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THE WHEELS ON THE BUS: THE STATUTORY SCHEMES THAT TURN TRAFFIC TICKETS INTO FINANCIAL CRISES

Forty-three states have, or previously had, some version of a driver's license suspension program. These programs are shown to have disastrous financial effects on the lives of those who cannot afford the fines inherent in them. Challenges to such license suspension schemes have been brought throughout the United States but have been largely unsuccessful. Where relief ultimately may be found is in state legislatures or city governments. When those bodies discover that, although these programs are in fact valid and constitutional, many of them have such detrimental and long-term impacts on so many citizens, they ultimately result in more harm than good. This realization has led many states to experiment with changes to, or repeals of, their driver's license suspension programs with varying success. However, many states still rely on the fines levied by these programs and there is a legitimate argument that the programs are imposed to keep dangerous drivers off the street. Ultimately, this is an issue that arose from legislation and, despite finding its way into the court system, must be solved with legislation.

INTRODUCTION

In 2010, Graciela Rodriguez was hit by another vehicle as she was driving home from leaving flowers at a Texas cemetery.¹ Before making it home that day, Ms. Rodriguez received a citation for driving without insurance—a \$400 dollar fine,² which took several years for her to pay.³ When she attempted to renew her license in 2017, Ms. Rodriguez discovered that the Texas Driver's Responsibility Program (“DRP”) had automatically imposed additional fines, or “surcharges,” as a result of her citation—on top of the fines she already had paid for the insurance citation—and because of her nonpayment, her license had been suspended.⁴ She was put on an installment plan to pay off these surcharges.⁵

However, in Kafkaesque fashion, Ms. Rodriguez could not obtain information regarding the DRP surcharges that she now owed, how they had been calculated, nor how she could have her license reinstated.⁶ The payment plan imposed on Ms. Rodriguez would have taken nearly four years for her to pay off—assuming that she could afford to make the monthly payments.⁷ But Ms. Rodriguez could not afford to make the monthly payments. As a result, her driver's license remained suspended.⁸ The impact this suspension had on Ms. Rodriguez was significant.

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In her late sixties, taking medication that made it dangerous for her to be exposed to heat, Ms. Rodriguez was left with no alternative but to wait for and ride public transportation in the Texas heat—where she spent five hours a day on three different bus lines to commute to her job as an in-home caregiver.⁹ Ms. Rodriguez also was relegated to using public transportation to travel to her doctor, purchase groceries, and to visit her five children, eighteen grandchildren, and sixteen great grandchildren.¹⁰ In addition to the significant inconvenience, public transportation also posed substantial health risks. For example, on one occasion, Ms. Rodriguez had to be rushed to the hospital after becoming dangerously overheated on the bus.¹¹ Ms. Rodriguez's struggle—having her license suspended for her inability to afford traffic citations—is just one of millions throughout the United States.

For many Americans, a driving citation or fine is a manageable hassle. However, for millions of Americans, a driving citation ultimately means the loss of one's driver's license, and the ripple-down impact of this loss can be devastating for an individual who is already in financial trouble.¹² Unable to commute to work, to doctor's appointments, or to visit family, the loss of one's driver's license drastically change the lives of those individuals and may further exacerbate financial hardship.¹³ Studies have shown that nearly half of individuals lost their jobs when their driver's licenses were suspended,¹⁴ nearly half of that group were unable to find another job, and a vast majority of those who did find another job reported decreased wages.¹⁵

States take different approaches to the suspension of driver's licenses, but the end result of the suspension of an individual's driver's license is, far too often, devastating for indigent drivers—regardless of geography. Where these programs differ is the infractions that can lead to a license suspension—ranging from civil infractions completely unrelated to driving, to criminal convictions for driving under the influence—how the fines and penalties are calculated, how the state and the specific program treats indigent drivers with respect to their ability to pay, and how drivers can potentially have their license reinstated after suspension.¹⁶

Because of the detrimental effects many of these programs have on indigent drivers, states should modify their programs to ensure that indigent drivers are afforded adequate protections, notice, and options before judicial challenges concerning the constitutionality of such programs are brought. Specifically, because driver's license suspension programs have the potential to place individuals in such dire financial situations, there is widespread agreement that at least some aspects of these programs must change.¹⁷ Some states have completely repealed their suspension programs for failure to pay and have closed the resulting gap in state revenue by charging more for individual traffic tickets and adding fees to insurance premiums.¹⁸ However, while fixes such as these protect indigent individuals from having their license suspended solely for their inability to pay, an increase in citation fees may ultimately have the largest detrimental effect on this same population if they cannot afford to pay their citations and are unlikely to provide the relief governments and individuals seek. Consequently, this is not the best solution available to states that are trying to address this problem.

This Article will focus on the suspension of indigent persons driver's licenses. Part I will analyze how specific states provide protections for indigent drivers and

how these protections are implemented. Part II will address the constitutional arguments alleging the inadequacy of these protections and their records in the courts. Part III will look at recent legislative fixes to these programs and comment on their effectiveness. Last, Part IV will provide suggestions for states looking to fix issues that may exist in their own driver's license suspension programs and will touch upon the trend of bringing constitutional challenges that are bound to fail, with the ultimate goal of garnering a legislature's attention.

I. DRIVER'S LICENSE SUSPENSIONS AND INDIGENT PROTECTIONS

If properly implemented, certain statutory schemes concerning indigent drivers can provide adequate protection for the drivers most impacted by license suspensions. Generally, states implement one of three schemes concerning protections for indigent drivers, general protections for indigent individuals, driver specific protections, and no protections.

A. General Protections for Indigent Drivers

Some states, such as Oregon, have general protections for indigent individuals to protect them from court costs or other fines which extend the state's driver's license suspension programs.

Oregon allows broad protections for indigent drivers; however, the implementation of these protections are not mandatory and are left to the discretion of judges.¹⁹ In Oregon, after an individual receives a citation for a traffic violation, the driver must either pay the fine, make an appearance in person, or request a trial.²⁰ While the Oregon statute outlines minimum fines for various classes of violations, the statute allows a court to defer, waive, suspend, or otherwise reduce the fine for a violation if otherwise provided by law.²¹ Further, the statute provides that judgments may include "Remission of any balance of a presumptive fine to the defendant"²² and stipulates that,

[I]f the court orders restitution in a default judgment entered under ORS (Entry) 153.102, a defendant may allege an inability to pay the full amount of monetary sanctions imposed, including restitution, and request a hearing to determine whether the defendant is unable to pay or to establish a payment schedule by filing a written request with the court within one year after the entry of the judgment. The court shall set a hearing on the issue of the defendant's ability to pay upon receipt of the request and shall give notice to the district attorney. The district attorney shall give notice to the victim of the date, time and place of the hearing. The court may determine a payment schedule for monetary sanctions imposed, including restitution ordered under this subsection, if the defendant establishes at the hearing that the defendant is unable to pay the ordered restitution in full.²³

Additionally, "[a] judge may suspend operation of any part of a judgment entered under this chapter upon condition that the defendant pay the non-suspended portion

of a fine within a specified period of time.”²⁴ While there is no requirement that individuals are notified of the possibility of a payment plan, “several Oregon courts . . . do consider a person’s indigency and will offer a payment plan.”²⁵

If traffic violation fines are not paid, Oregon courts may use a private collection agency²⁶ or issue a notice of suspension to the DMV, directing the DMV to order a defendants’ driving privileges restricted.²⁷ Although Oregon does not require courts to consider an individual’s ability to pay when imposing fines that can ultimately result in driver’s license suspension, the *Mendoza* Court found that the courts do have flexibility in their administration of these fines and that judges have the option to provide relief to individuals who cannot afford to pay.²⁸

B. Driving Specific Protections

Other states, such as Texas, North Carolina, and Minnesota, have protections for indigent drivers directly built into their driver’s license suspension programs.

Texas

Until its recent repeal on September 1, 2019, the Driver Responsibility Program (“DRP”) was Texas’ driver’s license suspension program. The Texas legislature created the DRP to deter continued traffic violations and to promote public safety²⁹ by imposing surcharges through two systems: a conviction-based system and a points-based system.³⁰ Under the conviction-based system, surcharges were automatically imposed if a driver was convicted of a specific offense.³¹ For example, if a driver was convicted of a DWI (first conviction), a surcharge of \$1,000 per year was imposed by the DRP for three years.³² Under the points-based system, drivers accumulated points for traffic offenses such as speeding violations or for using a cellphone while driving.³³ If a driver accumulated six or more points in three years, surcharges were imposed by the DRP.³⁴

When drivers did not pay the surcharge or agree to an installment plan, the DRP automatically suspended their driver’s license.³⁵ However, the DRP waived surcharges for indigent drivers who qualified by showing that they lived at or below 125 percent of the federal poverty level.³⁶ Drivers who were not indigent but who made less than 300 percent of the federal poverty level could receive a 50 percent surcharge reduction if they could not pay their full surcharge amount.³⁷

When drivers received traffic citations that added “points” under the DRP program, the citation informed drivers of the possibility of receiving additional surcharges.³⁸ When a driver received a fifth point on his or her license, the DRP sent a notice warning the driver that an additional point would result in a surcharge.³⁹ If drivers received a sixth point and a surcharge was imposed, the DRP sent another notice containing the total amount and due date of the surcharge, the details of an installment plan, and the consequences for failing to pay.⁴⁰ Forty-five days later, a follow-up notice was sent,⁴¹ and sixty days after that, a third notice was sent advising the individual that his or her driver’s license had been suspended.⁴²

North Carolina

North Carolina currently implements a similar program with similar protections for indigent drivers. However, the notice regarding these protections provided to drivers in North Carolina is less than the notice that was provided by the Texas scheme. North Carolina courts are required to report those who fail to pay a fine to the DMV, and the DMV is then required to revoke his or her driver's license.⁴³ Despite this requirement, individuals have the opportunity for relief if they "demonstrate to the court that their failure to pay the penalty, fine, or cost was not willful and that they are making a good faith effort to pay or that the penalty, fine, or costs should be remitted."⁴⁴ However, there is no requirement to notify individuals of this option and the challenge brought in North Carolina alleged that the notice provided to individuals regarding their license suspension indicated that the citation must be paid in full or their license would be suspended.⁴⁵ It is clear that relief options that may be available to indigent drivers are not effectively implemented as over 1.2 million individuals in North Carolina currently have their license suspended or revoked.⁴⁶ About 263,000 of these suspensions are the result of individual's failure to pay traffic fines, and roughly 827,000 of them resulted from failing to appear in court.⁴⁷ The lack of adequate protection provided by the North Carolina scheme is evidenced by local fixes that have been implemented in the state.⁴⁸

Minnesota

In Minnesota, as state legislatures consider bills ending driver's license suspensions for unpaid fines,⁴⁹ more than fifty thousand individuals have suspended driver's licenses solely for failing to pay traffic fines.⁵⁰ Currently, an individual in Minnesota failing to appear in court for a traffic citation or failing to pay a traffic fine, must have their driver's license suspended.⁵¹ However, five cities in Minnesota have enacted pilot programs that allow drivers with suspended driver's licenses to have their licenses reinstated after "[b]ill proponents testified that suspending a driver's license for unpaid traffic tickets often leads to job loss and mounting debt without improving public safety."⁵² Additionally, there is strong support for making these pilot programs state-wide and permanent.⁵³ If these programs become permanent, and the bills pending in the state legislatures do not pass, Minnesota would have a statutory scheme which continued to suspend individual's driver's licenses for nonpayment, but that also allowed individuals to enter into payment plans through the reinstatement programs to have their licenses reinstated.

C. No Protections

States such as Michigan and Montana offer no protections for indigent drivers facing license suspension.

