

No. 19-35506

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

CINDY MENDOZA; GLORIA BERMUDEZ; LORI SPANO;
CEKAIS TONI GANUELAS; REBECCA HEATH; and KARL
WADE ROBERTS, on behalf of themselves and all others similarly
situated,

Plaintiff-Appellants,

v.

KRIS STRICKLER, in his official capacity as Director of the Oregon
Department of Transportation; and TOM MCCLELLAN, in his official
capacity as Administrator of Driver and Motor Vehicles Division,
Oregon Department of Transportation,

Defendant-Appellees.

On Appeal from the United States District Court
for the District of Oregon
No. 3:18-cv-01634-HZ
Hon. Marco A. Hernandez

**BRIEF OF *AMICI CURIAE* MEMBERS OF THE FREE TO DRIVE
COALITION IN SUPPORT OF
APPELLANT'S PETITION FOR REHEARING EN BANC**

Ellora Thadaney Israni
Shirley LaVarco
Ryan Downer
CIVIL RIGHTS CORPS
1601 Connecticut Ave. NW, Ste. 800
Washington, DC 20009
(202) 894-6132

Claudia Wilner
NATIONAL CENTER FOR LAW
AND ECONOMIC JUSTICE
275 Seventh Ave., Ste. 1506
New York, NY 10001
(212) 633-6967

Counsel for Amici Curiae

FRAP 26.1 CORPORATE DISCLOSURE STATEMENT

Pursuant to Fed. R. App. P. 26.1, none of the *amici* has a corporate parent.

No publicly owned company owns 10% or more stock in any of the *amici*.

Dated: December 8, 2022

/s/ Ellora Thadaney Israni
Ellora Thadaney Israni
Of Counsel for *Amici Curiae*

TABLE OF CONTENTS

TABLE OF CONTENTS..... iii

TABLE OF AUTHORITIES iv

INTEREST AND IDENTITY OF *AMICI CURIAE* 1

ARGUMENT 2

 I. DEBT-BASED DRIVER’S LICENSE SUSPENSIONS HARM
MILLIONS OF PEOPLE, MOST OF WHOM ARE POOR. 3

 II. DEBT-BASED DRIVER’S LICENSE SUSPENSIONS UNDERMINE,
RATHER THAN SERVE, IMPORTANT STATE INTERESTS. 6

 A. The right to drive is essential to accessing the necessities of everyday
life, while debt-based restrictions on driving often result in arrest and
incarceration..... 7

 B. Prohibiting people from driving because of unpaid fines and fees is
counterproductive to important government interests..... 11

 1. License suspensions do not raise revenue..... 12

 2. License suspensions undercut economic growth. 13

 3. License suspensions endanger public safety..... 14

 4. License suspensions undermine public health. 15

 III. THIS CASE HAS FAR-REACHING IMPLICATIONS BEYOND
DRIVER’S LICENSE SUSPENSIONS..... 17

CONCLUSION 20

TABLE OF AUTHORITIES

Cases

<i>Bearden v. Georgia</i> , 461 U.S. 660 (1983).....	3, 7, 18
<i>Bell v. Burson</i> , 402 U.S. 535 (1971).....	8
<i>Briggs v. Treatment Assessment Screening Ctr. Inc.</i> , 562 F. Supp. 3d 168 (D. Ariz. 2021).....	18
<i>City of Chicago v. Fulton</i> , 141 S. Ct. 585 (2021).....	8
<i>City of Cleburne v. Cleburne Living Ctr.</i> , 473 U.S. 432 (1985).....	7
<i>Delaware v. Prouse</i> , 440 U.S. 648 (1979).....	8
<i>Hernandez v. Sessions</i> , 872 F.3d 976 (9th Cir. 2017).....	11
<i>Mcneil v. Cmty. Prob. Servs., LLC</i> , No. 1:18-CV-00033, 2021 WL 366776 (M.D. Tenn. Feb. 3, 2021).....	19
<i>Mendoza v. Strickler</i> , 51 F.4th 346 (9th Cir. 2022).....	5, 9, 11
<i>Moody v. State</i> , 716 So.2d 562 (Miss. 1998).....	18
<i>Mueller v. State</i> , 837 N.E.2d 198 (Ind. App. 2005).....	19
<i>Rodriguez v. Providence Cmty. Corr., Inc.</i> , 191 F. Supp. 3d 758 (M.D. Tenn. 2016).....	19
<i>State v. Jimenez</i> , 810 P.2d 801 (N.M. 1991).....	19
<i>Wooley v. Maynard</i> , 430 U.S. 705 (1977).....	7

Statutes

Ariz. Rev. Stat. 28-1601	5
--------------------------------	---

Articles

Alana Semuels, <i>No Driver’s Licence, No Job</i> , THE ATLANTIC (June 15, 2016), https://perma.cc/T38L-R45R	13
Cinnamon Janzer & Deena Winter, <i>Bipartisan effort would end driver’s license suspensions for unpaid tickets</i> , MINN. REFORMER (Mar. 2, 2021), https://perma.cc/QNW8-BP3J	14
Jamal Nelson, <i>U.S. Senate Judiciary Committee Approves Bill to Address Debt-Based Driver’s License Suspensions</i> , COUNCIL OF STATE GOVERNMENTS JUSTICE CENTER (Nov. 9, 2021), https://perma.cc/D2JK-3DCE	17
Jonathan Oosting, <i>Michigan moves to limit ‘mandatory minimum’ sentences and license suspensions</i> , BRIDGE MICHIGAN (Dec. 10, 2020), https://perma.cc/5D69-JH7Y	10

Joshua Aiken, <i>Reinstating Common Sense</i> , PRISON POLICY INITIATIVE (Dec. 12, 2016), https://perma.cc/4JQJ-UHKK	14
Meghan Keneally, <i>‘It’s not America’: 11 million go without a license because of unpaid fines</i> , ABC NEWS (Oct. 25, 2019), https://perma.cc/Y3SW-GWW7	3
Susan Frey, <i>Rural communities struggle to provide after-school programs</i> , EDSOURCE (Jan. 27, 2015), https://perma.cc/2M2Z-U782	8

Reports

ACLU WASHINGTON FOUNDATION, <i>DRIVEN TO FAIL: THE HIGH COST OF WASHINGTON'S MOST INEFFECTIVE CRIME – DWLS III 4</i> , 20 (2017), https://perma.cc/3JSK-LXZP	10
ACLU, <i>RECKLESS LAWMAKING: HOW DEBT-BASED DRIVER’S LICENSE SUSPENSION LAWS IMPOSE HARM AND WASTE RESOURCES</i> (2021), https://perma.cc/UJ2B-PYFD	9
AM. ASS’N OF MOTOR VEHICLE ADMINISTRATORS, <i>REDUCING SUSPENDED DRIVERS AND ALTERNATIVE REINSTATEMENT BEST PRACTICES</i> (3d ed. May 2021), https://perma.cc/3SQU-TTBM	9, 15
BRENNAN CENTER FOR JUSTICE, <i>THE STEEP COSTS OF CRIMINAL JUSTICE FEES AND FINES</i> (2019), https://perma.cc/D979-PZ7D	12
BUREAU OF TRANSP. STATS., <i>THE LONGER ROUTE TO SCHOOL</i> (2021), https://perma.cc/AF5N-2LTL	8
DANIELLE DUPUY ET AL, <i>WOMEN IN THE LOS ANGELES COUNTY JAIL: AN ANALYSIS OF LASD DATA (2010-2016)</i> (2018), https://milliondollarhoods.pre.ss.ucla.edu/reports/	9
Danielle Kaebler, <i>Probation and Parole in the United States, 2020</i> , U.S. DEP’T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE STATISTICS (2021), https://perma.cc/99B7-NNBN	20
FEDERAL HIGHWAY ADMINISTRATION, <i>2017 NAT’L HOUSEHOLD TRAVEL SURVEY</i> , https://perma.cc/V5NU-ZUEX	8
FINES AND FEES JUSTICE CENTER, <i>CALIFORNIA AB 103 – PUBLIC SAFETY OMNIBUS</i> (2017), https://perma.cc/SB8T-U7EP	17
FINES AND FEES JUSTICE CENTER, <i>DRIVING ON EMPTY: FLORIDA’S COUNTERPRODUCTIVE AND COSTLY DRIVER’S LICENSE SUSPENSION PRACTICES</i> 18 (2019), https://perma.cc/ZT3L-WEGR	10
FRANK EDWARDS & ALEXIS HARRIS, <i>AN ANALYSIS OF COURT IMPOSED MONETARY SANCTIONS IN SEATTLE MUNICIPAL COURTS, 2000-2017</i> (2020), https://perma.cc/78EK-26G3	6

