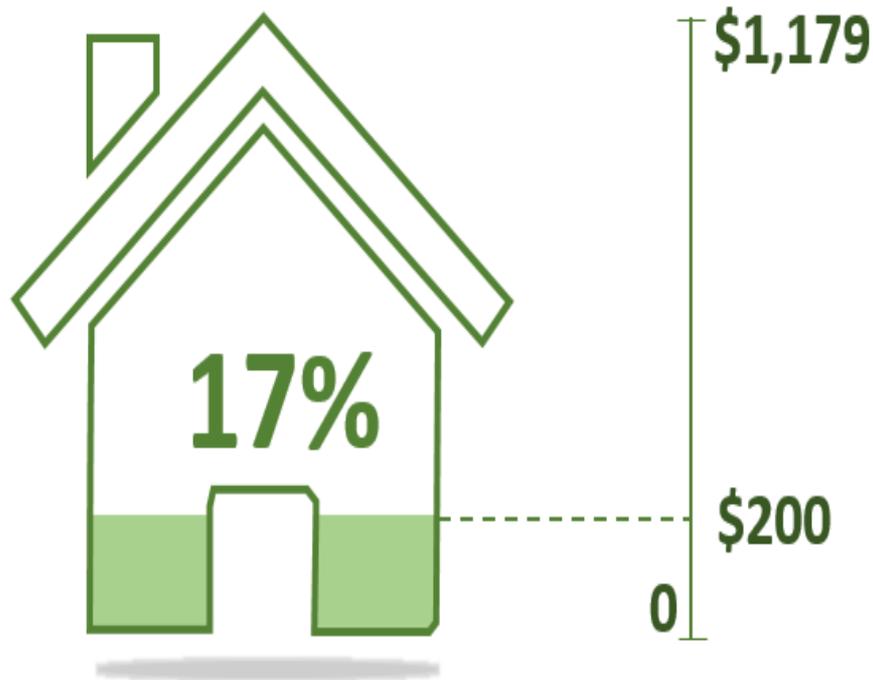
- Charlottesville, VA
- 1 Adult; 1 School-Aged Child; 1 Teenager

	Self-Sufficiency Standard	Expenditures	Benefits	Shortfall/Surpluses SS Standard – (Expenditures + Benefits)
Housing	\$1,179	\$200*	-	(\$979)
Food	\$815	\$320	\$5	(\$490)
Total	\$1,994	\$520	\$5	(\$1,469)

*Johnson and her children share an apartment with another family.

Adrainne Johnson – 1 Adult; 2 Children

Current income of \$1,399/month < \$1,994 (SSS for Food and Housing)

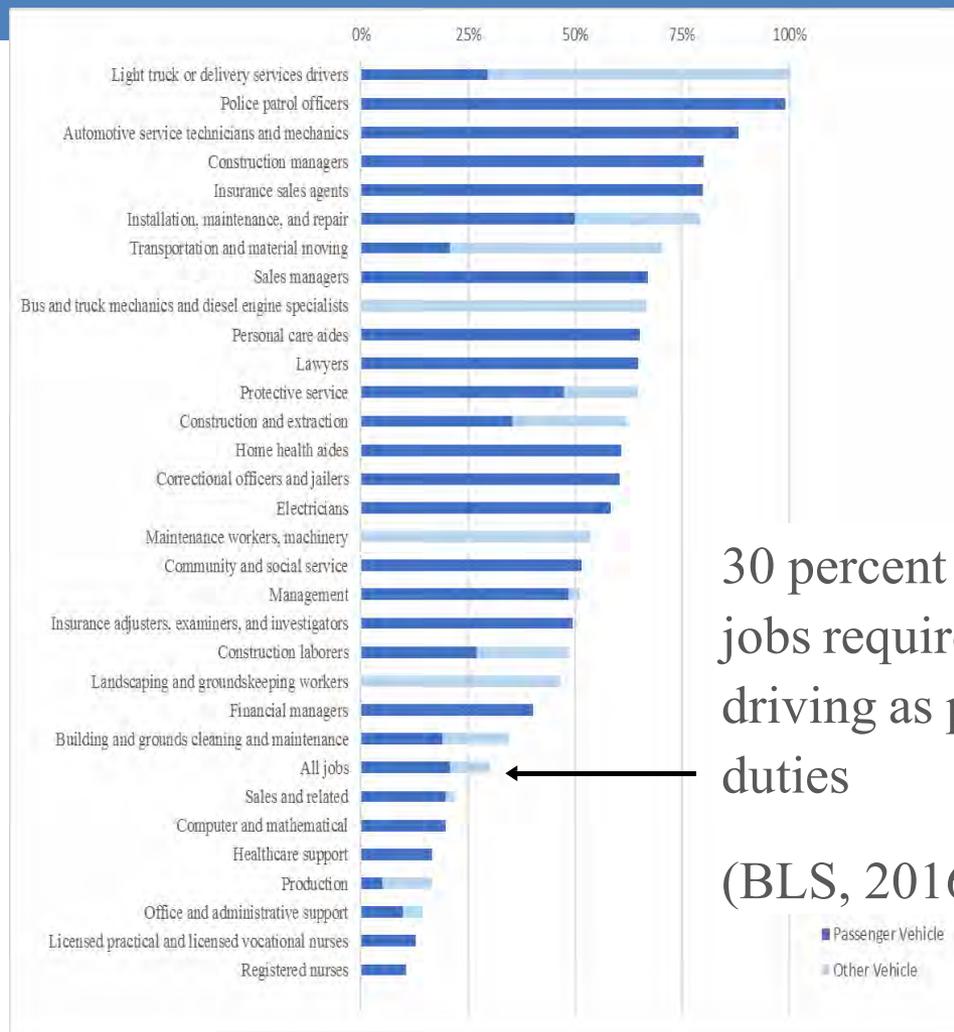


Adrainne Johnson – 1 Adult; 2 Children

Current income of \$1,399/month < \$1,994 (SSS for Food and Housing)