Michigan

In Michigan, an individual who receives a civil infraction for a traffic violation can receive an additional judge-ordered cost of one-hundred dollars and a mandatory justice system assessment of forty dollars.⁵⁴ After twenty-eight days, an additional twenty percent late fee is added to any remaining balance,⁵⁵ and the court must notify the individual that their failure to appear or comply with an order or judgment of the court (including the failure to pay all fines) will result in the immediate suspension of their driver's license.⁵⁶ Once individuals' licenses are suspended, they are notified by mail and informed that they are subject to up to ninety-three days imprisonment, a fine of up to one-hundred dollars, or both, if they default on their misdemeanor charge as a result of their nonpayment or failure to appear.⁵⁷

For reinstatement, drivers must pay all of the underlying debt and a forty-five dollar driver's license clearance fee for each unpaid ticket, and if they are caught driving on a suspended license, they can face additional fines and imprisonment.⁵⁸ Within fourteen days of the license suspension, an individual may file a written appeal with the Secretary of State who appoints a hearing officer.⁵⁹ The hearing officer's decision may be petitioned to the circuit court who may set aside the prior determination "if it finds *inter alia* that the individual's 'substantial rights have been prejudiced because the determination is . . . [i]n violation of the Constitution of the United States[.]'"⁶⁰

Montana

Before a recent change in the law, the Motor Vehicle Division ("MVD") of the Montana Department of Justice automatically suspended individuals' driver's licenses who failed to pay court-ordered fines regardless of whether the failure to pay was due to that individual's indigence.⁶¹ Then, drivers must pay a one-hundred dollar fee to the MVD before their license could be reinstated, unless the court found the person indigent.⁶² Montana law dictated the eligibility and determination of indigence based on gross household income being equal to or less than 133 percent of the federal poverty level.⁶³ However, the statute was enacted for the purpose of determining whether one had the right to a public defender, and was simply extended to waive the license reinstatement fee for indigent drivers—not for earlier incurred fees.⁶⁴ Further, this protection did not extend to protect an indigent driver from having his or her license suspended for a failure to pay⁶⁵—it only applied to the license reinstatement after an individual's license had been suspended. Instead, Montana's statute dictated that the suspension of a driver's license was mandatory once the MVD received a report from the court which states that the individual failed to pay owed fines, costs, or restitution as provided by statute.⁶⁶ Inquiry by Montana courts were into an individual's ability to pay prior to informing the MVD that the person had failed to pay his or her debt was discretionarily,⁶⁷ and the notice provided to individuals regarding their license suspension was not required to include notice of their right to a hearing.⁶⁸

II. CONSTITUTIONAL CHALLENGES

Challenges have been brought throughout the United States against various driver's license suspension programs. These challenges focus on claims of facial and as-applied violations of due process and equal protection.

A. Procedural Due Process

Procedural due process challenges are raised under the Fourteenth Amendment and allege that the suspension processes states have implemented do not afford individuals "the opportunity to be heard."⁶⁹ Procedural due process—as opposed to substantive due process—is the applicable standard here as driver's license suspension only raises a property-based interest.⁷⁰ Generally, under a procedural due process standard, individuals that stand to lose a property interest are entitled to some form of notice and some form of procedure.⁷¹ Therefore, procedural due process entitles those facing suspension of their driver's license "the opportunity to be heard."⁷² The sufficiency of the form of notice and form of procedure provided is evaluated using the *Mathews* test:

First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.⁷³

Procedural Due Process: Facial Challenge

Facial challenges to procedural due process allege that driver's license suspension programs, on their face, are inadequate to fulfill the constitutional due process needed.⁷⁴ Such challenges allege that individuals hold a protected property interest in their driver's licenses and their ability to drive legally.⁷⁵ Challenges on this basis also allege that these programs are unconstitutionally vague because they fail to provide notice on how to utilize indigency protections; they fail to give notice to the state regarding proper enforcement of wealth-based relief; and because the notice provided fails to define key terms to facilitate adequate procedural protections for indigent drivers.⁷⁶

The arguments against these claims focus on the *Mathews* balancing test, and while states do admit that drivers hold a property interest in their driver's licenses, they maintain that individuals do not have a fundamental liberty interest in their ability to drive.⁷⁷ Additionally, states assert that their programs provides drivers with sufficient notice prior to license suspension, that there is a meaningful opportunity to be heard as to a driver's inability to pay, and that the risk of errone-

ous suspension is low.⁷⁸ Last, states argue that they have a strong interest in their enforcement of their driver's license suspension programs.⁷⁹

Courts follow *Hoffman Estates*⁸⁰ to address these claims, first determining whether these license suspension programs reach a substantial amount of constitutionally protected conduct.⁸¹ It is well established that an individual's license is recognized as a property interest that may not be taken away without due process of law.⁸² However, most courts agree with the *Mendoza* Court in holding that there is no fundamental right implicated by the suspension of driver's licenses under state programs.⁸³ While drivers do hold a property interest in their driver's licenses, this is not a constitutionally fundamental right, and so, the overbreadth challenges typically fail.⁸⁴

Moving to claims that these programs are unconstitutionally vague, drivers must demonstrate that "no set of circumstances exists under which the Act would be valid."⁸⁵ Most courts find that drivers cannot show that these programs are invalid under all circumstances, and therefore, that the government has a legitimate state interest in suspending driver's licenses for unpaid fines.⁸⁶ Therefore, facial due process challenges typically fail.⁸⁷

Procedural Due Process: As-Applied Challenge

As-applied challenges to procedural due process allege that the notice and implementation of driver's license suspension programs and the available options for indigent drivers is inadequate to fulfill the due process requirements needed to deprive individuals of their property interest in their driver's license.⁸⁸

In Texas and Oregon, challenges alleged that driver's due process rights were violated on two grounds: There was no meaningful process calculated to avoid discriminatory or erroneous deprivation; and states failed to conduct individualized assessments into lower-income individuals' financial status and ability to pay before either automatically setting monthly installment rates or refusing to offer a payment plan.⁸⁹ The challenges also alleged that by failing to give adequate notice of the indigency protections and by operating reduction programs automatically without notice or opportunity to be heard regarding ability to pay those amounts, driver's due process rights are violated.⁹⁰ In Texas, the state asserted that drivers have failed to allege that these suspension programs do anything other than follow the constitutionally sufficient procedures laid out in the programs and point to drivers who have taken advantage of the alternatives available to indigent drivers as evidence.⁹¹

The *Mathews* test is also used to evaluate as-applied claims. The first *Mathews* factor addresses the private interest at stake.⁹² Courts recognize that driver's licenses are a substantial interest that may not be taken away without due process of law.⁹³ However, the *Mendoza* court found that Oregon's license suspension program did not implicate any fundamental right.⁹⁴ This is consistent with the Supreme Court, which has stated that "The duration of any potentially wrongful deprivation of a property interest is an important factor in assessing the impact of official action on the private interest involved."⁹⁵ However, the Court has also held that the "interest

[in a driver's license] is not so great as to require us 'to depart from the ordinary principle [...] that something less than an evidentiary hearing is sufficient prior to adverse administrative action.'⁹⁶

The second *Mathews* factor examines "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards."⁹⁷ The *Jessup* and *Mendoza* courts found that there was little risk of erroneous deprivation because the suspensions were triggered by the objective act of nonpayment of fines.⁹⁸ Additionally, the *Jessup* court found that because drivers were provided an opportunity for a hearing prior to revocation, the risk of erroneous deprivation was substantially alleviated or even eliminated.⁹⁹ Therefore, because a driver's license suspension does not implicate a fundamental constitutional right, courts find due process does not require a hearing to determine indigency prior to the suspension of a driver's license.¹⁰⁰ The second *Mathews* factor also examines whether procedures or lack thereof increase or mitigate the risk of erroneous deprivations.¹⁰¹ The challenge in Texas alleged that the notice of license suspension is inadequate for many reasons including its inconspicuous placement among other text, its lack of definitions, and the lack of information concerning alternative payment options.¹⁰² In Oregon, the challenge alleged that pre-suspension notices were inadequate because they did not inform drivers of their right to object to their license suspension, request a reduced fine, or enter into a payment plan.¹⁰³

While examining the governmental interest at issue, the Supreme Court has explained that fiscal and administrative burden and efficiency is not a "controlling weight," but that these are still factors that must be weighed.¹⁰⁴ In many cases, driver's license suspension programs were enacted to deter continued traffic violations and to promote public safety,¹⁰⁵ and the *Jessup* court agreed that the government had an interest in avoiding the fiscal and administrative burden that would result from a predetermination hearing in every case.¹⁰⁶ Additionally, many of these programs were enacted, at least partially, to collect additional state revenue which was used for various purposes including trauma centers.¹⁰⁷

When weighing all of these factors, the District Court in Pennsylvania held that driver's procedural due process rights had not been violated because the plaintiffs had the opportunity to appeal the suspensions.¹⁰⁸ With a more in-depth analysis, the *Jessup* court found that while the Official Notice provided to drivers does not provide notice that an individual can prevent his or her license revocation by showing indigency, the Official Notice does cite directly to N.C. Gen. Stat. § 20-24.1, which does provide notice that license revocation can be prevented by showing indigency.¹⁰⁹ Therefore, the *Jessup* Court denied Plaintiffs' motion for a preliminary injunction, concluding that success on the merits was unlikely.¹¹⁰

However, some courts have found that drivers have stated a plausible as-applied claim when arguing that their state's driver's license suspension program violates due process rights due to erroneous deprivation, lack of adequate notice, or lack of opportunity to be heard on the matter of ability to pay.¹¹¹ Therefore, these claims are sometimes permitted to go forward.¹¹²

B. Equal Protection and Fundamental Fairness: Applicable Law

Challenges also allege that these programs violate protections afforded by the Fourteenth Amendment under the principles established in *Bearden v. Georgia*, arguing that these principles also extend to driver's licenses.

In *Bearden*, the petitioner pled guilty to burglary and theft and was sentenced to probation on the condition that he pay the imposed fines.¹¹³ There, the petitioner could not afford to pay the fines and was sentenced to prison for failing to pay.¹¹⁴ The Supreme Court held that prior to the imprisonment of an individual for failure to pay, a determination must be made as to whether that individual was able to make the payments or whether an adequate alternative form of punishment existed.¹¹⁵ The Court reasoned that the principles of due process and equal protection converge in cases such as this and that "if the probationer has made all reasonable efforts to pay the fine or restitution, and yet cannot do so through no fault of his own, it is fundamentally unfair to revoke probation automatically without considering whether adequate alternative methods of punishing the defendant are available."¹¹⁶

Challenges also attempt to use indigency protections established in *Griffen* and *M.L.B* to argue that suspending an indigent individual's driver's license for failure to pay fines is fundamentally unfair.

In *Griffen*, indigent defendants were denied a free transcript of their trial proceedings—which were required to appeal their cases.¹¹⁷ The Supreme Court held that this denial of adequate review for the poor may result in lost life, liberty, or property and that indigent defendants must be afforded as adequate an appellate review as defendants who have enough money to purchase transcripts.¹¹⁸

In *M.L.B.*, a mother was denied an appeal of the termination of her parental rights because she could not afford the required record preparation fees.¹¹⁹ The Court held that the state's authority to terminate parental rights implemented a right that was "sufficiently fundamental to come within the finite class of liberty interest protected by the Fourteenth Amendment."¹²⁰ As such, the state could not withhold proper appellate review of the termination of her parental rights because of her inability to pay.¹²¹ However, the Court also recognized that, although the principal adopted in *Griffen* is not limited to cases where imprisonment is at stake, the waiver of court fees in civil cases is the exception, not the general rule, and that the "Court has refused to extend *Griffen* to the broad array of civil cases" which involved "state controls or intrusions on family relationships."¹²²

These cases illustrate how the fundamental fairness principle that arises at the intersection of equal protection and due process has been applied to protect the indigent when the fundamental right to be free from incarceration and the fundamental right to access the courts are at stake.

Equal Protection & Fundamental Fairness Constitutional Challenges

Challenges against driver's license suspension programs attempt to extend this fundamental fairness principle, raising claims of facial equal protection violations

under *Bearden*, traditional equal protection violations, and as-applied violations of the intersection of equal protection and fundamental fairness principles under *Bearden*.