JAMES MADISON INSTITUTE, CHANGING COURSE: DRIVER’S LICENSE SUSPENSION IN FLORIDA, https://perma.cc/52JV-MPYZ	11
NEW YORK LAW SCHOOL, DRIVING WHILE BLACK AND LATINX: STOPS, FINES, FEES, AND UNJUST DEBTS (2020), https://perma.cc/WU2Y-CG5L	6, 10
SAN FRANCISCO FINANCIAL JUSTICE PROJECT, DRIVING TOWARD JUSTICE (2020), https://perma.cc/P735-KT4X	13
SEIDMAN RESEARCH INSTITUTE, THE CITY OF PHOENIX MUNICIPAL COURT’S COMPLIANCE ASSISTANCE PROGRAM, 2016: AN ECONOMIC ASSESSMENT, https://perma.cc/6NFK-TJDM	13
TEXAS APPLESEED, DRIVEN BY DEBT: THE FAILURE OF THE OMNIBASE PROGRAM (2021), https://perma.cc/S9N2-HETV	12
THE FINANCIAL JUSTICE PROJECT, SAN FRANCISCO FINES & FEES TASK FORCE: INITIAL FINDINGS AND RECOMMENDATIONS (2017), https://perma.cc/NNR3-SKLB	5
THINK TENNESSEE, REDUCING THE HARMS OF COURT DEBT: DRIVER’S LICENSE REVOCATIONS ARE AN INEFFECTIVE POLICY FOR INCREASING COURT COLLECTIONS (2022), https://perma.cc/3AFK-HXKJ	12
TZEDEK DC, DRIVING DC TO OPPORTUNITY (2021), https://perma.cc/M8UZ-BJNX	16

Academic Publications

EILEEN CRIMMINS ET AL., RACE/ETHNICITY, SOCIOECONOMIC STATUS AND HEALTH (2004), https://perma.cc/9C7F-6M7D	15
N.R. Joyce et al., <i>Driver’s License Suspension Policies as a Barrier to Health Care</i> , 109 AM. J. PUB. HEALTH L. & ETHICS 1692, https://perma.cc/BFB2-79HL	15, 16
Stanford Chihuri et al., <i>Driving Cessation and Health Outcomes in Older Adults</i> , 54 J. AM. GERIATRIC SOC. 332 (2016), https://perma.cc/HWK7-J9DH	16

Other Authorities

ACLU OF MONTANA, ENDING YOUR DEBT-BASED DRIVER’S LICENSE SUSPENSION, https://perma.cc/5Y7V-6SYH	5
AMERICAN COMMUNITY SURVEY 2021, TBL. B08130, MEANS OF TRANSPORTATION TO WORK BY PLACE OF WORK—STATE AND COUNTY LEVEL, https://tinyurl.com/bdzhedr5	8, 9
U.S. CENSUS BUREAU, U.S. AND WORLD POPULATION CLOCK, https://perma.cc/JL94-PQAJ	4

U.S. Dep’t of Justice, Statement of Interest, *Stinnie v. Holcomb*, No. 3:16-cv-00044 (W.D. Va. Nov. 7, 2016) (No. 27).....14

INTEREST AND IDENTITY OF *AMICI CURIAE*¹

Twenty-two civil rights and poverty law nonprofit organizations from across the country join this brief. *Amici* have direct experience working with and advocating on behalf of people harmed by debt-based driving restrictions.

Amici are members of the **Free to Drive** coalition, a nationwide group of more than 100 ideologically diverse organizations that seeks to end driving restrictions for any reason not related to public safety. The coalition supports the elimination of restrictions on driving—including suspensions, revocations, or limitations on renewal of driver’s licenses or registrations—to coerce debt payment. Such restrictions are counterproductive and harm millions, particularly the poorest people in our communities.

Amici include Alabama Appleseed Center for Law and Justice, Brennan Center for Justice at NYU School of Law, Chicago Appleseed Center, Civil Rights Corps, Colorado Center on Law and Policy, Columbia Legal Services, Deep Center, Equal Justice Under Law, Kansas Appleseed Center for Law and Justice, LatinoJustice, Legal Aid Justice Center, National Center for Law and Economic Justice, National Center for Youth Law, National Consumer Law Center, Policy

¹ No counsel for a party authored this brief in whole or in part. No such counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amici curiae*, their members, or their counsel made a monetary contribution to its preparation or submission. The parties have consented to the filing of this brief.

Advocacy Clinic at UC Berkeley School of Law, Prison Policy Initiative, Public Justice Center, Shriver Center on Poverty Law, Southern Poverty Law Center, Tzedek DC, Washington Defender Association, and William E. Morris Institute for Justice. Further information regarding each organization is provided in Appendix A.

ARGUMENT

Millions of people in the United States have had their driver's licenses suspended, revoked, or not renewed, not for unsafe driving, but for unpaid fines and fees. Most of these people are poor; they are disproportionately people of color.

Losing the right to drive has severe consequences: Most people in the United States rely on cars to travel to work, school, childcare, medical care, grocery stores, places of worship, and other essential activities. When their licenses are suspended, they often have no realistic choice but to continue to drive—risking more fines and fees, arrest, incarceration, and the adverse consequences that follow.

The overwhelming empirical consensus is that debt-based driving restrictions do not effectively raise revenue, but rather prevent repayment, hinder economic growth, degrade public health and safety, and exacerbate racial

inequalities. Such restrictions are not rationally related to any legitimate state interest. To the contrary, they actively undermine several state interests.

The panel’s decision ignores the necessity of driving and the grave consequences that follow from license suspension for inability to pay. It also flies in the face of the Supreme Court’s command that a person must not be “punish[ed] . . . for his poverty.” *Bearden v. Georgia*, 461 U.S. 660, 671 (1983). This case has stark implications for not only the millions of people who are prohibited from driving because of outstanding debt, but also the millions more subject to other liberty-restricting government actions such as pretrial supervision, diversion, and probation—to which, contrary to the panel’s decision, federal courts around the country have applied *Bearden*’s “careful inquiry.” *Id.* at 666.

For these reasons, *amici* respectfully urge rehearing en banc.

I. DEBT-BASED DRIVER’S LICENSE SUSPENSIONS HARM MILLIONS OF PEOPLE, MOST OF WHOM ARE POOR.

At least 11 million people in the United States are prohibited from driving because they cannot afford to pay fines and fees. Meghan Keneally, *‘It’s not America’: 11 million go without a license because of unpaid fines*, ABC NEWS (Oct. 25, 2019), <https://perma.cc/Y3SW-GWW7>.² Meanwhile, people who can

² While there are no official national figures for the number of people affected by debt-based driver’s license suspensions, data collected by the Free to Drive Coalition and the Fines and Fees Justice Center placed that number at 11 million as of 2019. *See supra* Keneally. Since then, while some states have reformed their

afford to pay are subject to no such restrictions (unless they willfully refuse to pay). This differential treatment is not tied to any legitimate public safety need, but to poverty. And it is pervasive across the country.

Thirty-two states—including three of the most populous states (Texas, Florida, and Pennsylvania)—continue to suspend, revoke, or refuse to renew driver’s licenses over outstanding fines and fees. *See* Appendix B; U.S. CENSUS BUREAU, U.S. AND WORLD POPULATION CLOCK, <https://perma.cc/JL94-PQAJ>. While some states, including several in the Ninth Circuit, have reformed their policies in recent years, at least ten states’ reforms are not automatically retroactive, leaving people harmed by the repealed statutes with limited or no recourse to address existing debt-based sanctions. These lukewarm reforms are detailed in Appendix B.