Share of Civilian Jobs with Driver License Requirement



30 percent of all civilian jobs require some driving as part of job duties

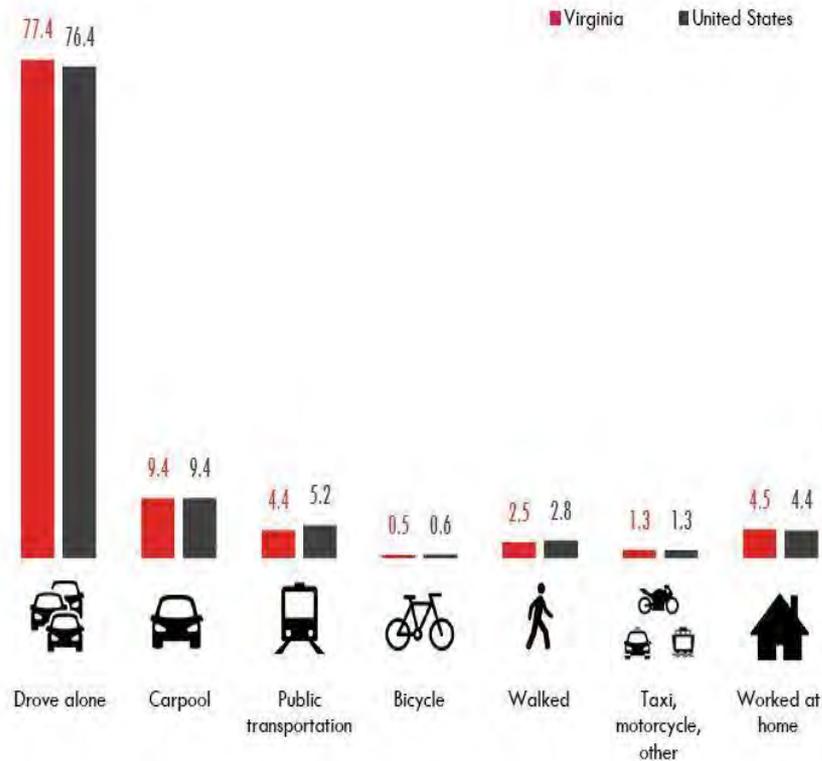
(BLS, 2016)

Source: Bureau of Labor Statistics, U.S. Department of Labor, The Economics Daily, 30 percent of civilian jobs require some driving in 2016

Driver License Suspension Limits Ability to Work

HOW RESIDENTS GET TO WORK

Percentage of workers over age 16, 2013



U.S. Dep't of Transp., Bureau of Transp. Stats., *VIRGINIA Transportation by the Numbers* 190 (2016)

From: Leary, Matthew (DMV) [mailto:Matthew.Leary@dmv.virginia.gov]
Sent: Thursday, January 05, 2017 3:00 PM
To: Dave A LaRock
Cc: Holcomb, Richard (DMV)
Subject: Driver's License Suspensions

Daniel-

From: Leary, Matthew (DMV) [mailto:Matthew.Leary@dmv.virginia.gov]
Sent: Thursday, January 05, 2017 3:00 PM
To: Dave A LaRock
Cc: Holcomb, Richard (DMV)
Subject: Driver's License Suspensions

Please let me know if we can provide you any more information or if you have any questions.

- Matt

Number of Suspended Drivers
Total customers with Fines and Costs suspensions 977,891
Customers with ONLY a Fines and Costs suspension 647,517

Number of Suspended Drivers

Total customers with Fines and Costs suspensions 977,891

Customers with ONLY a Fines and Costs suspension 647,517

have a suspended driver license because they cannot afford to pay their legal fees and court costs to the state. Another 200,000 have lost their licenses for offenses that have nothing to do with driving. For many, personal vehicles are the only travel option to their job, and their driver license suspension prevents them from employment, and ultimately from paying their court costs and building a more productive life.

Matt Leary
Virginia DMV | 804-474-2143 | matthew.leary@dmv.virginia.gov | www.dmvNOW.com

DMV is going green. Please consider the environment before printing this email.

[Confidentiality Statement](#)

Virginia's Form of Debtor's Prison

54,000

Court debt DWLS cases,
affecting 44,000 individuals, per
year

24

Average # of days in jail for
Court debt DWLS convictions

251,785

Ave. total jail days per year for
Court debt DWLS

Demonstrative 8

Average Debt at Time of DWLS For Failure to Pay Court Fines and Costs (2016)