Facial challenges to equal protection under *Bearden* and as-applied traditional equal protection challenges allege that driver's license suspension programs are enforced without adequate guidelines to protect impoverished individuals from losing their licenses solely because they are too poor to pay fines.¹²³ Additionally, they allege that these programs disadvantage impoverished drivers, that there are not exceptions for individuals whose nonpayment is involuntary, that there are no protections to ensure impoverished individuals are not treated more harshly than wealthier individuals, and that there is not adequate protection to ensure impoverished individuals are not subjected to punitive sanctions.¹²⁴ These challenges allege that impoverished drivers are discriminated against by these programs because they lack access to information, resources, or immediately available sums of money, and that states fail to reinstate licenses for individuals on payment plans.¹²⁵ Challenges allege that there is no rational connection to any legitimate government interest in suspending licenses for nonpayment, and that license suspension is effected simply because these individuals are poor.¹²⁶ Last, challenges allege that these programs discriminate against impoverished drivers on the basis of wealth status by suspending their licenses for non-payment.¹²⁷ As such, challenges argue for the extension of *Bearden* and *Griffin* principles that prevent punitive action based solely on one's inability to pay.¹²⁸

Equal Protection and Fundamental Fairness under Bearden: As-Applied Challenges

Challenges alleging violations of equal protection and fundamental fairness principles established under *Bearden* argue that the Due Process and Equal Protection clauses come together to guarantee a right to fundamental fairness in government processes used against them, particularly in the context of protection against poverty-based punitive actions.¹²⁹ In Texas, this challenge further alleged that these programs suspend licenses solely as a penalty for failure to pay a monetary amount and not for public or traffic reasons, and that this action violates "the Fourteenth Amendment's guarantee of fundamental fairness and the Supreme Court's proscription against government-enforced penalties or disadvantages that result from one's poverty."¹³⁰

States defend these programs against equal protection challenges on five grounds. First, that *Bearden* is not applicable to driver's licenses (a property interest), because *Bearden* dealt with a fundamental liberty interest (the interest not to be incarcerated), and therefore, *Bearden* does not extend to civil penalties.¹³¹ Second, that the imposition of a fine is distinct from depriving individuals of their liberty solely because they cannot pay and that *Bearden* does not establish that it is fundamentally unfair to deprive someone of a property interest because they cannot pay a fine associated with that interest.¹³² Third, states argue that challenges must show

that different classifications of similarly situated persons were treated differently under the statute to be successful, and that indigent drivers were actually treated preferentially because of the alternative payment options available to them.¹³³ Fourth, because no suspect class or fundamental right is targeted, these programs must pass only a rational basis analysis, and that rational basis is satisfied because the states suspend driver's licenses to "[f]acilitate the payment of civil penalties in the hopes of deterring future traffic violations and unsafe driving."¹³⁴ Last, states assert that heightened scrutiny is inapplicable here because, unlike in *San Antonio Indep. Sch. District.*, these programs do not cause an absolute deprivation because they provide indigent drivers alternative payment systems.¹³⁵

Courts' Application of Fundamental Fairness Argument to Driver's License Suspensions.

Decisions concerning fundamental fairness and license suspension programs have largely held that *Bearden* applies only when a fundamental right such as the right to be free from incarceration or the right of access to the courts has been denied due to indigency.¹³⁶ "This construal of *Bearden* comes perilously close to an argument that courts must apply a higher standard of scrutiny to statutory classifications based on indigency – a principle the Supreme Court has 'repeatedly' rejected in favor of rational basis analysis."¹³⁷ Courts that have addressed similar challenges have largely followed *San Antonio School District*, holding that wealth-classification alone does not trigger strict scrutiny.¹³⁸ Ultimately, most courts hold that because there is no fundamental right or interest at stake in these challenges and because there is no discrimination of a suspect class, the license suspension programs must only pass a rational basis analysis,¹³⁹ and that "the rational basis test does not require laws to be narrowly tailored to accomplish the state's ends."¹⁴⁰ Because these programs have a rational basis, most courts find that there is no violation of equal protection under *Bearden*, and these claims are often dismissed.

Regarding challenges under the fundamental fairness doctrine, the Supreme Court has only applied this fundamental fairness doctrine where a person's fundamental right to be free from incarceration or fundamental right of access to the courts has been denied because of their indigency.¹⁴¹ Referring to the fundamental right to liberty and access to the courts, the *Mendoza* Court explained:

None of those rights or interests are present here. As the *Fowler I* court recognized, the *Griffin/Bearden* line of cases does not establish "that it is fundamentally unfair in a *constitutional* sense . . . or a state to deprive a person of a property interest-such as a driver's license-because of the person's inability to pay a fine associated with that interest." . . . The court analogized to a state legally foreclosing on a residence for failure to pay property taxes. Such action may lead to the homeowner becoming homeless but, the state's 'action is not barred by the Due Process Clause.' To be sure, the *Fowler I* court explained, it is unfair and unwise to deprive individuals of their driver's licenses because of an inability to pay. But it is not 'unfair' in a constitutional sense. Absent a fundamental right or suspect class, the government must act only rationally

and afford certain procedural protections before the deprivation of a protected interest. Putting aside the procedural issue, which the court addressed later, the court concluded that the plaintiffs’ “fundamentally unfair” argument based on *Griffin/Bearden* was not likely to succeed.¹⁴²

Using the same analysis as that in the Facial Challenge to Equal Protection, Courts typically hold that the implementation of these programs is clearly a legitimate state interest and passes rational basis analysis. As such, the challenges are often dismissed for failing to plausibly plead that the DRP violates equal protection and fundamental fairness under *Bearden*.¹⁴³

As courts must also evaluate traditional equal protection claims under rational basis, these claims are also typically dismissed.

III. ATTEMPTED SOLUTIONS

There are a range of potential legislative fixes to some of the problems that arise from driver’s license suspension programs. Some states have initiated entire repeals of their driver’s license suspension programs regarding suspension for non-payment of fines, while others have taken more pinpointed approaches, addressing specific problem areas or groups that are especially vulnerable to license suspensions. Some states have even indicated their unwillingness to address the problem, and their current statutory schemes remain in place. There are benefits and drawbacks to each of these approaches, and ultimately, a combination of the best aspects of these approaches is needed to provide any significant and long-term improvements to these programs.

Entire Repeal

Some state legislatures, such as Texas, California, and Montana, have entirely repealed their driver’s license suspension programs.¹⁴⁴ Many of these repeals have been enacted by legislatures acting under pressure from pending lawsuits which gained significant media attention and placed additional pressure on the state.¹⁴⁵

With the passage of H.B. 0217, Montana no longer suspends driver’s licenses solely for a failure to pay.¹⁴⁶ Proponents of the bill explain that “[n]inety percent of Montanans use a car to get to their job[.]”¹⁴⁷ Thus, proponents argue that suspending the driver’s licenses of Montana residents obstructs “their avenue to bettering their life, [and that suspending licenses is] an incentive for people not to improve their lives.”¹⁴⁸ However, the change is not necessarily a dramatic shift as judges still have the power to suspend driver’s licenses for failing to appear.¹⁴⁹ Representative Casey Knudsen, the law’s main sponsor, explains: “[I]f you’re going to suspend somebody’s license, you actually have to send out a notice-to-appear—then, if they fail to appear, [a Montana judge] can suspend the license[.]”¹⁵⁰ Additionally,

the change does not appear to have had as large of an impact when compared to other states that have repealed driver's license suspensions for failure to pay traffic fines.¹⁵¹ Anne Peterson, a Helena Municipal Court judge, requires drivers applying for reinstatement to appear in court to explain why they have not paid and to set up a payment plan.¹⁵² Judge Peterson also reports that she thought that the license suspension was "a useful tool" to compel payment of fines, and that these fines may now be sent to a collection agency or the state Revenue Department if they cannot be collected.¹⁵³

While Texas' motion to dismiss in *Rodriguez v. Mach* was pending judgment, Governor Greg Abbot signed a law to repeal the program.¹⁵⁴ After unanimously passing the Texas Senate, the repeal went into effect on September 1, 2019¹⁵⁵ and the Texas Department of Public Safety reinstated all driver privileges that had previously been suspended solely for having unpaid "surcharges."¹⁵⁶ This repeal did not include a refund of any payments that individuals had made prior to September 1, 2019 and any suspensions that had resulted from the nonpayment of surcharges remain on that individual's driving record.¹⁵⁷ According to the Department of Public Safety,

634,933 people will automatically have their suspensions lifted when HB 2048 is enacted, because they have no other fees or underlying suspensions; 350,027 people will have their suspensions lifted when HB 2048 is enacted after paying a reinstatement fee; and 398,163 people will be eligible to have their suspensions lifted after they resolve other non-DRP reasons for their license suspension, such as failure to pay or appear.¹⁵⁸

While entire repeals of driver's license suspensions for failure to pay have resulted in the reinstatement of thousands of individual's driver's licenses, these repeals were enacted fairly recently and the long-term effects of these repeals have not yet been fully realized.¹⁵⁹ In Texas, in order to mitigate the loss of income from the DRP programs, initial fines for specific offenses, such as DWIs were raised, and all traffic tickets will increase by twenty dollars.¹⁶⁰ Additionally, insurance prices will go up by about two dollars per year.¹⁶¹ This one-hundred to three-hundred percent increase in fines appears likely to continue to cause problems for indigent drivers.¹⁶² While the non-payment of these fines will no longer result in license suspensions, criminal justice advocates are worried about the effects of the cost increase.¹⁶³ As evidenced by the issues that arose during the original DRP program, many of Texas' lowest-income drivers could not afford to pay the fines and fees that were incurred under the old program.¹⁶⁴ By increasing traffic fines, Texas' lowest-income drivers may still become trapped in debt by these fines.¹⁶⁵ The repeal does grant judges the power to waive these fees for low-income drivers, but as seen under the DRP and in states such as North Carolina, the presence of this option does not mean that judges will necessarily utilize it.¹⁶⁶

Prior to its repeal, the DRP program directed roughly seventy million dollars annually to state trauma centers.¹⁶⁷ Statewide, the increased fines are predicted to net an additional 6.8 million dollars for trauma centers over the next two years, which, if properly implemented, would be positive for these centers and for Texas citizens.¹⁶⁸

However, it is also worth noting that the DRP program was not the only program affecting driver's licenses in Texas. The Omni program prevents individuals from renewing their driver's license if they fail to appear for court dates or fail to pay judgments ordered by the court.¹⁶⁹ Bills to reform the program have been introduced in the Texas House and Senate¹⁷⁰ but have not progressed and are not predicted to succeed.¹⁷¹ The Department of Public Safety estimates that, even after the repeal of the DRP, nearly one million individuals will be unable to renew their driver's license due to the Omni Program.¹⁷²

These entire repeals would solve what were ultimately bureaucracy problems and problems with individuals not taking advantage of their available options. The original DRP program contained multiple options for indigent drivers, from surcharge waivers to payment plans, clearly outlined in the program itself.¹⁷³ While the judicial challenge argued that the notice of these opportunities provided to drivers was inadequate, the notice and information provided was much clearer and more substantial than that in many states whose courts have ruled such notice and protections adequate.¹⁷⁴ The failure ultimately laid in the implantation of these options, and the repeal of the DRP does little to address this failure.¹⁷⁵ Instead, with increases in fines, it is unlikely that the drivers who were caught in a cycle of debt under the DRP will fare any better under the new program.¹⁷⁶ While their licenses will not be as vulnerable to suspension, they will still be burdened with the larger traffic fines, and it appears unlikely that judges will begin to efficiently waive fines for those unable to pay or that indigent individuals will suddenly begin to take advantage of the options available to them.

There is also a legitimate argument that driving is a privilege and not a right. The challenge to the DRP argued that those who can afford to pay traffic citations are not subject to the cycle of debt that low-income drivers are, but there is no argument that these traffic citations were improperly issued.¹⁷⁷ While it may be true that those who can afford to pay their fines incurred while driving are not subject to financial ruin, some feel that those who receive traffic citations ought to pay them and see no reason for these traffic citations to be waived simply based on one's indigency—after all, a traffic offense was committed.¹⁷⁸ There is also an argument that the state needs the backstop measure of a driver's license suspension to enforce driving laws.¹⁷⁹ If individuals didn't pay their fees under threat of a license suspension, the problem may get worse when their license is not on the line.¹⁸⁰

Narrow Fixes

Other jurisdictions have taken more pinpointed approaches by changing the state's license suspension program to exclude the suspension of licenses solely for unpaid fines or solely for unpaid fines for those who have shown they are unable to pay, or by providing relief to specific vulnerable groups.

Washington D.C., through the Council of the District of Columbia, ended driver's license suspensions for unpaid traffic debts or for failing to appear for a traffic violation and required the D.C. DMV to reinstate driver's licenses that were suspended

for failure to pay or failure to appear.¹⁸¹ As of March 2019, over 65,000 people have had their suspended Washington D.C. driver's license reinstated through this program¹⁸² which allows individuals to pay off their fines through community service.¹⁸³

These changes in D.C. also double the amount of time that a fine must remain unpaid before the fine doubles, however, the original size of fines remains unchanged.¹⁸⁴ This raises questions regarding the long-term effect this change will have on the city's collection of fines, as they no longer have the last resort of suspending a driver's license to induce payment and because individual's now have twice as long to pay before their fines are increased.¹⁸⁵ Another issue that may arise from this repeal was noted by the president of the nonprofit advocate, Tzedek DC, Ariel Levinson-Waldman.¹⁸⁶ Waldman comments that these changes are beneficial for low income residents but notes that more can still be done as individual's who owe more than \$101 to the city can be denied license renewal.¹⁸⁷

On top of this change, D.C. Mayor, Muriel Bowser, initiated a program which allowed residents released from prison to have their licenses reinstated despite existing unpaid traffic debt.¹⁸⁸ This program has allowed 250 formerly incarcerated individuals to legally drive in D.C.,¹⁸⁹ which has been shown to be an important factor in reducing recidivism rates.¹⁹⁰

Pinpointed changes such as these can provide enormous relief for certain vulnerable individuals while being good for the community as a whole. By targeting those who were formerly incarcerated, the D.C. program has shown that the benefits that come from reducing recidivism by allowing those individuals to drive and therefore have more options for employment, greatly outweigh the revenue that may have been collected by attempting to collect unpaid traffic debt from those individuals.¹⁹¹ As a whole, D.C. has taken significant but limited steps to address issues that have arisen from driver's license suspensions.¹⁹² In these early stages, it appears that these steps are limited to only those who owe minor amounts of money and the changes do not include any measures to close the revenue gap that may result.¹⁹³ Ultimately, while some aspects of these fixes are beneficial, their limited nature will prevent them from solving the largest issues presented by D.C.'s license suspension scheme.