For example, under the repealed statute at issue in this case, more than 126,000 Oregonians are still prohibited from driving for nonpayment of fines and fees. Appellant’s Petition for Rehearing En Banc at 4 n.1 (No. 64). In Montana, licenses suspended for outstanding debt under a now-repealed statute are not automatically reinstated; drivers must petition a court for reinstatement. ACLU OF MONTANA, ENDING YOUR DEBT-BASED DRIVER’S LICENSE SUSPENSION,

policies, several make reinstatement difficult or impossible for those whose licenses were previously suspended. *See* Appendix B.

<https://perma.cc/5Y7V-6SYH>. While Arizona eliminated driver's license suspensions for nonpayment of fines and fees in 2021, it still refuses to renew vehicle registrations for outstanding traffic fines. Ariz. Rev. Stat. 28-1601. Thus, even amidst growing recognition that debt-based driving restrictions are counterproductive, *see infra* section II.B, millions are still prohibited from driving because they owe a debt to the state.

Empirical data across several states demonstrate that license suspensions are highly concentrated in the most impoverished communities. *See* Brief of Amici Curiae Members of the Free to Drive Coalition at 15–18 (No. 15) (citing data from Tennessee, California, New York, Ohio, Illinois). And, as Judge Berzon observed in dissent, those affected are predominantly people of color. *Mendoza v. Strickler*, 51 F.4th 346, 363 (9th Cir. 2022) (Berzon, J., dissenting) (internal citation omitted). For example:

- As of 2017, the license suspension rate in Bayview-Hunter's Point, the San Francisco neighborhood with the highest percentage of Black residents, was over three times the statewide average. THE FINANCIAL JUSTICE PROJECT, SAN FRANCISCO FINES & FEES TASK FORCE: INITIAL FINDINGS AND RECOMMENDATIONS (2017), <https://perma.cc/NNR3-SKLB>.
- In Seattle between 2000 and 2017, as compared to their white counterparts, Black men with traffic-related legal-financial obligations were nearly six

times more likely, American Indian/Alaska Native men were 2.5 times more likely, and Latinx men were twice as likely to subsequently be charged with driving on a suspended license. FRANK EDWARDS & ALEXIS HARRIS, AN ANALYSIS OF COURT IMPOSED MONETARY SANCTIONS IN SEATTLE MUNICIPAL COURTS, 2000-2017 20 & Fig. 10 (2020), <https://perma.cc/78EK-26G3>.

- In New York City, the license suspension rate in the 10 ZIP codes with the highest concentrations of people of color was 2.5 times the rate in the ZIP codes with the most concentrated white populations. NEW YORK LAW SCHOOL, DRIVING WHILE BLACK AND LATINX: STOPS, FINES, FEES, AND UNJUST DEBTS 5–6 (2020), <https://perma.cc/WU2Y-CG5L>. Elsewhere in New York State, the disparity was as high as four-to-one. *Id.*

As such, this case has severe consequences for millions of people—in most cases simply because those affected are poor.

II. DEBT-BASED DRIVER’S LICENSE SUSPENSIONS UNDERMINE, RATHER THAN SERVE, IMPORTANT STATE INTERESTS.

Under any level of scrutiny, state action that infringes upon individual rights must have some connection to a legitimate state interest. *Bearden*’s “careful inquiry” instructs courts to balance (1) “the nature of the individual interest affected,” (2) “the extent to which it is affected,” (3) “the rationality of the

connection between legislative means and purpose,” and (4) “the existence of alternative means for effectuating the purpose.” *Bearden*, 461 U.S. at 666–67 (internal citation omitted). Even rational basis review requires government infringement upon individual rights to be “rationally related to a legitimate state interest.” *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 440 (1985).

Debt-based driving restrictions do not survive under either *Bearden* or rational basis review. The individual rights impinged by debt-based driving restrictions are significant and the consequences of the deprivation are severe; driving is essential to accessing necessities for most people in the United States. *See infra* section II.A. Meanwhile, poverty-based license restrictions bear no rational connection to any legitimate state interest. To the contrary, prohibiting people from driving simply because they cannot afford to pay fines and fees is counterproductive to revenue collection, economic growth, and public health and safety. *See infra* section II.B.

A. The right to drive is essential to accessing the necessities of everyday life, while debt-based restrictions on driving often result in arrest and incarceration.

The Supreme Court has recognized for forty-five years that “driving an automobile [is] a virtual necessity for most Americans.” *Wooley v. Maynard*, 430 U.S. 705, 715 (1977). Driving is “a basic, pervasive, and often necessary mode of transportation to and from one’s home, workplace, and leisure activities.”

Delaware v. Prouse, 440 U.S. 648, 662 (1979). “Once [driver’s] licenses are issued . . . their continued possession may become essential in the pursuit of a livelihood.” *Bell v. Burson*, 402 U.S. 535, 539 (1971); *see also City of Chicago v. Fulton*, 141 S. Ct. 585, 593–94 (2021) (Sotomayor, J., concurring) (losing one’s vehicle interferes “not only with [one’s] ability to earn an income and pay their creditors but also with their access to childcare, groceries, medical appointments, and other necessities”).

According to Census data, 82 percent of people residing within this Circuit drive to work. AMERICAN COMMUNITY SURVEY 2021, TBL. B08130, MEANS OF TRANSPORTATION TO WORK BY PLACE OF WORK—STATE AND COUNTY LEVEL, <https://tinyurl.com/bdzhedr5> (last visited Dec. 6, 2022). About 83 percent of trips made by Americans—to work, school,³ grocery stores, medical appointments, and the like—are made by car. FEDERAL HIGHWAY ADMINISTRATION, 2017 NAT’L HOUSEHOLD TRAVEL SURVEY, <https://perma.cc/V5NU-ZUEX>.

For many people, driving is the only option: Fewer than three percent of U.S. workers—and only four percent of people residing within this Circuit or in

³ Nearly half of U.S. schoolchildren ages 5 to 14 rely on a parent to drive them to school. BUREAU OF TRANSP. STATS., THE LONGER ROUTE TO SCHOOL (2021), <https://perma.cc/AF5N-2LTL>. Children, especially those living in rural areas, miss out on important educational opportunities when their parents cannot legally drive. *See Susan Frey, Rural communities struggle to provide after-school programs*, EDSOURCE (Jan. 27, 2015), <https://perma.cc/2M2Z-U782>.

Oregon specifically—use public transportation to get to work. *See supra* AMERICAN COMMUNITY SURVEY. “The loss of a license can mean the loss of the ability to access critical resources, including employment and educational opportunities, healthcare, and housing in safe or desirable but remotely located neighborhoods.” *Mendoza*, 51 F.4th at 363 (Berzon, J., dissenting). Accordingly, most people who have their licenses suspended due to outstanding fines and fees have no realistic choice but to continue driving—risking more debt, arrest, criminal conviction, and incarceration. ACLU, RECKLESS LAWMAKING: HOW DEBT-BASED DRIVER’S LICENSE SUSPENSION LAWS IMPOSE HARM AND WASTE RESOURCES (2021), <https://perma.cc/UJ2B-PYFD>.⁴

The sheer number of people who are arrested, prosecuted, and/or incarcerated for driving without a valid driver’s license is staggering. For example, in Los Angeles between 2010 and 2016, driving on a suspended license or without insurance was the second most common charge amongst the nearly 200,000 women booked into county jail. DANIELLE DUPUY ET AL, WOMEN IN THE LOS ANGELES COUNTY JAIL: AN ANALYSIS OF LASD DATA (2010-2016) (2018), <https://milliondollarhoods.pre.ss.ucla.edu/reports/>. Driving with a suspended

⁴ *See also* AM. ASS’N OF MOTOR VEHICLE ADMINISTRATORS, REDUCING SUSPENDED DRIVERS AND ALTERNATIVE REINSTATEMENT BEST PRACTICES 3 (3d ed. May 2021), <https://perma.cc/3SQU-TTBM> (reporting that 75 percent of people with suspended licenses continue to drive).