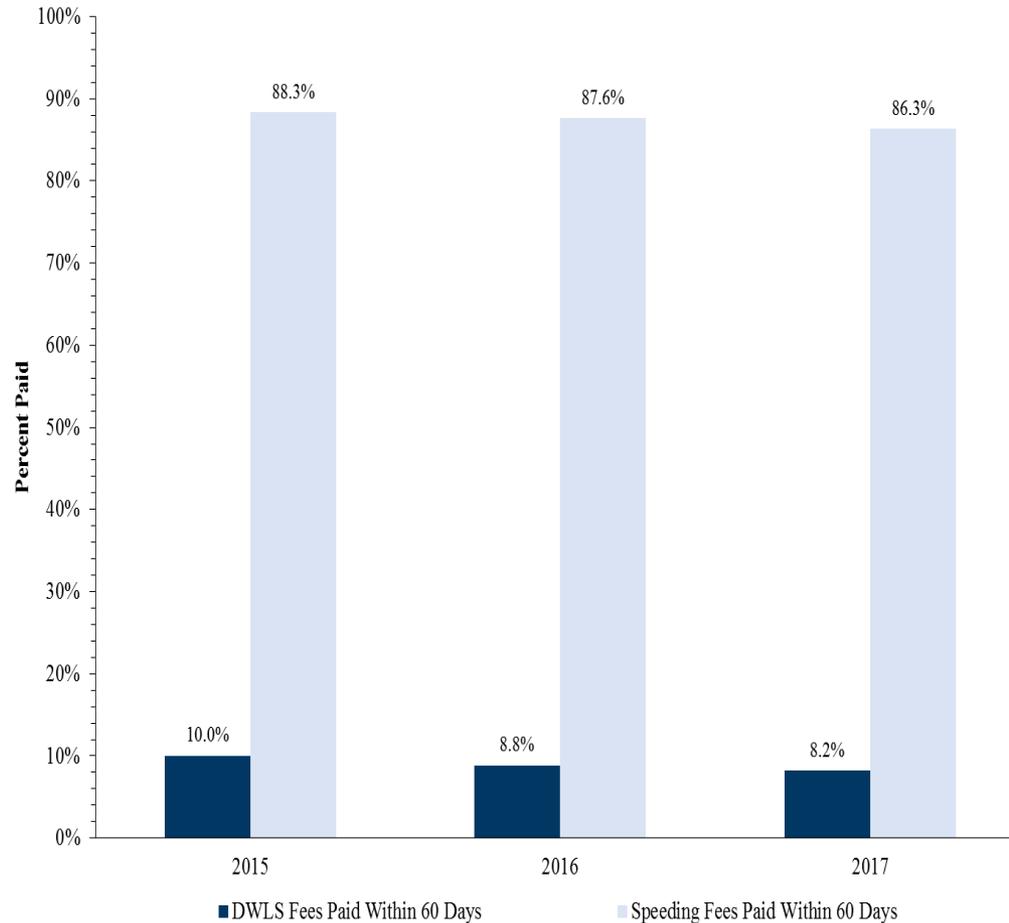
Count of DWLS Offenses	Average Unpaid Debt at Time of Offense
1	\$709
2	\$982
3	\$1,370
4 or more	\$2,189

Note: Year is the year of hearing date.

Source: Virginia Court Data last updated April 2018.

Demonstrative 7

Fines/Costs Paid Within 60 Days by Violation Type



Thank you, Ben Schoenfeld!

Virginia Court Data

Court case information from Virginia's Circuit and General District courts, available for bulk download

Stories

[Court data shows how common medical debt is](#), *The Northern Virginia Daily*, Max Lee, Feb 16, 2018

[Uncovering Big Bias with Big Data](#), *Lawyerist.com*, David Colarusso, May 31, 2016

[Blacks more likely to get prison time in plea deals, Hampton Roads court data show](#), *Dave Ress, Daily Press*, March 17, 2016

[Guns: Hampton Roads court records show many gun law violators get a pass](#), *Dave Ress, Daily Press*, March 15, 2016

[Courts records show many crimes, but few prison terms](#), *Dave Ress, Daily Press*, March 12, 2016

[Pattern of settling lawsuits against Roanoke-area hospitals makes them hard to find](#), *Laurence Hammack, Roanoke Times*, October 11, 2015

[Racial disparities exists in probation violation penalties, reports show](#), *Dave Ress, Daily Press*, March 29, 2015

Let me know how you are using the data - [Twitter](#) or [Email](#)

Open Data

This website is an independent, private effort, created and run as a hobby, and is in no way affiliated with the Commonwealth of Virginia or Virginia's Court System. We hope that the state will begin releasing court data in bulk so that we don't have to.

[Court Data and the 2017 Session of the General Assembly](#)

[Why it's difficult to get court data in Virginia](#)

www.virginiacourtdata.org

DRIVEN BY DOLLARS

A State-By-State Analysis of Driver's License
Suspension Laws for Failure to Pay Court Debt

Authored by Mario Salas and Angela Cioffi



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2017: 50-State Survey

- ❑ 43 states (+ D.C.) suspend driver's licenses because of unpaid court debt
- ❑ Only 4 states require an ability-to-pay, or "willfulness," determination before a license can be suspended for nonpayment.
- ❑ 14 states use license suspension for both traffic and criminal justice debt
- ❑ Virtually all states that suspend do so indefinitely.

Sen. Bill Stanley's driver's license suspension repeal bill passes Senate

By Amy Friedenberger amy.friedenberger@roanoke.com 981-3356 Jan 25, 2019



Sen. Bill Stanley addresses a General Assembly session.

Richmond Times-Dispatch | File 2018



RICHMOND — The Senate passed legislation on Friday that would repeal a current state law that suspends the Virginia driver's license of anyone who doesn't promptly pay court fines or costs unrelated to driving offenses.

The Senate passed SB 1013 sponsored by Sen. Bill Stanley, R-Franklin, on a 36-4 vote. Stanley estimates more than 600,000 people in Virginia have suspended driver's licenses.

"What we're doing is disproportionately punishing the poor," Stanley said on the floor.

This is the second time Stanley has introduced this bill, which heads to the House of Delegates. Gov. Ralph Northam has signaled support for ending the practice.

The bill would require the DMV to reinstate driver's licenses that had been suspended solely for this reason before July 1, 2019, the expected day of enactment.

