

From: [Dan Cross](#)
To: [JISS Exhibits](#)
Subject: HB4210
Date: Wednesday, June 24, 2020 1:09:01 PM

Dear Committee Members:

My name is Daniel Cross. I am the Justice of the Peace for Washington County but I am not writing to you today on behalf of Washington County but rather in my individual capacity as a duly elected public official representing my own viewpoint concerning a significant proposed legislative matter. Prior to taking the Justice Court bench in January, 2017, I was a criminal and juvenile defense attorney in Oregon for twenty-five years, served four years on the board of directors of the Oregon Criminal Defense Lawyers Association and am a past president of that organization.

In an average year, approximately 20,000 traffic citations are filed in the court I preside over. A large percentage of those result in a finding of some kind of violation with a fine then being imposed. Many of those cases will later result in the violator failing to comply with the court's order to pay the imposed fine. The only truly effective tool the court has to bring about compliance with that court order is imposition of a license suspension. This court does not like to use that tool and it never does so lightly. LC97/HB4210, which I understand is the same as HB 4065 which was passed by the Oregon House of Representatives in the last regular session, removes that tool and does not replace it with any alternative.

The concern that exists is that removing the court's ability to suspend the driving privileges of an individual who does not comply with a court order will result in greater noncompliance and take away the only implement the court has to enforce the rule of law in traffic matters. Every day I have several people who come in to my court, or submit written requests, asking to get back in compliance with their financial obligations to this court. Every one of these individuals contacts the court because they have to do so in order to get their driving privileges reinstated. Without that obligation the rate of noncompliance will skyrocket and the rate of individuals coming in to get back in compliance will plummet.

This court is not unsympathetic to the issues that individual defendants have which makes it difficult for them to pay their court ordered fines. While the standard monthly payment plan amounts here are either \$75.00/month (for amounts under \$500.00) or \$100.00/month (amounts over \$500.00), we routinely approve plans of lesser amounts upon consideration of the financial circumstances of the individual defendant before the court. Payment plans as low as \$10.00/month are not uncommon and plans as low as \$5.00/month have also been approved. Rather than exercising the drastic measure of removing a court's ability to suspend, a legislative requirement for a court to consider a defendant's financial circumstances in setting a reasonable plan might be a more appropriate step.

It should also be pointed out that once a person who has been suspended signs a payment plan, they are cleared with DMV with respect to this court once they make their very first payment. If they do it that day, they walk out of the courthouse with the clearance letter that they can take

directly to DMV to get reinstated. The court wants people to succeed. The court wants people to get their driving privileges restored. This process, too, could be codified.

In conjunction with that, this court has begun instituting an approach (similar to what one might see in DUI diversion violation matters and/or probation violation proceedings) prior to issuing Notices of Suspension in order to address some due process issues that have been expressed. When a defendant has failed to make the required payment(s), they are sent a Notice of a hearing for them to appear before the court to show cause why their payment plan should not be terminated and have their driving privileges suspended. Again, such a process could be codified to ensure that individuals rights are protected while the court still maintains its ability to exercise the discretion to properly enforce the court's order.

There are many horror stories out there about people who have received harsh results in traffic matters and there is no disputing that such things have happened in some courts. But that is not what takes place in the Washington County Justice Court. Attorneys from the Metropolitan Public Defenders Office and the Oregon Law Center have appeared in this court and, while their motions to dismiss financial obligations were denied, they can attest to the consideration their clients' circumstances were given in the rendering of the court's order.

Court orders must be enforceable if they are to have meaning and court orders must have meaning. LC97/HB4210 ignores that and, in so doing, ignores the rule of law. I urge you to maintain enforceability and the rule of law with regard to these significant legal matters.

I greatly appreciate your time and consideration and would be happy to discuss this further at your convenience.

Sincerely,

Dan Cross

Hon. Daniel A. Cross
Washington County Justice Court
3700 S.W. Murray Boulevard, Room 150
Beaverton, Oregon 97005