license was Washington’s most prosecuted crime, and accounted for one-third of the prosecutorial caseload in the state, in 2015. ACLU WASHINGTON FOUNDATION, DRIVEN TO FAIL: THE HIGH COST OF WASHINGTON'S MOST INEFFECTIVE CRIME – DWLS III 4, 20 (2017), <https://perma.cc/3JSK-LXZP>. License suspension is the third most common reason for jail admission in Michigan. Jonathan Oosting, *Michigan moves to limit ‘mandatory minimum’ sentences and license suspensions*, BRIDGE MICHIGAN (Dec. 10, 2020), <https://perma.cc/5D69-JH7Y>. The penalties for such charges are significant: In Florida, for example, people arrested for driving with a suspended license can face up to 60 days in jail for a first-time offense. FINES AND FEES JUSTICE CENTER, DRIVING ON EMPTY: FLORIDA’S COUNTERPRODUCTIVE AND COSTLY DRIVER’S LICENSE SUSPENSION PRACTICES 18 (2019), <https://perma.cc/ZT3L-WEGR> (citing Fla. Stat. 322.34; 775.082). A third offense carries a mandatory minimum of ten days in jail. *Id.* And again, people of color are disproportionately penalized. For example, in New York City—where driving with a suspended license was the fourth most charged crime in 2018—76 percent of drivers are white, yet 80 percent of those arrested for driving with a suspended license in 2018 were Black or Latinx. *See supra* NEW YORK LAW SCHOOL; *see also supra* ACLU WASHINGTON FOUNDATION at 5.

These data show that the panel’s legal distinction between jailing and access to courts, on the one hand, and other deprivations of liberty or property, on the

other, is functionally meaningless. Debt-based driving restrictions often lead to incarceration “simply because, through no fault of [their] own, [a person] cannot pay the fine” and amount to “little more than punishing [the] person for [their] poverty.” *Hernandez v. Sessions*, 872 F.3d 976, 992 (9th Cir. 2017) (citing *Bearden*, 461 U.S. at 671). The reality is that “[l]osing one’s driver’s license is more serious for some individuals than a brief stay in jail.” *Mendoza*, 51 F.4th at 363 (Berzon, J., dissenting) (citing *Argersinger v. Hamlin*, 407 U.S. 25, 48 (1972) (Powell, J., concurring)).⁵ The panel erred by inventing categorical rules as to when *Bearden* and its progeny apply.

B. Prohibiting people from driving because of unpaid fines and fees is counterproductive to important government interests.

Both *Bearden*’s “careful inquiry” and rational basis review require the state to identify a legitimate connection between its action and its interests. When it comes to debt-based driving restrictions, the empirical consensus is that no such connection exists.

⁵ See also JAMES MADISON INSTITUTE, CHANGING COURSE: DRIVER’S LICENSE SUSPENSION IN FLORIDA 7, <https://perma.cc/52JV-MPYZ> (observing that in Florida, when given the choice per statute, “offenders facing the fines associated with [driving with a suspended license] are often unable to pay them,” and “many may choose jail instead”).

1. License suspensions do not raise revenue.

“[F]ines and fees . . . fail at efficiently raising revenue.” BRENNAN CENTER FOR JUSTICE, *THE STEEP COSTS OF CRIMINAL JUSTICE FEES AND FINES* 5 (2019), <https://perma.cc/D979-PZ7D>. For example, data from more than 800 Texas municipal courts show that no relationship exists between debt-based driver’s license restrictions and revenue collection. TEXAS APPLESEED, *DRIVEN BY DEBT: THE FAILURE OF THE OMNIBASE PROGRAM* 1 (2021), <https://perma.cc/S9N2-HETV>. If anything, cities opting into debt-based restrictions collected \$45 *less* in revenue per case than those opting out. *Id.*

Researchers in Tennessee found the same: Collection rates on court costs did not differ between periods when debt-based license revocations were permitted and periods when such revocations were temporarily lifted. THINK TENNESSEE, *REDUCING THE HARMS OF COURT DEBT: DRIVER’S LICENSE REVOCATIONS ARE AN INEFFECTIVE POLICY FOR INCREASING COURT COLLECTIONS* 1 (2022), <https://perma.cc/3AFK-HXKJ>. By contrast, pandemic stimulus payments and other relief spending increased collections. *Id.* The reason for this is straightforward: The threat of a suspended license cannot extract money from people who do not have any.

On the other hand, jurisdictions that have removed or eased debt-based driving restrictions have seen increased revenue. For example, California has

experienced a nine percent increase in collections on newly issued tickets since eliminating debt-based suspensions and introducing payment flexibility. SAN FRANCISCO FINANCIAL JUSTICE PROJECT, DRIVING TOWARD JUSTICE 5 (2020), <https://perma.cc/P735-KT4X>. Thus, theory and practice do not align; debt-based driving restrictions undermine their purported goal of increasing revenue collection.

2. License suspensions undercut economic growth.

As outlined above, most Americans must drive in order to work. *See supra* section II.A. When they cannot drive, they cannot work. License suspensions lead to job loss, which in turn curtails one's ability to contribute to the local economy. *See* Alana Semuels, *No Driver's Licence, No Job*, THE ATLANTIC (June 15, 2016), <https://perma.cc/T38L-R45R>.

For example, until 2021, Arizona mandated license suspension for nonpayment of traffic tickets. More than half of people whose licenses were suspended lost their jobs, with a median hit of \$36,800 to annual household income. SEIDMAN RESEARCH INSTITUTE, THE CITY OF PHOENIX MUNICIPAL COURT'S COMPLIANCE ASSISTANCE PROGRAM, 2016: AN ECONOMIC ASSESSMENT 4, <https://perma.cc/6NFK-TJDM>. When the Phoenix Municipal Court reinstated some suspended licenses under a pilot program, 53 percent of program participants were able to find a job after their license was restored, and 41 percent reported an

increase in income. *Id.* at 5. Restoring just 7,000 licenses increased GDP by \$149.6 million. *Id.*

3. License suspensions endanger public safety.

“[R]esearch shows that suspending driver’s licenses for nonpayment of fines and fees actually *undermines* public safety by diverting law enforcement resources away from traffic violations that do pose a risk to the public and by leading to more unlicensed and uninsured drivers on the roads.” U.S. Dep’t of Justice, Statement of Interest at 12, *Stinnie v. Holcomb*, No. 3:16-cv-00044 (W.D. Va. Nov. 7, 2016) (No. 27) (emphasis in original); *see also id.* n.5 (collecting research). Debt-based driver’s license suspensions conscript police as debt collectors, multiplying the number of unnecessary traffic stops and diverting personnel from public safety priorities.

In Washington, for example, state troopers spent an average of nine hours on every suspension violation unrelated to highway safety, totaling more than 70,848 personnel hours in a single year. Joshua Aiken, *Reinstating Common Sense*, PRISON POLICY INITIATIVE (Dec. 12, 2016), <https://perma.cc/4JQJ-UHKK>. In 2019, Minneapolis prosecutors spent about 30 percent of their time enforcing license suspensions that have no bearing on public safety. Cinnamon Janzer & Deena Winter, *Bipartisan effort would end driver’s license suspensions for unpaid tickets*, MINN. REFORMER (Mar. 2, 2021), <https://perma.cc/QNW8-BP3J>. Accordingly, the

American Association of Motor Vehicle Administrators has recommended that “highway safety resources should be focused on reducing the risk of dangerous drivers,” and that “driver’s license suspension for non-highway safety violations should be avoided.” *Supra* AM. ASS’N OF MOTOR VEHICLE ADMINISTRATORS at 3.

4. License suspensions undermine public health.

Debt-based driver’s license suspensions create needless barriers to accessing timely and adequate health care among populations that already face worse health outcomes due to their socioeconomic status. *See, e.g.,* EILEEN CRIMMINS ET AL., RACE/ETHNICITY, SOCIOECONOMIC STATUS AND HEALTH (2004), <https://perma.cc/9C7F-6M7D>.