More Information

<http://www.justice4all.org/drive>

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SECOND CHANCE MOBILITY PROJECT

NORTH CAROLINA
PRO BONO
RESOURCE CENTER

Pursuing Justice Through Service



north carolina
JUSTICE CENTER

NORTH CAROLINA
second
chance
ALLIANCE



I am for Second Chances

Restoring opportunities.
Strengthening communities.
Preserving resources.



LINC
Leading Into New Communities



community success initiative

HELPING INDIVIDUALS & COMMUNITIES MOVE FROM WHERE THEY ARE TO WHERE THEY WANT TO BE

Criminal Justice Debt As a Barrier to Reentry

Members of the NC Second Chance Alliance have focused on costly criminal justice fees and fines as a systemic barrier to reentry for several years.

- **Impact of Payment**

- Financial Instability: People often pay rising court costs even when they cannot afford to do so and in lieu of other expenses and necessities (rent, groceries, child care, etc.)

- **Impact of Nonpayment**

- Debtors' Prisons:
 - Probation extension based on unpaid fees and fines
 - Probation revocation/imprisonment based on unpaid fees and fines
- Indefinite driver's license suspension
 - Isolation from opportunities and resources essential to successful reentry
 - Exposure to criminal justice involvement/Driving While License Revoked



December 2017 Listening Session Hosted by CSI, the NC Second Chance Alliance, Wake County Commissioner Jessica Holmes, and District Attorney Lorrin Freeman.

Rising Court Costs in North Carolina

Sample of 2019 Court Costs and Fees

Additional Fees for Traffic Offenses

- ❑ **General Court of Justice fee (District): \$147.50**
- ❑ General Court of Justice fee (Superior): \$154.50
- ❑ Jail fee: \$10 per day of pretrial confinement
- ❑ Facilities fee (District): \$12
- ❑ Facilities fee (Superior): \$30
- ❑ Telecommunications and Data fee: \$4
- ❑ Law enforcement officer retirement fee: \$7.50
- ❑ Community Service fee: \$250
- ❑ **Failure to Appear fee: \$200**
- ❑ **Failure to Comply fee: \$50**
- ❑ State Crime Lab fee: \$600
- ❑ **Installment fee: \$20**
- ❑ Probation fee: \$40 per month
- ❑ **Appointment of Counsel fee for Indigent Defendant: \$60**
- ❑ Chapter 20 fee: \$10
- ❑ Chapter 20, Improper Equipment fee: \$50
- ❑ Seat Belt fee: \$10
- ❑ Civil Revocation fee: \$100
- ❑ Limited Driving Privilege fee: \$100

In 1995, the General Court of Justice Fee (District) was \$41. In 2019, it is \$147.50.

260% Increase

POLITICAL AND PROCEDURAL BARRIERS TO FEE WAIVERS = FEWER FEES WAIVED



2017 Report on Criminal Cost Waivers [G.S. 7A-350]

Research and Planning Division
February 1, 2017

County	Waived	Partially Waived	Not Assessed	Stricken/ Entered in Error	Civil Judgment	Ordered (Not Waived)
Greene	173	0	8	30	2	1,734
Guilford	9,497	9	485	1,564	962	41,108
Halifax	519	1	93	132	56	4,554
Harnett	694	1	125	613	296	8,604
Haywood	579	1	140	230	33	8,245
Henderson	135	14	427	97	106	10,907
Hertford	129	0	182	105	14	2,149
Hoke	500	0	95	177	124	3,710
Hyde	20	0	11	4	8	595
Iredell	1,324	4	807	857	239	19,410
Jackson	260	0	20	79	13	4,365
Johnston	981	7	106	786	495	14,935
Jones	62	0	76	90	6	2,409
Lee	553	0	155	252	56	3,789
Lenoir	794	0	5	109	11	6,675
Lincoln	780	0	11	95	71	7,836
Macon	152	0	37	37	1	3,261
Madison	45	0	38	72	28	4,101
Martin	249	0	184	166	15	6,401
McDowell	850	43	70	64	471	6,169
Mecklenburg	12,861	15	2,017	389	486	38,455
Mitchell	90	0	1	19	1	1,159
Montgomery	111	0	76	67	78	5,903
Moore	63	0	2,910	56	72	6,409
Nash	737	0	60	48	10	11,140
New Hanover	2,754	0	30	139	203	15,971
Northampton	152	0	20	28	0	1,423
Onslow	1,450	16	1,080	564	295	21,777
Orange	1,537	15	129	319	64	14,752
Pamlico	32	2	29	25	69	1,141
Pasquotank	122	0	60	40	1	3,594
Pender	265	0	88	127	63	5,398



2018 REPORT ON CRIMINAL COST WAIVERS G.S. 7A-350

Table 2: Criminal Case Money Statuses by Judge Field, Calendar Year 2017

Judge Name	Waived	Partially Waived	Not Assessed	Stricken/ Entered in Error	Civil Judgment	Ordered (Not Waived)
ABERNATHY, G, WAYNE	14	0	0	38	46	112
ABERNETHY, RICHARD, B	121	0	14	21	279	847
ADAMS, GALE, M	55	0	51	8	183	121
ALBRIGHT, R, STUART	39	0	53	29	33	323
ALBRIGHT, STUART, A	0	0	0	0	0	2
ALBRIGHT, WILLIAM, D	0	0	0	0	0	1
ALDRIDGE, THOMAS, V	1	0	3	1	2	93
ALEXANDER, KAREN, A	13	0	42	23	103	801
ALEXANDER, SHONNA, R	1	0	0	0	0	0
ALFORD, BENJAMIN, G	46	0	44	9	36	607
ALLEN, BRADLEY, R	197	0	10	296	54	5,071
ALLEN, CLAUDE, JR.	30	0	5	24	7	126
ALLEN, JASPER, B	1	0	0	0	1	2
ALLEN, STANLEY, L	205	1	53	10	84	302
ALLOWAY, SHERRY, F	123	0	76	5	27	224
AMMONS, JAMES, F, JR.	75	1	73	4	152	204
ANDERSON, CHARLES, T	16	2	4	6	4	90
ANTONELLI, JULIE, B	9	0	2	2	0	392
ARCHIE, CARLA	66	0	20	6	178	138
ARTHUR, BETTY, B	0	0	1	0	0	1
ATKINSON, THOMAS, T, JR.	1	0	9	4	0	515
AYCOCK, DAVID, WOODALL	12	1	204	69	425	1,320
BADDOUR, R, ALLEN, JR.	275	1	18	8	81	263
BAGGETT, TALMAGE, S	419	15	9	27	83	2,207