In Durham, North Carolina, the Durham County District Attorney's office and the Durham Innovation Team tackled part of their county's license suspension problem with the Durham District Attorney dismissing 2,500 pending charges that were preventing certain individuals from obtaining their driver's license.¹⁹⁴ The Fines & Fees Justice Center reports that individuals in Durham were able to check their eligibility for the program using text message and email, and that this "was a significant factor in the program's popularity and success."¹⁹⁵ Ryan Smith, one of the designers of the project explained, "The reality is that when you get out of prison and you have outstanding charges, even from traffic court, the last thing you want to do is go back to the courthouse to figure out how to deal with them. We have to recognize where people are coming from."¹⁹⁶ The program also canvassed neighborhoods to provide information about the program, stressing that individual's didn't have to take time off work or wait in line to apply.¹⁹⁷ While prior amnesty campaigns without online options or neighborhood canvassing typically

attracted only fifteen or twenty applicants, this campaign led to more than 2,200 applicants,¹⁹⁸ and 793 individuals were found to be eligible for the program.¹⁹⁹ Additionally, roughly \$260,000 in fines were identified for potential waiver.²⁰⁰ While Durham's program is local and is focused on only a small portion of those affected by license suspensions, this example illustrates how a pinpointed approach—when considered from the individual's perspective—can provide dramatic relief.

While limited in scope, Durham County's program provide important insight into what is needed to effectively implement fixes and relief for driver's license suspension programs. The grassroots organization involved in Durham's program got word of potential amnesty out quickly and recognized that, especially for those already involved in the court system, it was unlikely that that an individual would return to the courts to have their license reinstated.²⁰¹ Utilization of these strategies and ideas can be effective for states and cities looking to fix aspects of their driver's license suspension programs.²⁰²

Likewise, the city of Phoenix developed a local solution to the driver's license suspension issues that exist in Arizona. The Compliance Assistance program allows civil traffic offenders who have had their license suspended for failing to pay violations to enter into "realistic" payment plans.²⁰³ However, this program is only available in Phoenix and those who have received violations for driving on a suspended license—even if that suspension resulted from an individual's nonpayment—are not eligible for the program.²⁰⁴ This limitation excludes a number of individuals, and while this program has helped many people have their licenses reinstated, other programs without this limitation have been able to provide relief for more individuals.²⁰⁵

In Minnesota, the state legislature authorized five cities to establish pilot driver's license reinstatement diversion programs which allowed individuals with suspended or revoked licenses to drive while paying off outstanding fines.²⁰⁶ The programs were required to have individuals successfully complete educational classes on driver's licensure, pay outstanding fines and course participation costs according to a prosecutor approved schedule, comply with all traffic laws, and provide proof of insurance.²⁰⁷ Between 2009 and 2018, over 34,000 applications to the pilot programs were submitted and half were approved.²⁰⁸ Of the twelve-thousand individuals that participated in the program, forty-three percent completed the program and another twelve percent are currently participating in good standing.²⁰⁹ The program has brought in over nine million dollars in revenue from the fines and has received widespread support for expansion.²¹⁰

Amy Busse, the Redwood City Attorney voiced support for continuing and expanding the program explaining that this program "holds [drivers] accountable and makes them 'earn' the privilege of driving."²¹¹ She explained further:

Throughout my years of being a prosecutor, I've consistently found that when a person is given the benefit of the doubt yet is required to put hard work into achieving an attainable goal, the success rate is MUCH higher because there's buy-in and ownership. [The DPP] provides the ability for people to obtain a valid driving status through hard work while being supported by those who

are experts in navigating and explaining our sometimes very complex judicial system.²¹²

Dawn Speltz, the Spring Lake Park City Attorney also expressed her support for the program, explaining: “The program has . . . promoted judicial efficiency by removing many [Driving After Revocation] and [Driving After Suspension] cases from the court system.”²¹³ James Backstrom, the Dakota County Attorney emphasized that the program “is an effective approach that utilizes intervention and practical incentives to keep participants on the right track and paying off their outstanding fines.”²¹⁴ He adds that “[t]he recidivism rate for individuals who have completed the three-hours class is exceptional and the program shows great promise in getting offenders out of the criminal justice system thereby saving money for taxpayers in the long term.”²¹⁵ These comments reflect the spreading realization that providing individuals with individualized options to have their licenses reinstated and to pay off their debts are largely successful and are beneficial to lower-income communities. While the requirements and obligations for this program are stricter than many other programs, working with people as individuals appears to be an effective tool in the mitigation of the effects of driver’s license suspensions.

No Fix

Other states, even those where license suspensions have caused major hardship, have refused to address the issue.²¹⁶ Because many of the constitutional challenges against these programs fail and because the license suspension programs do bring in valuable state revenue, some of these states appear unlikely to change their programs.²¹⁷

While Durham County, North Carolina has implemented their specific amnesty program to aid certain individuals whose licenses have been suspended, it is likely that Durham felt compelled to do so due to the state’s lack of action.²¹⁸ North Carolina continues to indefinitely revoke individual’s driver’s licenses for failing to pay traffic fines or for failing to appear in court.²¹⁹ In March 2019, U.S. District Judge Thomas Schroeder dismissed multiple claims in a suit challenging North Carolina’s practice of suspending the driver’s licenses of individuals for nonpayment, and denied a request for a preliminary injunction.²²⁰ While individuals in North Carolina may gain relief from fines based on indigency as previously mentioned, it is clear that this protection is not adequately serving indigent individuals in North Carolina.²²¹ Despite this, it does not appear that any changes to the current scheme are likely.²²²

Ultimately, because a vast majority of courts agree that existing driver’s license suspension programs are constitutional when challenged under due process and equal protection, states such as North Carolina are free to keep their current schemes in place.²²³ However, for many reasons, this is often not a good option.

When looking at the impact on an individual’s financials, a New Jersey study found that forty-two percent of individuals who had their driver’s license suspended lost their job as a result of their license suspension.²²⁴ Forty-five percent of those who lost their jobs were unable to find another job and eighty-eight percent of

those who did find another job reported decreased wages.²²⁵ This is supported by data concerning ninety-six large metro areas which suggests that high-poverty neighborhoods have experienced pronounced declines in job proximity.²²⁶ When looking at this data, the downstream impact of license suspensions is significant, and actually quite evident. Because jobs tend to be located further away from low-income neighborhoods and because individuals in low-income neighborhoods are the most likely to have their driver's license suspended for failing to pay a fine, these individuals are significantly more likely to lose their job as a result of a license suspension.²²⁷

On a larger economic scale, enforcement of driver's license suspension programs places a significant burden on state and local governments. According to the National Highway Traffic Safety Administration, seventy-five percent of Americans continue driving after having their license suspended.²²⁸ If keeping dangerous drivers off the road is a main goal of state driver's license suspension programs, the data clearly suggests that suspending an individual's driver's license for failing to pay fines does little to attain this goal.²²⁹ Additionally, “[a]rresting and prosecuting people for driving on a suspended license drains law enforcement resources and does not enhance public safety.”²³⁰ The American Association of Motor Vehicle Administrators report, *Best Practices Guide to Reduce Suspended Drivers*, found that “the costs of arresting, processing, administering, and enforcing social non-conformance related driver license suspensions create a significant strain on budgets and other resources and detract from highway and public safety priorities.”²³¹ The Report on Traffic Court Inequality in California explains:

Officers who pull over a suspended driver must respond to that offense with a citation, and then later with a court appearance on the ticket. This process takes the officer away from the field, leaving a gap in law enforcement presence and services. In addition, counties must bear the costs of punishing people for these offenses.²³²

In Colorado, the DMV determined that their staff spends 8,566 hours annually dealing with license suspensions that resulted from non-driving offenses such as non-payment of fines.²³³

The impact of these programs on court systems and social services agencies is also significant. The Report on Traffic Court Inequality in California explains: “Processing cases involving driving with a suspended license contributes to undue burdens on the court system, including backlogs and costs associated with arraignment and trial, as well as administrative and security costs.”²³⁴ The report also describes the burden on states and employers that arises through increased unemployment compensation for those who have lost their jobs, and increased reliance on public benefits.²³⁵

IV. PROPOSALS FOR STATES

For many, an entire repeal of a state driver's license suspension scheme may seem attractive. However, repealing schemes often increases fees associated with

traffic citations, and there is no reason to think that those drivers who defaulted on their fines under existing schemes will fare better under an entire repeal when citation fines increase. Instead, solutions to the problems created by driver's license suspension programs should focus on accessibility, indigent protection, communication, options, and making information concerning these options more available. Utilizing the internet to provide information to drivers regarding their options and the ability to take advantage of these options without having to physically go to the courthouse or DMV will provide significant relief for many individuals who suffer under current license suspension schemes, and community service should be added as a payment option for indigent drivers, which will provide relief for those who simply cannot afford to make payments on fines.

Additionally, states should focus on reforming parts of their existing programs to ensure that the programs' overall goal is public safety—not revenue generation. There is no "three-step-fix" for these programs, but instead, numerous measures, protections, and options must be built into these programs to allow states to maintain the safety of their roads by maintaining the ultimate penalty of the suspension of an individual's driver's license,²³⁶ but providing meaningful and realistic options for drivers who need them. While judicial challenges to the notice provided to drivers has largely proved futile as courts generally agreed that these schemes are constitutional,²³⁷ this does not mean that current notification procedures adequately inform drivers of their liabilities and options.²³⁸ Additionally, a deeper look at constitutional challenges brought under the excessive fines clause may be more successful than equal protection or traditional due process challenges.²³⁹

Focusing on the notice itself, when a driver receives a traffic citation which may subject them to a license suspension, the citation should clearly convey to individuals that there are multiple options available if they cannot afford to pay the full amount of their citation at that time. As demonstrated by the success of the Durham Amnesty Program, individuals are much more likely to take advantage of programs if they don't have to physically go to the courthouse or DMV.²⁴⁰ This demonstrates that online resources should be expanded to provide access to all of an individual's options concerning a traffic citation. Traffic citations should direct individuals to a website, as many of them already do for payment purposes, where they will be able to take advantage of their options for handling their citation without having to miss work or spend the day in government buildings. This online portal should not only allow full payment of a fine but should also allow individuals to set up a payment plan, request a date change for any required court appearances, and provide an explanation for missed court appearances.²⁴¹

Addressing the options available for individuals who cannot afford to pay the full price of their traffic citation, states should expand their options for these individuals to include realistic payment plans, fee reductions, and a community service option, with the possibility of wage garnishment being utilized before license suspension. While payment plans exist in many states, a common complaint is that the payments established under these plans remain too expensive for many individuals.²⁴² States should enact payment plans based on a sliding scale, which sets realistic terms that individuals will be able to afford, even on minimal income.²⁴³ Suggestions for such

payment plans include limiting payment to a percentage of an individual's income determined by one's income "bracket," and allowing individuals to adjust their payment plans if their financial circumstances change.²⁴⁴ For those individuals who qualify, partial waivers should also be available, with remaining balances payable subject the same realistic sliding scale. Last, a community service option should be available. For those who cannot pay, a community service option to satisfy their traffic fines can provide invaluable relief while still acting as a deterrent to continued traffic violations and providing volunteer services to one's community.²⁴⁵

Even with all these options, states will still encounter individuals who will not pay. While the line between failure to pay and inability to pay is partially subjective, implementing the procedures outlined above will ensure that wage garnishment is only utilized for individuals who have failed to enter into or maintain good standing on a fair payment plan, or complete the required community service. California already utilizes bank account and wage garnishment for delinquent vehicle registration payments,²⁴⁶ and the city of Chicago garnished wages of city employees who failed to pay their parking tickets.²⁴⁷ In these instances, wage garnishment has proven successful,²⁴⁸ and properly implemented, wage garnishment could ensure states are able to collect fines when an individual's nonpayment is voluntary.