Every year, approximately 3.6 million people in the United States delay or miss out entirely on healthcare due to transportation barriers, leading to higher healthcare costs and potentially life-threatening long-term consequences. N.R. Joyce et al., *Driver’s License Suspension Policies as a Barrier to Health Care*, 109 AM. J. PUB. HEALTH L. & ETHICS 1692, <https://perma.cc/BFB2-79HL>. Because most people with suspended licenses drive only to make “essential” trips, *id.*, debt-based license suspensions force poor people to make perverse gambles: Go to the hospital, and risk mounting fines and fees or even arrest for driving with a

suspended license, or stay home and risk the health and well-being of themselves and their families.

The public health barriers enacted by driving restrictions are highest for those who need healthcare the most. For example, public health researchers found that when older adults are no longer able to drive, their health suffers, in part due to their inability to pick up their medications or access medical care. Stanford Chihuri et al., *Driving Cessation and Health Outcomes in Older Adults*, 54 J. AM. GERIATRIC SOC. 332 (2016), <https://perma.cc/HWK7-J9DH>. Similarly, disabled people, who are statistically more likely to live in poverty, often cannot use public transportation because it is inaccessible, making a driver's license all the more important. See TZEDEK DC, *DRIVING DC TO OPPORTUNITY* (2021), <https://perma.cc/M8UZ-BJNX>. Removing driving restrictions lifts barriers to healthcare for the most vulnerable; for example, when a pilot program in Utah granted driver's licenses to undocumented immigrants, the two-to-one disparity between documented and undocumented people in receiving adequate prenatal care dissolved. See *supra* Joyce et al.

Perhaps the best evidence that debt-based license suspensions are counterproductive is the growing movement away from the practice. In recent years, at least twenty-three states and the District of Columbia have eliminated or

scaled back such restrictions, often citing their harmful nature.⁶ See Appendix B. Congress last year introduced the Driving for Opportunity Act, which would use federal grants to incentivize states to end debt-based license suspensions. Jamal Nelson, *U.S. Senate Judiciary Committee Approves Bill to Address Debt-Based Driver's License Suspensions*, COUNCIL OF STATE GOVERNMENTS JUSTICE CENTER (Nov. 9, 2021), <https://perma.cc/D2JK-3DCE>. In so doing, federal lawmakers put it plainly: “Suspending driver’s licenses for unpaid fines and fees is a bad idea.” DRIVING FOR OPPORTUNITY ACT ONE-PAGER (2021), <https://perma.cc/GA4H-NLCW>.

Nonetheless, the majority of states still tether the right to drive to one’s ability to pay fines and fees. Even among those states that have enacted reforms, most impose significant barriers to reinstatement and/or are not retroactive. See Appendix B. This case thus has significant implications for the millions who are prohibited from driving due to their poverty.

III. THIS CASE HAS FAR-REACHING IMPLICATIONS BEYOND DRIVER’S LICENSE SUSPENSIONS.

Bearden does not draw bright lines between incarceration and access to courts, on the one hand, and other restrictions on liberty and property, on the other.

⁶ *E.g.*, FINES AND FEES JUSTICE CENTER, CALIFORNIA AB 103 – PUBLIC SAFETY OMNIBUS (2017), <https://perma.cc/SB8T-U7EP> (recounting former Governor’s observation that “[t]here does not appear to be a strong connection between suspending someone’s driver’s license and collecting their fine or penalty”).

Rather, wherever a person might be “punish[ed] . . . for his poverty,” *Bearden* prescribes a balancing between the individual interest implicated, the state’s purpose, the state’s method, and the connection between purpose and method. 461 U.S. at 666–67, 671.

Courts around the country have thus applied *Bearden* and its progeny to situations that do not fit squarely within the “incarceration” and “access to courts” boxes invented by the panel. For example, a federal court within this Circuit recently considered whether a pretrial diversion program that extended periods of state supervision solely because participants did not pay program fees—without considering ability to pay—runs afoul of *Bearden*. See *Briggs v. Treatment Assessment Screening Ctr. Inc.*, 562 F. Supp. 3d 168, 171–74 (D. Ariz. 2021). The court explicitly rejected the suggestion that “*Bearden* should be limited solely to situations involving incarceration.” *Id.* at 171. The court reasoned: “[W]hen . . . [poor] participants are required to stay in the program beyond 90 days,” while “other, wealthier participants” are able to pay the fee and be discharged, “[poor people] remain subject to all of the program terms including prohibitions on . . . leaving the county or state . . . ” longer than their wealthier counterparts “solely because they are unable to pay the program fee.” *Id.* at 172 (internal citation omitted). See also *Moody v. State*, 716 So.2d 562, 565 (Miss. 1998) (applying *Bearden* to pre-prosecution diversion program); *State v. Jimenez*,

810 P.2d 801, 804–08 (N.M. 1991) (same); *Mueller v. State*, 837 N.E.2d 198, 204–05 (Ind. App. 2005) (same).

Similarly, federal courts have applied *Bearden* to probation systems that impose greater liberty-restricting conditions on those who cannot afford to pay court fees than on their wealthier counterparts. *See, e.g., Mcneil v. Cmty. Prob. Servs., LLC*, No. 1:18-CV-00033, 2021 WL 366776, at *27–31 (M.D. Tenn. Feb. 3, 2021); *Rodriguez v. Providence Cmty. Corr., Inc.*, 191 F. Supp. 3d 758, 775–76 (M.D. Tenn. 2016). At issue in *Mcneil* were restrictions on travel and movement, regular reporting to the program (which takes time away from work and other essential activities), drug tests (for which probationers were charged money), and the risk of being arrested or jailed for non-compliance. 2021 WL 366776 at *28.

Like diversion and probation programs, prohibiting a person from driving is a significant restriction on their liberty. Taking away a person’s driver’s license impedes their ability to travel to work (and in many cases, to work at all), school (whether for their own education or their children’s), medical appointments, grocery stores, and other essential activities. *See supra* section II.A. Thus, this case has implications far beyond license suspensions. The panel’s broad language facially applies not only to those whose licenses have been suspended, but also calls into question whether *Bearden* protects the millions subject to myriad forms of non-detention carceral control. (Non-custodial supervision is the largest form of

“correctional control” in the United States today. *See* Danielle Kaebler, *Probation and Parole in the United States, 2020*, U.S. DEP’T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE STATISTICS 1 (2021), <https://perma.cc/99B7-NNBN>.) The panel’s decision could be used to subject poor people to longer periods of probationary or other supervision, with more stringent conditions, solely because of their poverty. This cannot be reconciled with *Bearden*’s decree that the Constitution forbids “punishing a person for his poverty.” 461 U.S. at 671.

CONCLUSION

For the reasons stated above, *amici curiae* respectfully urge the Court to grant Appellant’s Petition for Rehearing En Banc.

Dated: December 8, 2022

Respectfully submitted,

/s/ Ellora Thadaney Israni

Ellora Thadaney Israni

Shirley LaVarco*

Ryan Downer

CIVIL RIGHTS CORPS

1601 Connecticut Ave. NW, Ste. 800

Washington, DC 20009

202-894-6132

Claudia Wilner*

NATIONAL CENTER FOR LAW

AND ECONOMIC JUSTICE

275 Seventh Ave., Ste. 1506

New York, NY 10001

212-633-6967

Counsel for Amici Curiae

* *Application for admission to the Bar of this Court forthcoming.*

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing **Brief of *Amici Curiae* Members of the Free to Drive Coalition in Support of Appellant's Petition for Rehearing En Banc** on this date with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit using the Appellate Electronic Filing system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

Date: December 8, 2022

/s/ Ellora Thadaney Israni
Ellora Thadaney Israni
Of Counsel for *Amici Curiae*

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 8. Certificate of Compliance for Briefs

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form08instructions.pdf>

9th Cir. Case Number(s)

I am the attorney or self-represented party.

This brief contains **words, including** **words**

manually counted in any visual images, and excluding the items exempted by FRAP 32(f). The brief's type size and typeface comply with FRAP 32(a)(5) and (6).