Statewide Totals	Waived
2016	87,006
2017	45,882

AUTOMATIC AND INDEFINITE Driver's License Suspension for Failure to Pay

§ 20-24.1. Revocation for failure to appear or pay fine, penalty or costs for motor vehicle offenses.

(a) The Division must revoke the driver's license of a person upon receipt of notice from a court that the person was charged with a motor vehicle offense and he:

(1) failed to appear, after being notified to do so, when the case was called for a trial or hearing, or

(2) failed to pay a fine, penalty, or court costs ordered by the court.

Revocation orders entered under the authority of this section are effective on the sixtieth day after the order is mailed or personally delivered to the person

IMPACT ON PEOPLE AND FAMILIES

- “I get up at 5 am and walk 3 hours to work.”
- “I can’t pick up my kids from school on time. Also, they can’t participate in extracurriculars because I can’t get them there.”
- “Weather makes it extremely hard to catch rides.”
- “I lost my job.”
- “I pay Uber and bus about \$150 weekly.”
- “I have to take jobs that are on the bus route, and I have to live in neighborhoods that have public transportation.”
- “I am unable to take my elderly mother to her doctor appointments.”
- “Limits my ability to make doctor appointments.”
- “I am unable to spend time with my family.”
- “It is harder to find a job because many require a license.”
- “The bus adds 2 hours to my commute each way.”
- “I cannot visit my teenage son in Charlotte.”

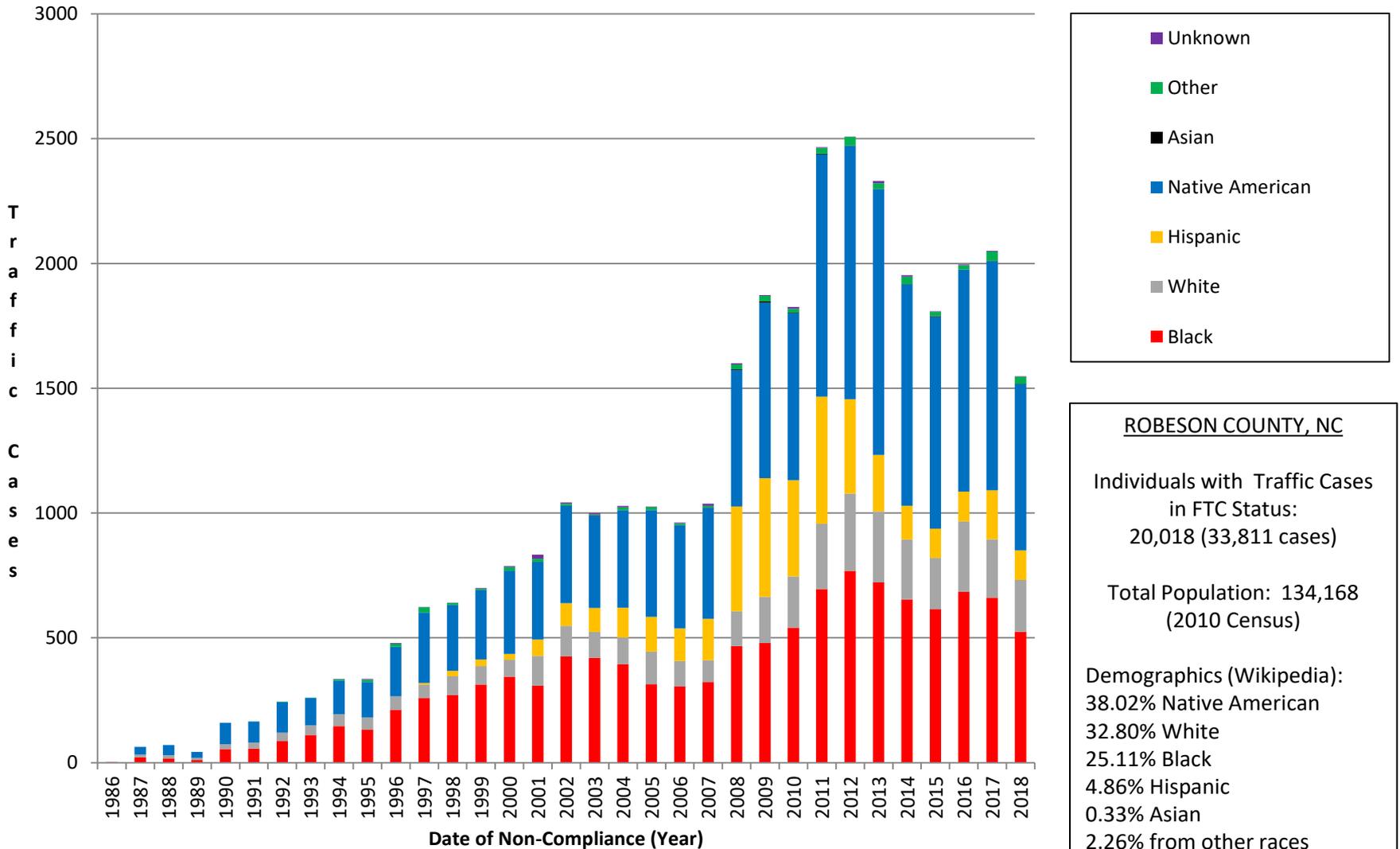
DMV SUSPENSION FIGURES (AUGUST 2017)