CONCLUSION

The suspension of an individual's driver's license has effects far more significant than intended. When utilized as a motivator for fine collection, license suspension falls on deaf ears for those who cannot afford to pay and inevitably makes their financial situation bleaker as the loss of their license often means the loss of their job, making payment even more untenable. Furthermore, individuals overwhelmingly continue to drive on suspended licenses, putting them at risk for additional fines, criminal charges, and incarceration. Ultimately, while states do have an interest in collecting imposed fines, without careful implementation of the protections, options, and understanding outlined, the costs of these programs far outweigh any benefits they may bring.

NOTES

- 1 Class Action Compl., ¶ 96, *Rodriguez v. Mach*, No. 5:18-CV-01265 (W.D. Tex. 2018) (No. 1) [hereinafter “*Rodriguez* Compl.”].
- 2 “Fine,” “fee,” “costs,” “court costs,” and “surcharge” are used throughout state statutes, by courts, complaints, and news articles. For the purpose of this paper, these words are interchangeable and encompass all of the minor variations that exist among these words. See, e.g., *Rodriguez* Compl., *supra* note 1. (referring to “fines,” “fees,” “costs,” “assessments,” and “surcharges” to indicate monetary obligations levied for driving violations and subsequent nonpayment or subsequent violations); see also Beth A. Colgan, *The Excessive Fines Clause: Challenging the Modern Debtors’ Prison*, 65 UCLA L. REV. 2, 32-46 (2018) (describing how fines, surcharges, and administrative fees operate within statutory schemes).
- 3 *Rodriguez* Compl., *supra* note 1, at ¶¶ 97-98.
- 4 *Id.* ¶¶ 100-02.
- 5 *Id.* ¶ 104.
- 6 *Id.* ¶¶ 104-09.
- 7 *Id.* ¶ 110.
- 8 *Id.* ¶¶ 95-121.
- 9 *Id.* ¶¶ 116-19; see also Equal Justice Under Law, <https://equaljusticeunderlaw.org/rodriguez-v-mach> (last visited May 27, 2020) (providing an overview of Ms. Rodriguez’s situation, including that she “take[s] public transportation four hours each way to be an in-home nurse for people younger than her in order to pay her fine.”).
- 10 *Id.* ¶¶ 119-21.
- 11 *Id.*
- 12 See generally *Driver’s License Suspension*, EQUAL JUST. UNDER L., <https://equaljusticeunderlaw.org/drivers-license-suspension-1> (last visited May 27, 2020); Tex. Fair Defense Project & Tex. Appleseed, *Driven by Debt*, http://stories.texasappleseed.org/driven-by-debt?fbclid=IwAR3opC3Wq1i2aPFeEn8FN5qlsM_idsF14YMEThrY15VDTYXEGTuq06Hg66Q (last visited May 27, 2020) (describing the cycle of poverty that can lead from a traffic fine).
- 13 *Id.*
- 14 See ALAN M. VOORHEES TRANSPORTATION CENTER, MOTOR VEHICLES AFFORDABILITY AND FAIRNESS TASK FORCE: FINAL REPORT, at xii (2006), available at https://www.state.nj.us/mvc/pdf/about/AFTF_final_02.pdf; [<https://perma.cc/9TJ9-XA78>]
- 15 ALEX BENDER ET AL., NOT JUST A FERGUSON PROBLEM: HOW TRAFFIC COURTS DRIVE INEQUALITY IN CALIFORNIA 6-7 (2007), available at <https://lccr.com/wp-content/uploads/Not-Just-a-Ferguson-Problem-How-Traffic-Courts-Drive-Inequality-in-California-4.20.15.pdf> [<https://perma.cc/7TK4-9M3D>]; VOORHEES, *supra* note 14, at xii.
- 16 Compare Tex. Transp. Code Ann. § 708.158 (allowing indigent individuals to have their traffic fines reduced or waived), with Mich. Comp. Laws § 257.907(4) (providing Michigan’s civil infractions statute which does not take indigency into account for nonpayment of traffic fines).
- 17 See H.B. 2048, 86th Leg. Sess. (Tx. 2019) (repealing Texas DRP); Rebecca Miller, *California Stopped Suspending Licenses for Failures to Pay Traffic Fines. Why do Some Drivers Who Can’t Pay Still Have Suspended Licenses?*, W. CTR. ON L. & POVERTY (May 13, 2019), <https://wclp.org/california-stopped-suspending-licenses-for-failures-to-pay-traffic-fines-why-do-some-drivers-who-can-t-pay-still-have-suspended-licenses/> [<https://perma.cc/CHF5-ES5Y>] (California passed its repeal while a suit against the DMV was pending); Mike Dennison, *New Law Erases MT Courts’ Power to Suspend Licenses for Non-Payment of Fines*, 8KPAZ (July 6, 2019), <https://www.kpax.com/news/2019/07/06/new-law-erases-mt-courts-power-to-suspend-licenses-for-non-payment-of-fines/> [<https://perma.cc/FDW7-72MV>] (Montana no longer suspends driver’s licenses for failure to pay fines).
- 18 See H.B. 2014, 86th Leg. Sess. (Tx. 2019).

- 19 Or. Rev. Stat. § 153.090 *et seq.* (2019).
- 20 *E.g.*, Or. Rev. Stat. § 153.061(1), (3) (2019); *Mendoza v. Garrett*, 358 F. Supp. 3d 1145, 1152 (D. Or. 2018).
- 21 Or. Rev. Stat. § 153.021(1) (2019); Or. Rev. Stat. § 153.061(1), (3).
- 22 *Id.* § 153.090(1)(d).
- 23 *Id.* § 153.090(2).
- 24 *Id.* § 153.090(4).
- 25 *Mendoza*, 358 F. Supp. 3d at 1152.
- 26 *Id.* (“A person who has been issued a citation must make an appearance in person at the time indicated in the citation/summons, request a trial, or deliver payment of the presumptive fine to the court.”).
- 27 Or. Rev. Stat. § 809.210(1) (2019).
- 28 *Mendoza*, 358 F. Supp. 3d at 1160.
- 29 Tex. Transp. Code Ann. § 708.001 *et seq.* (2019), *repealed by* H.B. 2048, 86th Leg. Sess. (Tx. 2019); Def.’s Mot. to Dismiss, at 11-12, *Rodriguez v. Mach*, 5:18-CV-01265, (W.D. Tex. 2018) (No. 9) [hereinafter “*Rodriguez* Mot. to Dismiss”].
- 30 Tex. Transp. Code Ann. § 708.052-708.053.
- 31 *Id.* § 708.052
- 32 *Id.* § 708.102.
- 33 *Id.* § 708.052.
- 34 *Id.* § 708.053.
- 35 *Id.* § 708.152.
- 36 *Id.* § 708.158.
- 37 Tex. Admin. Code Ann. § 15.165 (2015).
- 38 Tex. Transp. Code Ann. § 708.105.
- 39 *Id.* § 708.055.
- 40 *Id.* § 708.151.
- 41 *Id.*
- 42 *Id.*
- 43 Class Action Compl. for Decl. and Inj. Relief, ¶¶ 26-27, *Johnson v. Jessup*, 381 F. Supp. 3d 619 (M.D.N.C. 2019) (No. 1) [hereinafter “*Jessup* Compl.”].
- 44 N.C. Gen. Stat. § 20-24.1(b)(4) (2019).
- 45 *Jessup* Compl., *supra* note 43, at 2.
- 46 Derrick Lewis, *Durham DA Dismisses Traffic Charges For 500 People*, CBS 17, (June 28, 2018), <https://www.cbs17.com/news/local-news/durham-county-news/durham-da-dismisses-traffic-charges-for-500-people> [https://perma.cc/F4S8-WPNY].
- 47 Michael Hewlett, *Federal Judge Rejects Temporary Block of Law That Allows Suspension of Driver’s Licenses for Failure to Pay Traffic Tickets*, WINSTON-SALEM J. (April 13, 2019), https://www.journalnow.com/news/local/federal-judge-rejects-temporary-block-of-law-that-allows-suspension/article_3ac2c45c-2731-5a13-b34a-bc06420da889.html [https://perma.cc/9K5B-SCKT].
- 48 *But see* Richard Craver, *Six-Month Reprieve for Driver’s License, Vehicle-Registration Renewals Possible as N.C. Legislators Consider Virus-Relief Bills*, WINSTON-SALEM J. (Apr. 29, 2020), https://www.journalnow.com/news/local/six-month-reprieve-for-drivers-license-vehicle-registration-renewals-possible-as-n-c-legislators-consider/article_60756dbb-bc79-58ba-acaa-3-15db33607091.html. (North Carolina has recently passed a temporary waiver of registration and renewal fees for residents in the midst of COVID-19. Although this proposed bill does suggest a freeze on fees, the fees discussed are related to driving credentials. Further, there is specific language that any freeze “does not waive a vehicle owner’s duty to maintain continuous financial responsibility.” However, there is language in the bill that allows execu-

tive officers to “Delay the collection of, or modify the method of collection, of any fees, fines, or late payments assessed by the agency under its statutes, including the accrual of interest associated with any fees, fines, or late payments.”); COVID-19 Recovery Act, § 4.38.(b)(1), 2019 N.C. Sess. Law 1, 66.

- 49 See H.F. 1061, 91st Leg. (Minn. 2019-2020); S.F. 1376, 91st Leg. (Minn. 2019-2020).
- 50 Ronald J. Lampard, *Minnesota Should End Driver’s License Suspensions for Failure to Pay Traffic Tickets*, MINNPOST, (May 3, 2019), <https://www.minnpost.com/community-voices/2019/05/minnesota-should-end-drivers-license-susensions-for-failure-to-pay-traffic-tickets/>. [<https://perma.cc/5V29-2MU4>].
- 51 Tim Walker, *No Driver’s License Suspension Proposed for Failure to Pay Fine, Parking Ticket*, (Feb. 19, 2019), <https://www.house.leg.state.mn.us/SessionDaily/Story/13618>; *see also* [<https://perma.cc/9SEE-MZG7>]; Minn. Stat. §169.92(4) (2017) (providing the procedures courts follow when an individual does not show in court for a traffic related offense).
- 52 Tim Walker, *No Driver’s License Suspension Proposed for Failure to Pay Fine, Parking Ticket*, (Feb. 19, 2019), <https://www.house.leg.state.mn.us/SessionDaily/Story/13618>.
- 53 DIVERSION SOLUTIONS, LLC, LICENSE REINSTATEMENT DIVERSION PILOT PROGRAM PURSUANT TO LAWS OF MINNESOTA 2009, CHAPTER 59, ARTICLE 3, SECTION 4 2018/2019 LEGISLATIVE REPORT, p.7, 2019, available at <https://www.leg.state.mn.us/docs/2019/mandated/190263.pdf>. [<https://perma.cc/MW27-SUBD>].
- 54 Fowler v. Johnson, No. CV 17-11441, 2017 WL 6379676, at *1 Civil Case No. 17-11441(E.D. Mich. Dec. 14, 2017), *rev’d and remanded sub nom. Fowler v. Benson*, 924 F.3d 247 (6th Cir. 2019); *see also* Mich. Comp. Laws § 257.907(4), (13) (2020).
- 55 Mich. Comp. Laws § 600.4803.
- 56 *Id.* § 257.321a(2).
- 57 *Id.* § 257.321a(1).
- 58 *Id.* § 257.321a(5), 257.904, 257.320e(1), 257.732a(2)(b)(iii).
- 59 *Id.* § 257.322(2), 257322(1).
- 60 *Id.* § 257.323, 257.323(4)(a)(i).
- 61 Class Action Compl., ¶3, DiFrancesco v. Fox, 2:17-CV-00066 (D. Mont., 2019) [hereinafter “DiFrancesco Compl.”]; Mont. Code Ann. § 61-5-214(1)(b) (2019).
- 62 DiFrancesco Compl., *supra* note 61, ¶ 3; Mont. Code Ann. § 61-5-218.
- 63 Mont. Code Ann. § 47-1-111 (2019).
- 64 *Id.*
- 65 *Id.* at § 61-5-214.
- 66 *Id.* at § 61-5-214, § 46-18-201.
- 67 DiFrancesco Compl., *supra* note 61, at ¶¶ 52-53; Mont. Code Ann. § 61-5-214(3).
- 68 DiFrancesco Compl., *supra* note 61, at ¶ 56; Mont. Code Ann. § 61-5-211.
- 69 See Mathews v. Eldridge, 424 U.S. 319, 332 (1976) (“Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty or property interests within the meaning of the Due Process Clause of the [...] Fourteenth Amendment.”); *see also*, Saucedo-Falls v. Kunkle, 299 F. Appx. 315, 319 (5th Cir. 2008) (“To establish a violation of the Fourteenth Amendment’s guarantee of procedural due process, a plaintiff must prove that (1) he was deprived of a life, liberty, or property interest (2) without the due process that was due.”).
- 70 E.g., Goss v. Lopez, 419 U.S. 565, 572-73 (1975) (quoting Board of Regents v. Roth, 408 U.S. 564, 577 (1972)) (“Protected interests in property are normally ‘not created by the Constitution. Rather, they are created and their dimensions are defined’ by an independent source such as state statutes or rules entitling the citizen to certain benefits.”).
- 71 *Id.* at 582.
- 72 *See id.* (“We hold only that, in being given an opportunity to explain his version of the facts at this discussion, the student first be told what he is accused of doing and what the basis of the accusation is.”).