I certify that this brief (*select only one*):

- complies with the word limit of Cir. R. 32-1.
- is a **cross-appeal** brief and complies with the word limit of Cir. R. 28.1-1.
- is an **amicus** brief and complies with the word limit of FRAP 29(a)(5), Cir. R. 29-2(c)(2), or Cir. R. 29-2(c)(3).
- is for a **death penalty** case and complies with the word limit of Cir. R. 32-4.
- complies with the longer length limit permitted by Cir. R. 32-2(b) because (*select only one*):
- it is a joint brief submitted by separately represented parties.
- a party or parties are filing a single brief in response to multiple briefs.
- a party or parties are filing a single brief in response to a longer joint brief.
- complies with the length limit designated by court order dated
- is accompanied by a motion to file a longer brief pursuant to Cir. R. 32-2(a).

Signature

Date

(use "s/[typed name]" to sign electronically-filed documents)

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

APPENDIX A: ORGANIZATIONAL STATEMENTS OF *AMICI*

Alabama Appleseed Center for Law and Justice, Inc. (Alabama Appleseed) is a 501(c)3 non-profit, non-partisan organization which aims to achieve justice and equity for all Alabamians through state legislative initiatives and direct client service. Alabama Appleseed has conducted extensive research on driver's license suspensions in the state of Alabama and has helped low-income individuals receive provisional driver's licenses after they have been suspended. The organization continues to advance legislation that would end poverty-based driver's licenses suspensions in the state. Alabama Appleseed is a part of the Appleseed Network which currently includes 18 Appleseed Centers in the U.S. and Mexico City.

The **Brennan Center for Justice at NYU School of Law** (Brennan Center) is a non-profit, nonpartisan public policy and law institute that seeks to secure our nation's promise of "equal justice for all." The Brennan Center's Justice Program seeks to build a rational, effective, and fair criminal justice system, and advocates for reshaping public policies that undermine this vision. The Brennan Center's recent research explores the connection between poverty and mass incarceration and identifies solutions that can break that link while advancing racial and economic justice. One solution is to abolish court-imposed fees, as courts should be funded primarily by taxpayers. Another solution is to eliminate driver's license

suspension for nonpayment of criminal fees and fines. This practice makes it harder for poor people to pay their debts and harms individuals and their families. Lawmakers should follow the approach taken by jurisdictions such as Texas, where 2019 legislation reinstated hundreds of thousands of licenses.

Chicago Appleseed Center is a research and advocacy organization seeking anti-racist solutions that interrupt cycles of poverty, mass incarceration, and racial injustice perpetrated by all aspects of the legal system. Chicago Appleseed Center and the Chicago Council of Lawyers work as the Collaboration for Justice to reduce barriers to courts and improve equity in justice systems. To this end, Chicago Appleseed has worked to reform fines, fees and driver's license suspension structures which disproportionately impact self-represented litigants, as well as low-income or marginalized communities. Chicago Appleseed works to dismantle structures that predicate meaningful access to courts on access to wealth.

Civil Rights Corps (CRC) is a non-profit organization dedicated to challenging systemic injustice in the American legal system. CRC works with people accused and convicted of crimes, their families and communities, people currently or previously incarcerated, activists, organizers, and government officials to challenge mass human caging and to create a legal system that promotes equality and human freedom. CRC has worked extensively to secure low-income

people and people of color rights to access driver's licenses, including by filing class-action litigation in Tennessee.

The **Colorado Center on Law and Policy** (CCLP), established in 1998, is Colorado's strategic, community-based impact organization dedicated to eradicating poverty across Colorado through research, legislation, and legal advocacy. CCLP focuses on four main areas: food, housing, income, and health. Reforming the criminal legal system is unavoidable as an anti-poverty non-profit organization. As such, CCLP has advocated for statewide policy to address the criminalization of low-income people, particularly with respect to accessing public benefits and the ability to seal records notwithstanding outstanding fines, fees, and court costs.

Columbia Legal Services (CLS) is a non-profit civil legal aid organization in Washington State that advocates for laws that advance social, economic, and racial equity for people living in poverty. Using a systemic approach, CLS supports communities and movements through impact litigation and policy advocacy. In 2021, CLS successfully advocated for legislation in Washington to end the practice of suspending driver's licenses solely due to failure to pay a traffic infraction.

Deep Center is a nonprofit that works with Savannah's youth and adults in the school district and justice system to share stories, engage in debates, and to

make Savannah a more just and equitable place. Through direct service, narrative change, and systems change, we use the power of writing, arts and culture, restorative justice, community organizing, and advocacy to ensure we can lift up our youth and families. We are dedicated to pushing back the impact of driver's license suspension in our community, where 1-in-18 Georgians are under correctional control and almost half of our citizens have a record.

Equal Justice Under Law is a nonprofit law organization dedicated to achieving equality in the criminal system and ending cycles of poverty across the nation. We seek to end the criminalization of poverty wherever it occurs. We have filed lawsuits in Michigan, Montana, Texas, and Missouri challenging driver's license suspensions for those unable to pay court debt. Through our work and our clients, we understand that driving is a critical factor in people's lives allowing them to get to and from work, doctor's appointments, and family obligations. Taking away a person's ability to drive because for debt they are unable to pay is simply punishing them for being poor and also inhibits their ability to earn income and repay their debt. This policy is impractical, unjust, and unconstitutional.

Kansas Appleseed Center for Law and Justice, Inc. is a nonprofit, nonpartisan advocacy organization dedicated to vulnerable and excluded Kansans. We investigate social, economic, and political injustice in Kansas and work toward systemic solutions through advocacy, community organization, and litigation.

LatinoJustice PRLDEF is a national not-for-profit civil rights legal defense fund that advocates for and defends the constitutional rights of all Latinos under the law. For fifty years, LatinoJustice's mission has been to promote the civic participation of the Latino community, to cultivate new Latino community leaders, and to engage in and support law reform cases advancing the civil rights of all Latinos, particularly in the areas of criminal justice and employment. LatinoJustice supports Appellants/Plaintiffs in this appeal because draconian driver's license revocation laws severely limit the ability of Latinos and other people of color to financially support their families, attain self-sufficiency, and engage in activities of daily living, such as driving to their places of worship, driving their children to school, attending to their medical needs and driving to the grocery store. Moreover, the debt-based driver's license revocation law at issue here, like those of other states, penalizes poor people who are disproportionately people of color.

Legal Aid Justice Center (LAJC) is a non-profit organization located in Virginia committed to battling poverty and injustice through partnership with folks and communities directly impacted by the criminal legal system using a variety of legal tools (including community organizing, public education, media work, administrative advocacy, and litigation). Among other efforts, LAJC has worked to bring attention to court debt imposition and recoupment laws that disproportionately harm indigent and low-income people, including by depriving

them of their driver's licenses. Until July 1, 2019, when Virginia's legislature enacted temporary relief, nearly one million people had driver's license suspensions due to Virginia's court debt driver's license suspension law. We engaged in administrative and legislative advocacy and public education, and filed a case (*Stinnie v. Holcomb*, No. 3:16-cv-00044-NKM-JCH (W.D. Va.), now in *en banc* review (No. 21-1756) at the U.S. Court of Appeals for the Fourth Circuit on plaintiffs' fee petition) highlighting how Virginia's law violated the Constitution's guarantees of due process and equal protection.

The **National Center for Law and Economic Justice** (NCLEJ) advances economic justice for low-income families, people, and communities across the country through impact litigation, policy advocacy, and support of grassroots organizing. NCLEJ fights discrimination against people of color, women, immigrants, and works to building systems that provide economic security and full participation in society for all. NCLEJ has worked extensively to secure low-income people rights to access driver's licenses, including by filing class action litigation in Tennessee and co-founding the statewide Driven by Justice coalition in New York.

The **National Center for Youth Law** (NCYL) is a private, non-profit organization that works to build a future in which every child thrives and has a full and fair opportunity to achieve the future they envision for themselves. For more

than 50 years, NCYL has worked to protect the rights of low-income children and to ensure that they have the resources, support, and opportunities they need to become self-sufficient adults. One of NCYL's priorities is to reduce the number of youth subjected to harmful practices in the juvenile justice system, including the imposition of fines and fees on indigent youth and families and the collateral consequences from juvenile court debt. NCYL has litigated to end unnecessary referral to the juvenile justice system in numerous states, and advocated at the federal, state, and local levels to reduce reliance on the justice systems to address the needs of youth, including eliminating juvenile fines and fees, decriminalizing normal adolescent behavior and improving children's access to adequate developmentally-appropriate treatment.