INDEFINITE DRIVER'S LICENSE SUSPENSIONS FOR FAILURE TO APPEAR AND FAILURE TO COMPLY/PAY:

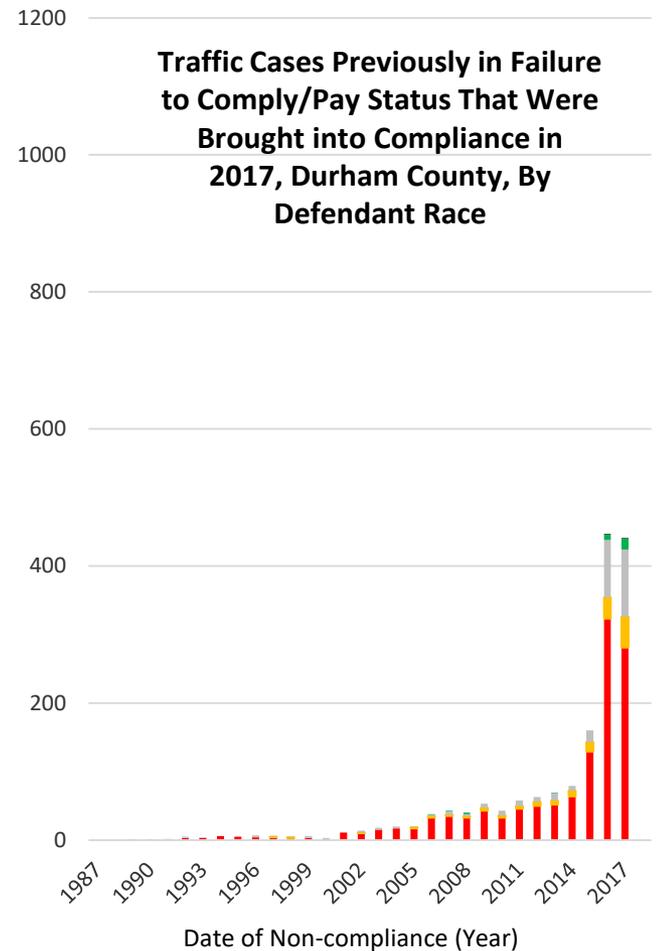
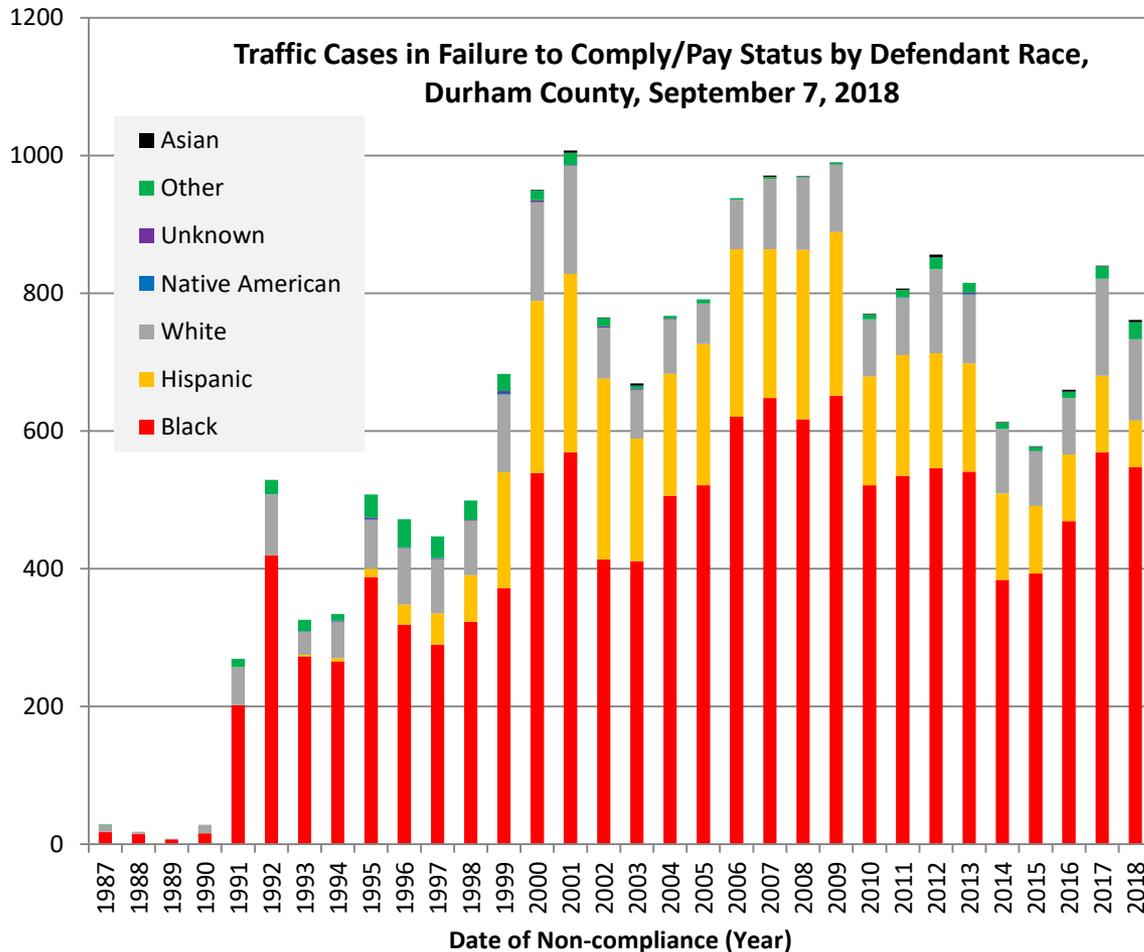
- ▣ 3,524,260 SUSPENSIONS*
- ▣ **1,179,680 PEOPLE WITH AT LEAST 1 SUSPENSION**
- ▣ 59,287 PEOPLE RESOLVED ALL FTA/FTC SUSPENSIONS AND HAD THEIR LICENSES REINSTATED IN PREVIOUS 12 MONTHS