- 73 Mathews, 424 U.S. at 335.
- 74 Rodriguez Compl., *supra* note 1, ¶¶ 348-49; DiFrancesco Compl., *supra* note 61, ¶ 153; Compl. for Decl. and Inj. Relief, ¶¶ 92-97, Rubicon Programs v. Superior Court of California County of Solano, FCS047212 (No. 1) (Cal. Super. Ct. Solano) [hereinafter “*Rubicon Programs Compl.*”]; Second Am. Class Action Compl., ¶ 239, Mendoza v. Garrett 358 F. Supp. 3d 1145 (D.Or., 2018) (No. 47) [hereinafter “*Mendoza Compl.*”]; Class Action Compl., ¶¶ 409-18, Stinnie v. Holcomb, 2017 WL 963234, Case No. 3:16-cv-00044 (W.D.Va., 2019) (No. 1) [hereinafter “*Stinnie Compl.*”]; Compl. – Class Action, ¶¶ 157-58, Robinson v. Purkey, 2017 WL 4418134, Case No. 3:17-cv-1263, (M.D. Tenn., 2017) (No. 1) [hereinafter “*Robinson Compl.*”]; Jessup Complaint, *supra* note 43, ¶¶ 105-29.
- 75 E.g., *id.*
- 76 Rodriguez Compl., *supra* note 1, at ¶ 348; Stinnie, Compl., *supra* note 74, at ¶¶ 291-95; Jessup Compl., *supra* note 43, at ¶¶ 32-37; Mendoza Compl., *supra* note 61, at ¶ 89-98; Rubicon Programs Compl., *supra* note 74, at ¶¶ 45-58; DiFrancesco Compl., *supra* note 61, at ¶¶ 123-30.
- 77 Rodriguez, Mot. to Dismiss, *supra* note 29, at 11-12; Defendant’s Memorandum of Law in Support of Judgment on the Pleadings at *6, Johnson v. Jessup, 381 F. Supp. 3d 619 (M.D.N.C.); Reply in Support of Defendants’ Rule 12 Motions to Dismiss at 13-14, Mendoza v. Garrett, 358 F. Supp. 3d 1145 (D. Or. 2018) [hereinafter “*Mendoza Mot. to Dismiss*”]; Defendants’ Memorandum of Law in Opposition to Plaintiffs’ Mot. for Preliminary Injunction at *13, Harold v. Richards, 334 F. Supp. 3d 635 (E.D.Pa. 2018) [hereinafter “*Harold Opposition to Preliminary Injunction*”]; Memorandum of Law in Support of County Defendants’ Mot. to Dismiss Plaintiffs’ Corrected Amended Compl., at 15, Robinson v. Purkey, 2018 WL 6831941 (M.D. Tenn.) [hereinafter “*Robinson Support Mot. to Dismiss*”].
- 78 Rodriguez Mot. to Dismiss, *supra* note 29, at 13-17; Robinson Support Mot. to Dismiss, *supra*, note 77, at 16; Harold Opposition to Preliminary Injunction, *supra* note 77, at *13.
- 79 Rodriguez Mot. to Dismiss, *supra* note 29, at 18-19; Robinson, Support Mot. to Dismiss, *supra*, note 77, at 16; Harold Opposition to Preliminary Injunction, *supra* note 77, at *14.
- 80 As explained by the Supreme Court: “In a facial challenge to the overbreadth and vagueness of a law, a court’s first task is to determine whether the enactment reaches a substantial amount of constitutionally protected conduct. If it does not, then the overbreadth challenge must fail. The court should then examine the facial vagueness challenge and, assuming the enactment implicates no constitutionally protected conduct, should uphold the challenge only if the enactment is impermissibly vague in all of its applications. A plaintiff who engages in some conduct that is clearly proscribed cannot complain of the vagueness of the law as applied to the conduct of others. A court should therefore examine the complainant’s conduct before analyzing other hypothetical applications of the law.” Hoffman Estates v. Flipside, Hoffman Estates, 455 U.S. 489, 494-95 (1982).
- 81 See e.g., Mendoza v. Garrett, 358 F. Supp. 3d 1145, 1171 (D. Or. 2018); see also Fowler, v. Benson 924 F.3d 247, 259 (6th Cir. 2019); Johnson v. Jessup, 381 F. Supp. 3d 619, 631 (M.D.N.C., 2019) *appeal docketed*, No. 19-1421 (4th Cir. April 19, 2019).
- 82 See Bell v. Burson, 402 U.S. 535, 535 (1971); see also Dixon v. Love, 431 U.S. 105, 112 (1977).
- 83 See Mendoza, 358 F. Supp. 3d 1145 at 1171; see also Fowler, 924 F.3d 247 at 259; Jessup, 381 F. Supp. 3d 619 at 631. But see Haslam, 303 F. Supp. 3d 585 at 612-619 (Finding that driver’s license revocation gets closer to the rights afforded special protection by the Constitution).
- 84 See Mendoza, 358 F. Supp. 3d at 1171, 1175.
- 85 United States v. Salerno, 481 U.S. 739, 745 (1987).
- 86 Fowler, 924 F.3d at 262; Mendoza, 358 F. Supp. 3d at 1174-75.
- 87 See Fowler, 924 F.3d at 258; Mendoza, 358 F. Supp. 3d at 1180.
- 88 Rodriguez Compl., *supra* note 1, at ¶¶ 350-59; Mendoza Compl., *supra* note 74, at ¶¶ 250-57.
- 89 Rodriguez Compl., *supra* note 1, at ¶¶ 350-59; Mendoza Compl., *supra* note 74, at ¶¶ 250-57.
- 90 See Rodriguez Compl., *supra* note 1, ¶¶ 353-56; Robinson v. Purkey, 2017 WL 4418134, at *5 (M.D. Tenn., 2017); Mendoza Compl., *supra* note 74, at ¶¶ 250-57.

- 91 *Rodriguez* Compl., *supra* note 1, ¶¶ 13-21.
- 92 *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976).
- 93 *Johnson v. Jessup*, 381 F. Supp. 3d 619, 639 (M.D.N.C., 2019) *appeal docketed*, No. 19-1421 (4th Cir. April 19, 2019); *Thomas v. Haslam*, 303 F. Supp. 3d 585, 630 (2018); *Mendoza*, 358 F. Supp. 3d at 1179; *See Mackey v. Montrym*, 443 U.S. 1, 11 (1979); *Bell v. Burson*, 402 U.S. 535, 535 (1971); *see also Dixon v. Love*, 431 U.S. 105, 112 (1977) (explaining that due process is required to suspend driver's licenses because it "involves state action that adjudicates important interests of the licensees").
- 94 *Mendoza*, 358 F. Supp. 3d at 1179.
- 95 *Mackey*, 443 U.S. at 12.
- 96 *Dixon*, 431 U.S. at 113.
- 97 *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).
- 98 *See Jessup*, 381 F. Supp. 3d at 643; *Mendoza*, 358 F. Supp. 3d at 1179.
- 99 *Jessup*, 381 F. Supp. 3d at 643.
- 100 *Jessup*, 381 F. Supp. 3d at 643; *Mendoza*, 358 F. Supp. 3d at 1179-80.
- 101 *Mathews*, 424 U.S. at 335; *Johnson*, 381 F. Supp. 3d at 642.
- 102 *Rodriguez* Compl., *supra* note 1, at ¶¶ 211-17.
- 103 *Mendoza* Compl., *supra* note 74, at ¶¶ 96-97.
- 104 *Mathews*, 424 U.S. at 319, 348 (1976).
- 105 *Rodriguez* Mot. to Dismiss, *supra*, note 29, at 2; Tex. Transp. Code Ann. § 708.001 *et. Seq.*; *Fowler v. Benson* 924 F.3d 247, 262 (6th Cir. 2019); *Mendoza*, 358 F. Supp. 3d at 1175.
- 106 *Jessup*, 381 F. Supp. 3d at 644; *see also Mackey v. Montrym*, 443 U.S. 1, 18 (1979).
- 107 *See DRIVER RESPONSIBILITY PROGRAM: NOTICE*, TEXAS DEPARTMENT OF PUBLIC SAFETY, <https://www.dps.texas.gov/driverlicense/drp.htm> [<https://perma.cc/L2AX-DJFS>]; *TRAUMA FUNDING AND THE DRIVER RESPONSIBILITY PROGRAM: AN OVERVIEW 2018*, available at https://www.lbb.state.tx.us/Documents/Publications/Presentation/5163_DRP_SFC_1_29.pdf [<https://perma.cc/YCN7-5RWR>]; *Fowler v. Benson* 924 F.3d 247, 262 (6th Cir. 2019); *Mendoza*, 358 F. Supp. 3d at 1175.
- 108 *Harold v. Richards*, 334 F. Supp. 3d 635, 644 (E.D. Pa. 2018) (The Supreme Court has held that a pre-revocation hearing is not required where the licensee 'had the opportunity for a full judicial hearing in connection with each of the traffic convictions on which the [revocation] decision was based,' and had not 'challenged the validity of those convictions or the adequacy of his procedural rights at the time they were determined.').
- 109 *Jessup*, 381 F. Supp. 3d at 646. (The Court noted that *City of West Covina v. Perkins*, 525 U.S. 234, 240 (1999), dictates that due process is met when individuals can turn to public sources for notice when those sources describe relevant procedures.; First Amended Class Action Compl. for Decl. and Inj. Relief at 12, *Johnson v. Jessup*, 381 F. Supp. 3d 619 (M.D.N.C. 2019) (copy of official notice provided to drivers).
- 110 *Id.*
- 111 *Fowler v. Johnson*, Civil Case No. 17-11441, 2017 WL 6379676, at *13 (E.D. Michigan, S.D., 2017) *rev'd sub nom. Fowler, v. Benson* 924 F. 3d 247 (6th Cir. 2019).
- 112 *Id.*
- 113 *Bearden v. Georgia*, 461 U.S. 660, 662 (1983).
- 114 *Id.*
- 115 *Id.*
- 116 *Id.* at 665, 668-69.
- 117 *Griffin v. Illinois*, 351 U.S. 12, 13 (1956).
- 118 *Id.* at 12, 19.
- 119 *M.L.B. v. S.L.J.*, 519 U.S. 102, 106 (1996).
- 120 *Id.* at 103 (quoting *Santosky v. Kramer*, 455 U.S. 745, 774 (1982)).