The **National Consumer Law Center** (NCLC) is a nonprofit organization that engages in research, education, advocacy, and litigation to advance economic justice for low-income and other disadvantaged people, including people of color and older adults. NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, federal and state governments, and courts across the nation to protect low-income people from harmful lending and debt collection practices, help financially stressed families build and retain wealth, and advance economic fairness. Through its Criminal Justice Debt Project, NCLC uses advocacy, litigation, and education to challenge harmful practices at the

intersection of criminal and consumer law. Its work addresses fines-and-fees policies, including debt-based driver's license suspension schemes, that trap low-income families in poverty, criminalize poverty and strip wealth from communities of color.

The **Policy Advocacy Clinic at UC Berkley School of Law** is a law school teaching clinic where interdisciplinary teams of law and public policy students pursue non-litigation strategies addressing systemic racial and economic injustice. Current clinic projects include representing organizations waging state and local campaigns to end regressive and racially discriminatory fees and fines in the juvenile and criminal legal systems. The clinic's organizational clients serve people who face significant economic and personal hardship, including harm that is exacerbated by debt-based driving restrictions

The **Prison Policy Initiative** is a non-profit, non-partisan organization that produces cutting edge research to expose the broader harm of mass criminalization, and then sparks and supports advocacy campaigns to create a more just society. The organization's work examines who is incarcerated, conditions of confinement, mechanisms for release, collateral consequences of entanglement with the criminal legal system, and restrictions placed on people who are incarcerated or have a conviction history. The organization has published research on driver's license

suspensions and advocates for ending driver's license suspension for offenses unrelated to driving, including for the non-payment of fines and fees.

The **Public Justice Center** (PJC) is a non-profit organization that uses legal advocacy to pursue social and economic justice, racial equity, and fundamental human rights for oppressed people and communities. The PJC has fought to eliminate money bail in Maryland, body attachments for debt collection, and other state-sponsored measures that trap people in poverty, destroy lives and families through unnecessary and punitive incarceration, and disproportionately burden Black and brown communities. The PJC has an interest in this case because of its implications for perpetuating similar obstacles through punitive use of driver's license suspension for debt.

The **Shriver Center on Poverty Law** (Shriver Center) is a non-profit legal and policy advocacy organization based in Chicago that fights for racial and economic justice. For the past 54 years, the Shriver Center has supported laws and policies that increase economic equity and prevent the lowest income people from facing collateral consequences of poverty. The Shriver Center was instrumental in passing the License to Work Act in 2021, which prohibited driver's license suspensions due to unpaid traffic, red light camera, and speed camera tickets. Through our Legal Impact Network the Shriver Center works with organizations

across the United States seeking to end the deep inequities caused by poverty and racial bias, including driver's license suspensions.

The **Southern Poverty Law Center** (the SPLC) is a catalyst for racial justice in the South and beyond, working in partnership with communities to dismantle white supremacy, strengthen intersectional movements, and advance the human rights of all people. The SPLC provides educational materials, engages in policy reform, and develops litigation to minimize the disparate burdens placed on indigent individuals and low income communities caused by the criminal justice system.

Tzedek DC is a nonprofit organization dedicated to safeguarding the rights and interests of low- and moderate-income District of Columbia residents facing debt-related crises. Headquartered as an independent public interest center at the University of the District of Columbia David A. Clarke School of Law, our work is aided by law students and other volunteers. Tzedek DC and our client communities have a substantial interest in ensuring that the rules governing the revocation of drivers' licenses comply with constitutional due process requirements and basic principles requirements and basic principles of fairness.

The **Washington Defender Association** (WDA) is a non-profit organization that encourages strong public defense throughout Washington state by providing technical assistance to public defenders, creating legal resources and trainings for

public defenders and advocating for policy change. We represent over 30 public defender agencies and have over 1,500 members comprising criminal defense attorneys, investigators, social workers and paralegals throughout the state. We routinely provide technical assistance and resources to public defenders representing clients who are fighting charges of driving while license suspended and trying to get re-licensed.

The **William E. Morris Institute for Justice** (MIJ) is an Arizona non-profit organization dedicated to advancing and protecting the most basic civil and human rights of low-income Arizonans and other Arizonans in historically marginalized communities. MIJ prioritizes advocacy on systemic issues affecting economically vulnerable Arizonans, including criminal legal system reform, due process, equal protection, fair access to courts, economic security, food security, health care equity, housing stability, and personal safety.

Appendix B

States that suspend, revoke, and/or deny renewals of driver's licenses ("DLs") for nonpayment of fines and fees.

State	Description	Relevant Statute or Legislation	For states that have enacted reforms eliminating debt-based DL restrictions, are those reforms retroactive?	For states that have enacted retroactive reforms, is retroactive application automatic?	Notes
Alabama	Suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	Ala. R. Cr. P. Rule 26.11(i)(3); 26.11(j)	N/A	N/A	
Alaska	Suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	Alaska Stat. § 28.15.181(g) (2021)	N/A	N/A	
Arkansas	Suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	S.B. 513 (Ark. 2021)	N/A	N/A	Per a 2021 reform, prior to suspension, the court must order a hearing on the non-payment. If the driver does not appear at the hearing, the court may suspend their driver's license (hereinafter, "DL").
Connecticut	Suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	Conn. Gen. Stat. §§ 14-111; 14-111m; 14-140	N/A	N/A	
Florida	Suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	Fla. Stat. §§ 322.245; 318.15 (2022)	N/A	N/A	
Georgia	Suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	Ga. Code Ann. § 40-6-189 (2022)	N/A	N/A	

States that suspend, revoke, and/or deny renewals of driver's licenses ("DLs") for nonpayment of fines and fees.

State	Description	Relevant Statute or Legislation	For states that have enacted reforms eliminating debt-based DL restrictions, are those reforms retroactive?	For states that have enacted retroactive reforms, is retroactive application automatic?	Notes
Indiana	Suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	Ind. Code § 9-25-6-4 (2022)	N/A	N/A	Per 2021 reform, suspension may be lifted with proof of insurance and terminated after 180 days if the driver remains ensured for that duration of time. Ind. Code § 9-25-5-1.
Iowa	Suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	Iowa Code § 321.210A (2022)	N/A	N/A	
Kansas	Suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	Kan. Stat. Ann. § 8-2110 (2022)	N/A	N/A	
Louisiana	Suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	La. Code Crim. Proc. art. 885.1	N/A	N/A	
Maine	Suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	Me. Stat. tit. 29-A, §§ 2605, 2608 (2022)	N/A	N/A	
Maryland	Suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	S.B. 0234 (Md. 2020)	N/A	N/A	Per 2020 reform, no longer suspends, revokes, or denies renewal of DLs for nonpayment of unpaid traffic violations, but continues to do so for unpaid criminal fines & fees.

States that suspend, revoke, and/or deny renewals of driver's licenses ("DLs") for nonpayment of fines and fees.

State	Description	Relevant Statute or Legislation	For states that have enacted reforms eliminating debt-based DL restrictions, are those reforms retroactive?	For states that have enacted retroactive reforms, is retroactive application automatic?	Notes
Massachusetts	Suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	Mass. Gen. Laws ch. 90C, § 3 (2022)	N/A	N/A	
Missouri	Suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	Mo. Rev. Stat. § 302.341 (2022)	N/A	N/A	
Nebraska	Suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	Neb. Rev. Stat. § 60-4,100 (2022)	N/A	N/A	
New Hampshire	Suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	N.H. Rev. Stat. Ann. § 263:56-a (2022)	N/A	N/A	
New Jersey	Suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	N.J. Stat. Ann. §§ 39:4-139.10 (2022)	N/A	N/A	
New Mexico	Suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	N.M. Stat. Ann. § 66-5-30 (2022)	N/A	N/A	

States that suspend, revoke, and/or deny renewals of driver's licenses ("DLs") for nonpayment of fines and fees.