*A PERSON CAN HAVE MULTIPLE SUSPENSIONS -1 FOR EACH TRAFFIC CHARGE IN FAILURE TO APPEAR OR FAILURE TO COMPLY/PAY STATUS

Traffic Cases in Failure to Comply/Pay Status by Defendant Race, Robeson County, September 7, 2018



The NC Administrative Office of the Courts provided the Second Chance Mobility Project with court records for all cases in "Failure to Appear" and/or "Failure to Comply" status on September 7, 2018.



Durham County Demographics
 50.91% White
 39.46% Black
 .30% Native American
 3.29% Asian
 4.21% from other races,
 7.63% Hispanic or Latino of any race.

**COURT DATA IS CLEAR: LONG-TERM
 SUSPENSIONS, UNCOLLECTABLE DEBT, &
 CATASTROPHIC RACIAL DISPARITIES**

SECOND CHANCE MOBILITY-- CHANGE STRATEGY



1. Agenda Setting and Sustained Engagement By Impacted People

2. Free Legal Services to Eliminate Debt Using Existing Statutory Relief

- Maximize Access to Relief for Clients
- Gain in-depth understanding of diverse circumstances of debt and need, impact on people and families, and barriers to accessing relief.
- Improve understanding of need and support for reform among District Attorneys and other agency partners.
- Opportunity to solicit impact narratives and engage impacted people in local and legislative agenda.
- Pilot service delivery model for replication by legal services providers.

3. Identify Responsive Policy and Practice Reforms

4. Use Established Alliances, Forums, and Legislative Champions to Pursue Policy and Practice Reforms



Legal Services to Maximize Access to Existing Relief and Anchor Advocacy Efforts

- A. Maximize Access to Existing Relief for Clients With Support From Prosecutors
- Defendant Motion to Remit Debt Based on “Inability to Pay”/Non-willfulness ([GS 20-24.1\(b\)\(4\)](#))
 - Prosecutor Motion to Remit Debt Based on “Proper Administration of Justice” ([GS 15A-1363](#))
- B. Gain in-depth understanding of diverse circumstances of debt and need, impact on people and families, and barriers to current relief.

Insights gained about barriers to current traffic court debt relief:

- Reluctance among judges to grant relief based on political pressure and/or not being familiar with waiver and remittance statutes and standards**
- “Ability to Pay” standard focused on “do you have any money at all?” rather than discretionary income (“can you afford to pay these fees and still pay your bills?”)**
- No access to legal representation**
- No standard form or procedure to initiate pro se request for waiver or remittance**
- Multiple FTC/FTA suspensions in more than 1 jurisdiction (overwhelming to resolve)**
- NCDMV non-waivable restoration fee (\$65 or \$115)**
- Permanent DMV Suspensions for 3+ DWLR convictions* or 3+ moving violations.**

- C. Improve understanding of need and support for reform among district attorneys.
- D. Opportunity to solicit impact narratives and engage impacted people in local and legislative advocacy efforts.
- E. Pilot service delivery model for replication by other legal services providers.

REGIONAL MEETING TO DISCUSS DRIVER'S LICENSE RESTORATION

Meeting Date, Time & Location:

Thursday, August 9th – 8:00AM to 10:00AM

Durham City Hall

101 City Hall Plaza, Suite 1900 (Innovation Lab)

Durham, NC 27701

Parking: *Parking deck across from City Hall*

Entrance to deck at intersection of Rigsbee Avenue & E Chapel Hill St.

Meeting Purpose:

Having a driver's license makes it easier for residents to secure and maintain employment. Yet many residents from low-income households lost their licenses years ago and have been unable to restore them. Durham, Orange and Wake Counties are all making important efforts to address some of the barriers preventing our residents from restoring their driving privileges. However, our individual efforts are less effective than a more regional approach would be, due to the fact that our residents often have charges in more than one county. As a result, individual efforts in any one of our counties can only get these residents part of the way toward license restoration.

In the absence of a more coordinated, regional approach, the driver's license restoration process is more difficult and confusing for the low-income residents we are trying to assist. The current process also asks more of our pro bono attorneys and non-profit legal providers, who often must spend more time helping the same individual through multiple processes in different counties. Given the number of low income residents with long-term suspensions (most of which are not due to DWIs), it is important to create a process that fully leverages our pro bono attorneys and non-profit legal service providers.

The purpose of this meeting is to begin a conversation on how our three counties can model this approach in our state and to explore steps we could take to work toward a regional driver's license restoration program.

