



Legislative Testimony

Oregon Criminal Defense Lawyers Association

February 20, 2019

The Honorable Representative Jennifer Williamson, Chair
House Judiciary Committee, Members

Re: Testimony in support of HB 2614

Dear Chair Williamson and Members of the Committee:

Thank you for the opportunity to submit the following comments in support of HB 2614.

OCDLA is dedicated to supporting policies that both help make people's lives better and make the criminal justice fairer. This bill seeks to end the practice of suspending a person's driver's license for inability to pay fines associated with non-criminal related traffic violations. **We support this as it is smart public policy that is a necessary first step in ending the criminalization of poverty.**

334,338 Driver's Licenses Suspended in 2017 for Unpaid Minor Traffic Violations

License suspension affects hundreds of thousands of Oregonians every year. The Department of Motor Vehicles reports that it suspends driving privileges nearly 450,000 times a year, for 200,000 individuals¹ in a population of 3.1 million licensed drivers.²

According to documents in a federal lawsuit, from 2007 to 2017, 334,338 licenses were suspended strictly for unpaid minor traffic violations.³ A national estimate indicated that 75% of people who have suspended licenses will continue to drive.⁴ A National Highway Traffic Safety Administration (NHTSA) Study in 2009 found that 25% of Oregon Drivers whose licenses were suspended were subsequently convicted of driving while suspended.⁵

¹ Legislative Policy and Research Office, *Driver's Licenses: Background Brief*, Suspension and Revocation, 4 (July 12, 2018)

² Oregon Department of Motor Vehicles, *DMV Facts & Statistics* [<https://www.oregon.gov/odot/dmv/pages/news/factsstats.aspx>] (accessed February 14, 2019)

³ Oregonian, *Lawsuit: Oregon's Suspension of Driver's Licenses for Traffic Fines 'Punishes the Poor'*, (September 2019) [https://www.oregonlive.com/portland/2018/09/suit_oregons_suspension_of_dri.html] (accessed February 14, 2019)

⁴ Legislative Policy and Research Office, *Driver's Licenses: Background Brief*, Suspension and Revocation, 4 (July 12, 2018) [<https://www.oregonlegislature.gov/lpro/Publications/Background-Brief-Driver-Licenses-2018.pdf>] (accessed February 14, 2019)

⁵ National Highway Transportation Safety Administration, *Reasons for Driver License Suspension, Recidivism, and Crash Involvement Among Drivers with Suspended or Revoked Licenses*, Sec. 3, 9, 12 [https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/811092_driver-license.pdf] (accessed February 14, 2019)

Non-criminal traffic violation Suspensions Negatively Impact Our Clients

In criminal defense, it is common to have clients whose lives, family's lives, and economic statuses are severely negatively impacted by their inability to pay fines initially associated with non-criminal traffic violations.

Their stories typically follow this pattern: They receive a non-criminal minor traffic violation ticket. They are unable to pay or to make timely payments, they miss a payment, they keep driving as many people across Oregon do not have access to good public transportation, and then they get pulled over for driving with a suspended license that results in more fines and further loss of driving privileges.

Most express wanting to do the right thing, but they are not practically afforded the opportunity to do so. In short, their minor traffic violation becomes a choice between providing for their families, keeping their job, taking their kids to school and not driving to comply with a suspension that is due to financial hardship. It should not be Oregon policy to pit poor individual's interests to do right with the court against their interest to do right by their landlord, their boss, and their family.

Limiting the Expansion of the Criminalization of Poverty

Through mechanisms such as fees, fines, cash bail, and private probation, criminal justice outcomes are often linked to a person's economic status.⁶ This phenomena, referred to as the criminalization of poverty, violates notions of fairness and solidifies stark racial disparities within our criminal justice system.⁷ The normalization of the criminalization of poverty has led the courts and other actors to be "inappropriately reliant on revenue extracted from defendants."⁸ Low-income folks are routinely charged with unsustainably high fees and fines for "minor traffic tickets, civil offenses, and even misdemeanor crimes that are not normally punishable with jail time."⁹

Oregon Needs to be a Leader

California ended its practice of suspending licenses for unpaid fines because they were found to put poor people under more financial stress and risk their ability to keep jobs. Further, the state found it did not collect enough fines to justify the practice.

⁶ *Criminalization of Poverty*, CRIMINAL JUSTICE POLICY PROGRAM: HARVARD LAW SCHOOL, <http://cjpp.law.harvard.edu/criminalization-of-poverty>.

⁷ *Id.*

⁸ *Id.*

⁹ *Eliminate the Criminalization of Poverty*, TRANSFORMING THE SYSTEM, <https://transformingthesystem.org/criminal-justice-policy-solutions/eliminating-the-criminalization-of-poverty/>.

For questions or comments contact:
Mary A. Sofia, OSB # 111401
Legislative Director
Oregon Criminal Defense Lawyers Association
503.516.1376 * msofia@ocdla.org

Michigan recently ended its own license suspension process for unpaid fees for similar reasons.¹⁰ Virginia is currently ending its policy.¹¹ There have been at least five states sued for license suspension based on fines and fees, not including Oregon. A Federal Judge in Tennessee called a similar license suspension system “counterproductive” before ordering the state to stop suspending licenses. A Federal Circuit judge called suspending licenses for inability to pay as a “nightmarish spiral for which there is no apparent exit.”¹²

For the reasons outlined above, OCDLA strongly urges a “yes” to HB 2614. Thank you for your consideration.

For questions or comments contact:
Mary A. Sofia, OSB # 111401
Legislative Director
Oregon Criminal Defense Lawyers Association
503.516.1376 * msofia@ocdla.org

About OCDLA

The Oregon Criminal Defense Lawyers Association (OCDLA) is a private, non-partisan, non-profit bar association of attorneys who represent juveniles and adults in delinquency, dependency, criminal prosecutions, appeals, civil commitment, and post-conviction relief proceedings throughout the state of Oregon. The Oregon Criminal Defense Lawyers Association serves the defense and juvenile law communities through continuing legal education, public education, networking, and legislative action.

OCDLA promotes legislation beneficial to the criminal and juvenile justice systems that protects the constitutional and statutory rights of those accused of crime or otherwise involved in delinquency and dependency systems as well as to the lawyers and service providers who do this difficult work. We also advocate against issues that would harm our goals of reform within the criminal and juvenile justice systems.

¹⁰ Sarah Cwiek, *Five Things to Know About the End of Michigan’s Driver Responsibility Fees*, Michigan Radio, (March 6, 2018) [<http://www.michiganradio.org/post/five-things-know-about-end-michigans-driver-responsibility-fees>] (accessed February 14, 2019)

¹¹ [https://www.washingtonpost.com/local/virginia-plans-to-end-drivers-license-suspensions-for-court-debt-governor-says/2018/12/20/0e8ee990-03b4-11e9-b990-da60de24fefb_story.html?utm_term=.5f4907fb101e] (accessed February 14, 2019)

¹² Denise Lavoie, *Drivers Challenge License Suspensions for Unpaid Court Debt*, Associated Press (July 4, 2018) [<https://www.apnews.com/3f83b360a1f141f4a794f4203c7eab2f>] (accessed February 14, 2019)

For questions or comments contact:
Mary A. Sofia, OSB # 111401
Legislative Director
Oregon Criminal Defense Lawyers Association
503.516.1376 * msofia@ocdla.org