- 121 *Id.* at 128.
- 122 *Id.* at 113.
- 123 *Rodriguez* Compl. *supra* note 1, at ¶¶ 360-66; *Jessup* Compl., *supra* note 43, at ¶¶ 94-104.
- 124 *Rodriguez* Compl. *supra* note 1, at ¶¶ 361-66, 372; *DiFrancesco* Compl., *supra* note 61, at ¶¶ 51-57; *Jessup* Compl., *supra* note 43, at ¶¶ 94-104.
- 125 *Rodriguez* Compl., *supra* note 1, at ¶¶ 373-74 *DiFrancesco* Compl., *supra* note 61, at ¶¶ 58-60; *Jessup* Compl., *supra* note 43, at ¶¶ 30-34.
- 126 *Rodriguez* Compl., *supra* note 1, at ¶ 375; *DiFrancesco* Compl., *supra* note 61, at ¶ 10; *Jessup* Compl., *supra* note 43, at ¶¶ 118-19.
- 127 *Rodriguez* Compl., *supra* note 1, at ¶¶ 361-66; *DiFrancesco* Compl., *supra* note 61, at ¶¶ 102-13.
- 128 *Rodriguez* Compl., *supra* note 1, at ¶ 272; *DiFrancesco* Compl., *supra* note 61, at ¶ 85.
- 129 *Rodriguez* Compl., *supra* note 1, at ¶ 368; *Jessup* Compl., *supra* note 43, at ¶¶ 94-104; *Robinson* Compl., *supra* note 74, at ¶ 10.
- 130 *Rodriguez* Compl., *supra* note 1, at ¶¶ 375.
- 131 *Rodriguez* Mot. to Dismiss, *supra* note 29, at 23-25; *Mendoza* Mot. to Dismiss, *supra* note 77, at *13; *Robinson* Support Mot. to Dismiss, *supra* note 77, at *15; Defendant's Memorandum of Law in Support of Judgement on the Pleadings, at *7, *Johnson v. Jessup*, 381 F. Supp. 3d 619 (M.D.N.C. 2019) [hereinafter "Jessup Support Judgment on the Pleadings"].
- 132 *Rodriguez* Mot. to Dismiss, *supra* note 29, at 23-25; *Jessup* Support Judgment on the Pleadings, *supra* note 131, at *7.
- 133 *Rodriguez* Mot. to Dismiss, *supra* note 29, at 26-27; *Mendoza*, Mot. to Dismiss, *supra* note 74, at *13; *Robinson*, Support Mot. to Dismiss, *supra* note 77, at *15.
- 134 See *Rodriguez* Mot. to Dismiss, *supra* note 29, at 27; see also *Mendoza* Mot. to Dismiss, *supra* note 77, at *13-14; *Robinson* Support Mot. to Dismiss, *supra* note 77, at *15; *Jessup* Support Judgment on the Pleadings, *supra* note 131, at *7.
- 135 San Antonio Indep. Sch. Dist. v. Rodriguez, 411 U.S. 1, 20 (1973); *Rodriguez* Mot. to Dismiss, *supra* note 29, at 28; *Mendoza*, Mot. to Dismiss, *supra* note 74, at *14.
- 136 *Johnson v. Jessup*, 381 F. Supp. 3d 619, 629 (M.D.N.C., 2019) *appeal docketed*, No. 19-1421 (4th Cir. April 19, 2019); *Mendoza* v. Garrett, 358 F. Supp. 3d 1145, 1171 (2018); *Fowler v. Johnson*, 2017 WL 6379676, Civil Case No. 17-11441 at *7 (E.D. Michigan, S.D., 2017), *rev'd sub nom.*, *Fowler*, v. *Benson* 924 F.3d 247 (6th Cir. 2019). See *Griffin v. Illinois*, 351 U.S. 12, 12 (1956).
- 137 *Jessup*, 381 F. Supp. 3d at 630 (citing and quoting *Harris v. McRae*, 448 U.S. 297, 323-24 (1980)).
- 138 San Antonio Indep. Sch. Dist. v. Rodriguez, 411 U.S. 1, 29 (1973).
- 139 See *Jessup*, 381 F. Supp. 3d at 630; *Mendoza*, 358 F. Supp. 3d at 1172 (2018); *Robinson v. Purkey*, 2017 WL 4418134 at *8 (M.D. Tenn., 2017); *Fowler*, 924 F.3d at 261.
- 140 *Jessup*, 381 F. Supp. 3d at 631; see also *Van Der Linde Housing, Inc. v. Rivanna Solid Waste Auth.*, 507 F. 3d 290, 295 (4th Cir. 2007) ([Rational basis] is not an invitation to scrutinize either the instrumental rationality of the chosen means ... or the normative rationality of the chosen governmental purpose...).
- 141 *Jessup*, 381 F. Supp. 3d at 630; *Mendoza*, 358 F. Supp. 3d at 1171; *Griffin*, 351 U.S. at 12.
- 142 *Mendoza*, 358 F. Supp. 3d at 1171-72 (citations omitted).
- 143 *Fowler v. Johnson*, No. 17-11441, 2017 U.S. Dist. LEXIS 205363, at *9 (E.D. Mich. Dec. 14, 2017), *rev'd sub nom.* *Fowler*, v. *Benson* 924 F.3d 247 (6th Cir. 2019); see also *Mendoza*, 358 F. Supp. 3d at 1175-76 ("Based on my determinations that the challenged statute, either facially or in its application, does not implicate a fundamental constitutional right, does not implicate a suspect classification, and is rationally related to a legitimate state interest, Plaintiffs are not likely to succeed on a 'fundamental fairness' claim under *Griffin/Bearden*.").
- 144 See H.B. 2014, 86th Leg. Sess. (Tx. 2019); A.B. 103, (Ca. 2017); H.B. 217, (Mt. 2019).

- 145 Texas enacted its repeal while *Rodriguez v. Mach* was pending. H.B. 2014, 86th Leg. Sess. (Tx. 2019). California passed its repeal while a suit against the DMV was pending Rebecca Miller, *California Stopped Suspending Licenses for Failures to Pay Traffic Fines. Why do Some Drivers who Can't Pay Still Have Suspended Licenses?*, W. CTR. L. & POVERTY (May 13, 2019), <https://wclp.org/california-stopped-suspending-licenses-for-failures-to-pay-traffic-fines-why-do-some-drivers-who-can-t-pay-still-have-suspended-licenses/> [<https://perma.cc/CHF5-ES5Y>]).
- 146 H.B. 217, 66th Leg., Reg. Sess. (Mont. 2019).
- 147 Mike Dennison, *New Law Erases MT Courts' Power to Suspend Licenses for Non-Payment of Fines*, KPAX (July 6, 2019), <https://www.kpax.com/news/2019/07/06/new-law-erases-mt-courts-power-to-suspend-licenses-for-non-payment-of-fines/>.
- 148 *Id.*
- 149 *Id.*
- 150 *Id.*
- 151 Compare H.B. 217, 66th Leg., Reg. Sess. (Mont. 2019), with H.B. 2014, 86th Leg., Reg. Sess. (Tex. 2019).
- 152 *Id.*
- 153 *Id.; see also Ending Your Debt-Based Driver's License Suspension*, ACLU, <https://www.aclumontana.org/en/suspendedDL> (last visited May 15, 2020) (providing general instructions to Montana residents on how to get their licenses reinstated in lieu of HB 217).
- 154 See H.B. 2014, 86th Leg., Reg. Sess. (Tex. 2019).
- 155 Arya Sundaram, *Texas Senate Passes Bill to Kill Program That Critics Say Can Trap Poor People in a Cycle of Debt*, TEX. TRIB. (May 15, 2019), <https://www.texastribune.org/2019/05/15/texas-driver-responsibility-program-could-be-killed-fees-waived/>.
- 156 See, e.g., *Driver Responsibility Program*, TEX. DEP'T. PUB. SAFETY, <https://www.dps.texas.gov/driverlicense/drp.htm> (last visited May 15, 2020) (providing notice that Texas has reinstated driving privileges for a substantial amount of citizens). As Texas explains, “surcharges” are the fines for violations or accumulations of points that were levied in addition to fines for the violations themselves. See *id.*
- 157 DRIVER RESPONSIBILITY PROGRAM (SURCHARGE) REPEAL FAQ'S, TEXAS DEPARTMENT OF PUBLIC SAFETY, <http://www.dps.texas.gov/DriverLicense/FAQs/drpIndex.htm> [<https://perma.cc/JT3F-PTPA>].
- 158 Payton Weildman, *Ending of Driver Responsibility Program Clears Way for 1.5M Licenses to be Restored in Texas*, CBS19 (June 21, 2019), <https://www.cbs19.tv/article/news/local/ending-of-driver-responsibility-program-clears-way-for-15m-licenses-to-be-restored-in-texas/501-171e294f-a9cf-46ba-822b-7c600e312f27> [<https://perma.cc/DH8K-4BCM>].
- 159 See, e.g., Troy Closson, *Texas' Driver Responsibility Program Ends Next Month. Here's What That Means for You.*, TEX. TRIB. (Aug. 20, 2019), <https://www.texastribune.org/2019/08/20/texas-driver-responsibility-program-repeal-what-that-means-explained/> (explaining that a reliable estimate of reinstated licenses is hard to arrive at and raising questions over funding shortages after reinstatement).
- 160 Weildman, *supra* note 158; Morgan Burrell, *Texas Driver Responsibility Program Set to End*, ABC7, (June 28, 2019), <https://abc7amarillo.com/news/local/texas-driver-responsibility-program-set-to-end-06-28-2019>.
- 161 Weildman, *supra* note 158; Burrell, *supra* note 160.
- 162 Troy Closson, *Texas' Driver Responsibility Program Ends Next Month. Here's What That Means For You.*, (Aug. 20, 2019), <https://www.texastribune.org/2019/08/20/Texas-driver-responsibility-program-repeal-what-that-means-explained/> [<https://perma.cc/EDL4-6A32>].
- 163 *Id.*
- 164 Rodriguez Compl., *supra* note 1, at ¶ 7.
- 165 See, e.g., William E. Crozier & Brandon L. Garrett, *Driven to Failure: An Empirical Analysis of Driver's License Suspension in North Carolina*, 69 Duke L.J. 1585, 1604-18 (2020) (pro-

- viding empirical analysis on how class and race affect fines levied against drivers in North Carolina).
- 166 Weildman, *supra* note 158; *See* Johnson v. Jessup, 381 F. Supp. 3d 619, 639 (M.D.N.C., 2019) *appeal docketed*, No. 19-1421 (4th Cir. April 19, 2019).
- 167 See TETAF, THE TEXAS TRAUMA SYSTEM 2 (2015), available at https://tetaf.org/wp-content/uploads/2016/01/TX-Trauma-Sys-11x17_White_Paper.pdf (“While the DRP currently produces about \$125 million annually, much of the money is diverted into other programs – such as Medicaid and medical education – and used to help balance the state budget. DRP fines and surcharges should be reviewed and modified to improve collection rates and make the program more effective.”); Robert Handler, M.D., *Texas Trauma Hospitals Need Continued State Funding*, TRIBTALK (Feb. 19, 2019), <https://www.tribtalk.org/2019/02/19/texas-trauma-hospitals-need-continued-state-funding/> (explaining that, from 2009-2019, Texas provided \$176 million to 283 hospitals with a substantial amount of funding from the DRP).
- 168 Weildman, *supra* note 158.
- 169 Cynthia Yue, *OmniBase or Omni-Bust: How the Texas Department of Public Safety Marginalizes the Poor*, (Dec. 14, 2018) <https://equaljusticeunderlaw.org/thejusticereport/omnibase-or-omni-bust-how-the-texas-department-of-public-safety-marginalizes-the-poor> [https://perma.cc/D87M-3EQ5].
- 170 See S.B. 2189, 86th Leg. Sess. (Tx. 2019-2020); H.B.1372, 86th Leg. Sess. (Tx. 2019-2020).
- 171 Sundaram, *supra* note 155.
- 172 *Id.*
- 173 See Tex. Transp. Code Ann. § 708.052-708.158; Tex. Admin. Code Ann. § 15.165.
- 174 See generally Rodriguez Compl., *supra* note 1; *See also* Johnson v. Jessup, 381 F. Supp. 3d 619 (M.D.N.C., 2019) *appeal docketed*, No. 19-1421 (4th Cir. April 19, 2019).
- 175 See generally H.B. 2014, 86th Leg. Sess. (Tx. 2019).
- 176 For an in-depth analysis of compounding fees and debt, see Crozier & Garrett, *supra* note and accompanying text.
- 177 E.g. Rodriguez Compl., *supra* note 1.
- 178 Closson, *supra* note 139 (comment from user “alamo1836” “Driving is a privilege and not a right. If you don’t follow the law, you should at least have a fine. If you don’t pay the fine, there should be repercussions and those repercussions should increase the longer you don’t abide by the system.”); *see also* Moyer, *supra* note 167 (comment from user “Chicago Transplant” “Driving is a privilege, not a right, and comes with responsibilities like obeying the rules. The speed limit doesn’t change because of the driver’s income....”).
- 179 See *New Law Erases MT Courts’ Power to Suspend Licenses for Non-Payment of Fines*, *supra* note 128.
- 180 See generally *id.*
- 181 AMERICAN CONSTITUTION SOCIETY, DISCRIMINATORY DRIVER’S LICENSE SUSPENSION SCHEMES 10 (2019), available at <https://www.acslaw.org/wp-content/uploads/2019/03/License-Suspension-Issue-Brief-Final.pdf> [https://perma.cc/J963-CDQG]; *see also* Justin Moyer, *D.C. Restores Driving Privileges for more than 65,000 People*, WASH. POST (Feb. 27, 2019), https://www.washingtonpost.com/local/dc-restores-driving-privileges-for-more-than-65000-people/2019/02/26/2cf91c50-36bf-11e9-bf56-0b239cbaleb0_story.html#comments-wrapper [https://perma.cc/8VFB-FHKK] (“In November, the D.C. DMV reinstated the licenses of residents and the driving privileges of nonresidents who failed to pay moving violations or appear at related court hearings. The DMV made the change after the District passed a law to end such suspensions, which advocates say unfairly punish poor people by preventing them from getting out of debt.”).
- 182 DISCRIMINATORY DRIVER’S LICENSE SUSPENSION SCHEMES, *supra* note 181 at 10.
- 183 Reis Thebault, *In D.C., No More License Suspensions For Drivers With Unpaid Tickets*, WASH. POST (July 12, 2018) https://www.washingtonpost.com/local/dc-politics/in-dc-no-more-susensions-for-drivers-with-unpaid-tickets/2018/07/12/a72cf13a-85e0-11e8-8553-a3ce89036c78_story.html [https://perma.cc/F6YR-5ZXT].