State	Description	Relevant Statute or Legislation	For states that have enacted reforms eliminating debt-based DL restrictions, are those reforms retroactive?	For states that have enacted retroactive reforms, is retroactive application automatic?	Notes
North Carolina	Suspends, revokes, and/or denies renewal of DLs for nonpayment of fines & fees.	N.C. Gen. Stat. Ann. §§ 20-24.1, 20-24.2 (2022)	N/A	N/A	
North Dakota	Suspends, revokes, and/or denies renewal of DLs for nonpayment of fines & fees.	N.D. Cent. Code Ann. § 39-06-32 (2021)	N/A	N/A	
Ohio	Suspends, revokes, and/or denies renewal of DLs for nonpayment of fines & fees.	Ohio Rev. Code Ann. § 4510.22 (2021)	N/A	N/A	
Oklahoma	Suspends, revokes, and/or denies renewal of DLs for nonpayment of fines & fees.	22 Okl. St. Ann. § 983 (2022)	N/A	N/A	
Pennsylvania	Suspends, revokes, and/or denies renewal of DLs for nonpayment of fines & fees.	75 Pa. Cons. Stat. Ann. § 1533 (2022)	N/A	N/A	

States that suspend, revoke, and/or deny renewals of driver's licenses ("DLs") for nonpayment of fines and fees.

State	Description	Relevant Statute or Legislation	For states that have enacted reforms eliminating debt-based DL restrictions, are those reforms retroactive?	For states that have enacted retroactive reforms, is retroactive application automatic?	Notes
Rhode Island	Suspends, revokes, and/or denies renewal of DLs for nonpayment of fines & fees.	31 R.I. Gen. Laws Ann. § 31-11-25 (2022)	N/A	N/A	
South Carolina	Suspends, revokes, and/or denies renewal of DLs for nonpayment of fines & fees.	S.C. Code Ann. § 56-1-285 (2022)	N/A	N/A	
South Dakota	Suspends, revokes, and/or denies renewal of DLs for nonpayment of fines & fees.	S.D. Codified Laws § 32-12-49 (2022)	N/A	N/A	
Tennessee	Suspends, revokes, and/or denies renewal of DLs for nonpayment of fines & fees.	Tenn. Code Ann. § 40-24-105(b) (2022)	N/A	N/A	

States that suspend, revoke, and/or deny renewals of driver's licenses ("DLs") for nonpayment of fines and fees.

State	Description	Relevant Statute or Legislation	For states that have enacted reforms eliminating debt-based DL restrictions, are those reforms retroactive?	For states that have enacted retroactive reforms, is retroactive application automatic?	Notes
Texas	Suspends, revokes, and/or denies renewal of DLs for nonpayment of fines & fees.	Tex. Transp. Code. Ann. § 706.004 (2021)	N/A	N/A	In 2019 Texas passed legislation to end DLs suspensions for failure to pay fees administered under a state Driver Responsibility Program. However, Texas continues to not renew licenses under an "Omnibase" program. This program is administered on a local level within the state, and each jurisdiction can elect into this program. Those that do so can prevent the renewal of a driver's license for unpaid fines and fees.
Vermont	Suspends, revokes, and/or denies renewal of DLs for nonpayment of fines & fees.	Vt. Stat. Ann. tit. 4, § 1109 (2022); H.B. 571 (Vt. 2016)	N/A	N/A	In 2016, Vermont stopped suspending DLs for nonpayment of criminal fines and fees, but continues to suspend DLs for nonpayment of traffic violations.
Washington	Suspends, revokes, and/or denies renewal of DLs for nonpayment of fines & fees.	S.B 5226 (Wash. 2021)	Yes	No	Effective Jan. 1, 2023, DL may not be suspended unless a court orders a hearing on the nonpayment of fines and fees and the driver does not appear. Those seeking reinstatement following an existing DL suspension must pay a reinstatement fee and apply for a hearing if they are unable to pay the underlying fines and fees. However, relevant litigation is ongoing. <i>See Pierce v. Wash. Dep't of Licensing</i> , No. 20-2-02149-34 (Wash. Superior Court).

Wisconsin	Suspends, revokes, and/or denies renewal of DLs for nonpayment of fines & fees.	Wis. Stat. § 345.47(1) (2022)	N/A	N/A	
Wyoming	Suspends, revokes, and/or denies renewal of DLs for nonpayment of fines & fees.	Wyo. Stat. Ann. §§ 31-9-302; 31-9-305 (2022)	N/A	N/A	

States that have eliminated debt-based DL restrictions going forward, but nonetheless deny or create hurdles to retroactive relief.

State	Description	Relevant Statute or Legislation	For states that have enacted reforms eliminating debt-based DL restrictions, are those reforms retroactive?	For states that have enacted retroactive reforms, is retroactive application automatic?	Notes
Colorado	No longer suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	H.B. 21-1314 (Colo. 2021)	Yes	No	Driver must apply for reinstatement and pay reinstatement fee.
Delaware	No longer suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	H.B. 244 (Del. 2022)	Yes	No	DMV has six months to develop policies and procedures as to retroactive application.
Hawaii	No longer suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	H.B. 2750 (Haw. 2020)	No	N/A	

States that have eliminated debt-based DL restrictions going forward, but nonetheless deny or create hurdles to retroactive relief.

State	Description	Relevant Statute or Legislation	For states that have enacted reforms eliminating debt-based DL restrictions, are those reforms retroactive?	For states that have enacted retroactive reforms, is retroactive application automatic?	Notes
Idaho	No longer suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	H.B. 599 (Idaho 2018)	Yes	No	
Michigan	No longer suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	H.B. 5846 (Mich. 2020)	Yes	No	
Minnesota	No longer suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	H. File 336 (Minn. 2021)	Yes	No	Drivers with existing debt-based suspensions must pay reinstatement fee.
Montana	No longer suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	H.B. 217 (Mont. 2019)	Yes	No	Drivers with existing debt-based suspensions must petition a court for reinstatement.
Oregon	No longer suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	H.B. 4210 (Or. 2020)	No	N/A	

Utah	No longer suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	H.B. 0143 (Utah 2021)	No	N/A	
West Virginia	No longer suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	H.B. 4958 (W.Va. 2020)	Yes	No	

States that do not suspend, revoke, or deny renewal of DLs for nonpayment of fine & fees.

State	Description	Relevant Statute or Legislation	For states that have enacted reforms eliminating debt-based DL restrictions, are those reforms retroactive?	For states that have enacted retroactive reforms, is retroactive application automatic?	Notes
Arizona	No longer suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	Ariz. Rev. Stat. Ann. § 18-1601 (2022); S.B. 1551 (Ariz. 2021)	Yes	Yes	Continues to suspend/hold registrations for nonpayment of fines & fees.
California	No longer suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	A.B. 103 (Cal. 2017)	Yes	Yes	
California	No longer suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	D.C. Code 22-175 (2018) ; Council B. 24-0237 (D.C. 2022)	Yes	Yes	

States that do not suspend, revoke, or deny renewal of DLs for nonpayment of fine & fees.

State	Description	Relevant Statute or Legislation	For states that have enacted reforms eliminating debt-based DL restrictions, are those reforms retroactive?	For states that have enacted retroactive reforms, is retroactive application automatic?	Notes
Illinois	No longer suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	H.B. 3653 (Ill. 2021) ; 625 Ill. Comp. Stat. Ann. §§ 5/6-306.6 (repealed 2021); 5/6-306.7 (repealed 2020)	Yes	Yes	
Kentucky	Does not suspend, revoke, or deny renewals of DLs for nonpayment of fines & fees.	N/A	N/A	N/A	
Mississippi	No longer suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	Miss. Code Ann. §§ 63-1-51, 63-1-53 (2022); H.B. 1352 (Miss. 2019)	Yes	Yes	
Nevada	No longer suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	S.B. 219 (Nev. 2021)	Yes	Yes	
New York	No longer suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	S.B. 5348 (N.Y. 2020) , Assemb. B. 7463 (N.Y. 2020)	Yes	Yes	

States that do not suspend, revoke, or deny renewal of DLs for nonpayment of fine & fees.

Virginia	No longer suspends, revokes, or denies renewal of DLs for nonpayment of fines & fees.	S.B. 1 (Va. 2020)	Yes	Yes	
----------	---	-----------------------------------	-----	-----	--