Hosts:

Roger Echols, Durham District Attorney

Wendy Jacobs, Durham County Board of Commissioners

Jennifer Lechner, Executive Director of the North Carolina Equal Access to Justice Commission

Steve Schewel, Mayor, City of Durham

Thomas Bonfield, Durham City Manager

Durham Innovation Team staff members

Attendees:

Lorin Freeman, Wake County District Attorney

Jim Woodall, Orange County District Attorney

Pam Hemminger, Mayor, Town of Chapel Hill

Nancy McFarlane, Mayor, City of Raleigh

James West, Wake County Board of Commissioners

Activate District Attorneys and Other Local Leaders as Change Makers

Attendees (continued):

Mark Dorosin, Chair, Orange County Board of Commissioners

Cait Feinhagen, Criminal Justice Manager, Orange County

James Williams, Chairman, NCCRED and former public defender

Daniel Bowes, North Carolina Justice Center

Josephine Davis, Durham Assistant District Attorney

Emily Mistr, Wake County Public Defender

Sylvia Novinsky, Director, NC Pro Bono Resource Center

Leigh Wicclair, Pro Bono Program Manager, NC Equal Access to Justice Commission

Sarah Baker, Senior Policy Analyst, City of Raleigh

AGENDA

- | | |
|---------|---|
| 8:00AM | Breakfast |
| 8:15AM | Welcome and opening remarks by Mayor Schewel, District Attorney Echols, and Jennifer Lechner from the NC Equal Access to Justice Commission |
| 8:25AM | Discussion of Durham's current efforts and lessons learned
Ryan Smith, Durham I-Team Project Manager, Josephine Davis, Assistant District Attorney for Durham County, and Daniel Bowes, NC Justice Center |
| 8:40AM | Explore opportunities to lead together on this important issue <ul style="list-style-type: none"> • Understanding the current process and the limitations we face in the absence of a more coordinated, regional approach • Understanding the obstacles to developing a more regional program • Identifying specific opportunities to work toward a more regional program. Some questions might include: <ul style="list-style-type: none"> - How might we redesign the process or create a process that is more uniform across our three counties? - How might we work together to test new approaches (e.g. new digital tools) that could help us reach more low-income residents? - What eligibility criteria can we all agree on that could form the basis for a regional program? - What actions might we collectively take or further explore to reduce the disproportionate number of low-income residents and residents of color with suspended driver's licenses? - How might we dedicate additional resources to advance this work? - What is the role of self-representation and how might we better support it? |
| 9:40AM | Next steps <ul style="list-style-type: none"> • Reaffirming a shared vision for this work • Committing to another meeting to advance this work |
| 10:00AM | Adjourn |

Identify Policy and Practice Reforms

IDEAL

Cease suspension of driving privileges for failure to pay traffic fees and fines.

Terminate all active suspensions for failure to pay court fees and fines.

ALTERNATIVE

Require court to find “ability to pay” and willful failure to pay prior to suspension of driving privileges.

Limit maximum length of suspension for failure to pay to 12-months.

Establish indigency waiver for NCDMV restoration fee.

Establish a standard form distributed by the NC Administrative Office of the Courts for waiver and remittance of criminal justice fees and debt.

Improve DMV hearing procedures for permanent suspensions.

Procure funding for legal services focused on relieving criminal justice debt.

Use Established Alliances and Forums to Pursue Policy and Practice Reforms



NC State Reentry Council Meeting

February 6, 2018



Year 1 Progress: Policy and Practice Reform

- State Reentry Council, Legislative Recommendation to Require Pre-Deprivation “Ability to Pay” Hearing and Limit Maximum Length of Suspension
- Expect to see a bipartisan bill introduced eliminating the practice of indefinite suspensions for failure to pay traffic fees and fines
- Standard Form for Fee Waiver/Remittance Under Review By NCAOC Criminal Forms Committee

Relevant Debt Remittance Statutes in North Carolina

§ 20-24.1 Revocation for failure to appear or pay fine, penalty or costs for motor vehicle offenses.

(b) A license revoked under this section remains revoked until the person whose license has been revoked:...

(4) demonstrates to the court that his failure to pay the penalty, fine, or costs was not willful AND that he is making a good faith effort to pay OR that the penalty, fine, or costs should be remitted.

§ 15A-1363 Remission of a Fine or Costs.

A defendant who has been required to pay a fine or costs, including a requirement to pay fine or costs as a condition of probation, or a prosecutor, may at any time petition the sentencing court for a remission or revocation of the fine or costs or any unpaid portion of it. If it appears to the satisfaction of the court that the circumstances which warranted the imposition of the fine or costs no longer exist, that it would otherwise be unjust to require payment, or that the proper administration of justice requires resolution of the case, the court may remit or revoke the fine or costs or the unpaid portion in whole or in part or may modify the method of payment. (1977, c. 711, s. 1.)

§ 7A-304 Costs in criminal actions.

(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed when a case is dismissed. Only upon entry of a written order, supported by findings of fact and conclusions of law, determining that there is just cause, the court may (i) waive costs assessed under this section or (ii) waive or reduce costs assessed under subdivision (7), (8), (8a), (11), (12), or (13) of this section. No court may waive or remit all or part of any court fines or costs without providing notice and opportunity to be heard by all government entities directly affected. The court shall provide notice to the government entities directly affected of (i) the date and time of the hearing and (ii) the right to be heard and make an objection to the remission or waiver of all or part of the order of court costs at least 15 days prior to hearing. Notice shall be made to the government entities affected by first-class mail to the address provided for receipt of court costs paid pursuant to the order

Questions?

- Please type your questions in the “Questions” box of your webinar control panel.

- Didn't get to your question? Feel free to reach out and ask a speaker:
 - ▣ Daniel Bowes → danielb@ncjustice.org
 - ▣ Sam Brooke → samuel.brooke@splcenter.org
 - ▣ Angela Ciolfi → angela@justice4all.org
 - ▣ Dennis Gaddy → dgaddy1@communitysuccess.org