- 184 D.C.Law 22-175. Traffic and Parking Ticket Penalty Amendment Act of 2018 (time increased from thirty to sixty days).
- 185 *See generally id.*
- 186 Moyer, *supra* note 181.
- 187 Moyer, *supra* note 181; *see also* Fines & Fees Justice Center, *D.C. Law 22-175: Traffic and Parking Ticket Penalty Amendment Act of 2018*, (March 21, 2017), <https://finesandfeesjusticecenter.org/articles/d-c-law-22-175-traffic-and-parking-ticket-penalty-amendment-act-of-2018/> [<https://perma.cc/BB5T-2WT9>].
- 188 DISCRIMINATORY DRIVER'S LICENSE SUSPENSION SCHEMES, *supra* note 181 at 10; Beth Schwartzapfel, *43 States Suspend Licenses for Unpaid Court Debt, But That Could Change*, MARSHALL PROJECT, (Nov. 21, 2017), <https://www.themarshallproject.org/2017/11/21/43-states-suspend-licenses-for-unpaid-court-debt-but-that-could-change> [<https://perma.cc/6J8B-WPUC>] (quoting the Office of D.C. Mayor Muriel Bowser).
- 189 DISCRIMINATORY DRIVER'S LICENSE SUSPENSION SCHEMES, *supra* note 181 at 10; PRESS RELEASE, OFFICE OF MAYOR MURIEL BOWSER, MAYOR BOWSER'S PATHWAYS TO WORK REENTRY PROGRAM HITS MILESTONE of 250 RESIDENTS HELPED (Oct. 4, 2018), <https://mayor.dc.gov/release/mayor-bowser's-pathways-work-reentry-program-hits-milestone-250-residents-helped> [<https://perma.cc/TJ6K-MC6N>].
- 190 LICENSE REINSTATEMENT DIVERSION PILOT PROGRAM, *supra* note 53.
- 191 *See* <https://finesandfeesjusticecenter.org/2018/08/20/washington-dc-license-susensions/> ("Arresting people too poor to pay [...] does nothing to get fines and penalties paid." "[This proposal] is likely to boost revenue by eliminating the costs associated with thousands of needless arrests and prosecutions and by reducing the funds paid by the city over time to support and assist those who lose their jobs because of license suspensions."); *See also*, AMERICAN CONSTITUTION SOCIETY, *supra*, note 180.
- 192 *See* Moyer, *supra* note 181; Schwartzapfel, *supra* note 188.
- 193 *Id.*
- 194 DURHAM DRIVER AMNESTY PROGRAM, FINES AND FEES JUSTICE CTR., (Nov. 27, 2017), <https://finesandfeesjusticecenter.org/articles/durham-driver-amnesty-program/> [<https://perma.cc/6PMM-Q29G>].
- 195 *Id.*
- 196 Bloomberg Cities, *Putting Ex-Offenders Back in the Driver's Seat*, MEDIUM (Jan. 4, 2018), <https://medium.com/@BloombergCities/putting-ex-offenders-back-in-the-drivers-seat-e22352a53683> [<https://perma.cc/55VY-YZ56>].
- 197 *Id.*
- 198 *Id.*
- 199 Katie Mgongolwa,, *Durham, Let's Wipe the Slate Clean*, HAROLD SUN (Feb. 17, 2018), <https://www.heraldsun.com/opinion/article200392429.html>.
- 200 *Putting Ex-Offenders Back in the Driver's Seat*, *supra* note 196.
- 201 *Putting Ex-Offenders Back in the Driver's Seat*, *supra* note 196
- 202 E.g., John Choi, Karin Sonneman, & James Backstrom, *Now is the Time for Minnesota to End Driver's License Suspensions for Unpaid Fees*, MINNPOST (May 7, 2020), <https://www.minnpost.com/community-voices/2020/05/now-is-the-time-for-minnesota-to-end-drivers-license-suspensions-for-unpaid-fees/> (arguing that Minnesota should stop suspending licenses for indigent drivers and drawing attention to the fact that "In the past two years, Montana, Texas, Virginia, Mississippi, California, Idaho, Maine, and the District of Columbia have enacted legislative reforms to tackle debt-based suspension. It appears to be working.").
- 203 Megan Cassidy, *Can't Get Your Phoenix Driver's License Back Because of Fines? Court Program Can Help*, AZ CENTRAL (Jan. 25, 2019), <https://www.azcentral.com/story/news/local/phoenix/2016/01/25/cant-get-your-phoenix-drivers-license-back-because-fines-court-program-can-help/79137400/> [<https://perma.cc/9K6J-K6D7>].

204 *Id.*

205 See generally H.B. 2014, 86th Leg. Sess. (Tx. 2019)(Texas repeals of the DRP); California passed its repeal while a suit against the DMV was pending (<https://wclp.org/california-stopped-suspending-licenses-for-failures-to-pay-traffic-fines-why-do-some-drivers-who-can-t-pay-still-have-suspended-licenses/> [<https://perma.cc/CHF5-ES5Y>])(California repeals license suspension program).

206 LICENSE REINSTATEMENT DIVERSION PILOT PROGRAM, *supra* note 53 at 1.

207 *Id.* at 12.

208 *Id.* at 1.

209 *Id.* at 4.

210 *Id.*

211 *Id.* at 18.

212 *Id.*

213 *Id.* at 20.

214 *Id.* at 23

215 *Id.*

216 See N.C. Gen. Stat. Chapter 20: § 20-24.1.

217 See Mike Maciag, *Addicted to Fines: A Special Report*, GOVERNING (Aug. 21, 2019), <https://www.governing.com/topics/finance/fine-fee-revenues-special-report.html> (highlighting just how dependent some small towns are on fines and fees to raise revenue).

218 See Brandon L. Garret, *Guest Post: Court Fines and Fees Shouldn't be Used to Recover Lost Revenue From Pandemic*, WASH. POST (May 12, 2020), <https://www.washingtonpost.com/crime-law/2020/05/12/guest-post-court-fines-fees-shouldnt-be-used-recover-lost-revenue-pandemic/> (relaying that when the Durham prosecutor that moved to dismiss thousands of old cases with unpaid court debt he observed that, in ancient times, “Even tyrant kings would periodically cancel debts to allow the poor a measure of respite from their harsh conditions.”).

219 See N.C. Gen. Stat. Chapter 20: § 20-24.1.

220 Michael Hewlett, *Federal Judge Rejects Temporary Block of Law That Allows Suspension of Driver's Licenses for Failure to Pay Traffic Tickets*, WINSTON-SALEM JOURNAL, (April 13, 2019), https://www.journalnow.com/news/local/federal-judge-rejects-temporary-block-of-law-that-allows-suspension/article_3ac2c45c-2731-5a13-b34a-bc06420da889.html [<https://perma.cc/9K5B-SCKT>].

221 See GARRETT & CROZIER, *supra* note 165.

222 Brandon L. Garret, *Guest Post: Court Fines and Fees Shouldn't be Used to Recover Lost Revenue From Pandemic*, WASH. POST (May 12, 2020), <https://www.washingtonpost.com/crime-law/2020/05/12/guest-post-court-fines-fees-shouldnt-be-used-recover-lost-revenue-pandemic/>; CROZIER & GARRETT, *supra* note 165 at 1626-28.

223 See generally Mendoza v. Garrett, 358 F. Supp. 3d 1145 (D. Or. 2018); Fowler, v. Benson 924 F.3d 247 (6th Cir. 2019); Johnson v. Jessup, 381 F. Supp. 3d 619, 646 (M.D.N.C., 2019) *appeal docketed*, No. 19-1421 (4th Cir. April 19, 2019).

224 JON A. CARNEGIE, DRIVER'S LICENSE SUSPENSIONS, IMPACTS AND FAIRNESS STUDY: FINAL REPORT VOLUME 2: TECHNICAL APPENDICES PINPOINT? 2007, available at <http://vtc.rutgers.edu/wp-content/uploads/2014/04/MVC-DL-Susp-Final-Report-Vol2.pdf>. <https://www.state.nj.us/transportation/refdata/research/reports/FHWA-NJ-2007-020-V2.pdf> [<https://perma.cc/H2AX-5B8F>].

225 BENDER, *supra* note 15; VOORHEES, *supra* note 14.

226 Elizabeth Kneebone and Natalie Holmes, *The Growing Distance Between People and Jobs in Metropolitan America*, BROOKINGS (March 24, 2015), <https://www.brookings.edu/research/the-growing-distance-between-people-and-jobs-in-metropolitan-america/> [<https://perma.cc/P2T7-9K85>].

- 227 Joseph Shapiro, *How Driver's License Suspensions Unfairly Target the Poor*, NPR (Jan. 5, 2015), <https://www.npr.org/2015/01/05/372691918/how-drivers-license-suspensions-unfairly-target-the-poor> [<https://perma.cc/6SER-P57Q>] ("The most common way that people lose their driver's license in Wisconsin is not for drunken driving or other unsafe driving. It's for failure to pay the fine on a ticket for a nonmoving traffic offense. Those make up 56 percent of all license suspensions in the state, according to statistics from the Wisconsin Department of Transportation.").
- 228 *Id.*
- 229 *Id.*
- 230 BENDER, *supra* note 15.
- 231 BENDER, *supra* note 12; *see also* THE AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS, BEST PRACTICES GUIDE TO REDUCING SUSPENDED DRIVERS, FINES & FEES JUSTICE CENTER 4 (2013), available at <https://finesandfeesjusticecenter.org/articles/best-practices-guide-to-reducing-suspended-drivers/> [<https://perma.cc/GGH7-829N>].
- 232 BENDER, *supra* note 14.
- 233 *Resolution in Support of Limiting Driver's License Suspensions to Violations That Involve Dangerous Driving*, AM. LEGIS. EXCHANGE COUNCIL (Dec. 8, 2017), <https://www.alec.org/model-policy/resolution-in-support-of-limiting-drivers-license-susensions-to-violations-that-involve-dangerous-driving/> [<https://perma.cc/X4SR-RUVJ>].
- 234 BENDER, *supra* note 14.
- 235 *Id.*
- 236 *See New Law Erases MT Courts' Power to Suspend Licenses for Non-Payment of Fines*, *supra* note 128.
- 237 *See Mendoza v. Garrett*, 358 F. Supp. 3d 1145 (D. Or. 2018); *Fowler v. Benson* 924 F.3d 247, 258 (6th Cir. 2019).
- 238 *Johnson v. Jessup*, 381 F. Supp. 3d 619, 646 (M.D.N.C., 2019) *appeal docketed*, No. 19-1421 (4th Cir. April 19, 2019).
- 239 *See Indiana v. Timbs*, 139 S.Ct. 682 (2019) (The Supreme Court recently held that the Excessive Fines Clause of the Eighth Amendment is incorporated against the states under the Fourteenth Amendment's Due Process Clause and that civil asset forfeiture can run afoul of the Excessive Fines Clause). Considering the difficulties in successfully challenging driver's license suspension under equal protection and traditional due process claims, this avenue may be worth pursuing in certain circuits.
- 240 DURHAM DRIVER AMNESTY PROGRAM, *supra* note 194.
- 241 *See generally Putting Ex-Offenders Back in the Driver's Seat*, *supra* note 196 (Durham, North Carolina's program recognizes that online options are taken advantage of at much higher rates).
- 242 *Rodriguez* Compl., *supra* note 1 at ¶¶ 38-43.
- 243 *See generally Cassidy*, *supra* note 203.
- 244 BENDER, *supra* note 15, at 23.
- 245 *Resolution in Support of Limiting Driver's License Suspensions to Violations That Involve Dangerous Driving*, *supra* note 223, at 28 (City of Lake Mills Municipal Court in Wisconsin gives individuals between 12 and 17 years old the option between a fine and community service for non-traffic ordinance violations).
- 246 *Id.* at 24.
- 247 *Id.* at 26.
- 248 *Id.* at 24-26.

