

February 2010

LICENSE SUSPENSIONS FOR NONDRIVING OFFENSES

Practices in Four States That May Ease the Financial Impact on Low-Income Individuals



GAO

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Contents

Letter		1
Appendix I	Briefing Slides	7
Appendix II	Comments from the Department of Health and Human Services	48
Appendix III	GAO Contact and Staff Acknowledgments	51

Abbreviations

AAMVA	American Association of Motor Vehicle Administrators
DOT	Department of Transportation
HHS	Department of Health and Human Services

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United States Government Accountability Office
Washington, DC 20548

February 18, 2010

The Honorable Pete Stark
Chairman
Subcommittee on Health
Committee on Ways and Means
House of Representatives

The Honorable Jim McDermott
Chairman
Subcommittee on Income Security and
Family Support
Committee on Ways and Means
House of Representatives

The Honorable Gwendolynne S. Moore
House of Representatives

States suspend driver's licenses for a variety of offenses that are not directly related to driving safety.¹ For example, all states have procedures to suspend licenses for child support arrearages. In addition, a majority of states issue suspensions for such offenses as failure to pay court or motor vehicle fines or maintain proper insurance. While recognizing that license suspension can be an effective tool for encouraging compliance with various laws, some policymakers and advocacy groups have raised concerns that certain drivers may face suspension because of their limited ability to meet financial obligations. They have also raised concerns that suspensions make it difficult for some low-income individuals to maintain or find work, and may make it more challenging for them to pay fines or meet child support obligations. Additionally, they have raised concerns that suspensions for nondriving offenses² may clog court systems and divert resources to activities that do not improve traffic safety.

¹In this report, we focus on noncommercial driver's licenses.

²In this report, we use the term "nondriving offense" to denote an offense that does not directly involve driving an automobile. This would include, for example, failure to appear in court or pay a fine, even when related to an underlying driving offense, but not speeding, reckless driving, or intoxicated driving.

Although the federal government has a limited role with regard to driver's licenses, federal law promotes nondriving suspensions in two circumstances. First, as a condition of federal funding for their child support enforcement programs, states are required to provide for license suspensions for individuals delinquent in making child support payments.³ Second, 10 percent of certain federal highway funds are contingent upon a state (a) enacting and enforcing a law that suspends driver's licenses, in all cases, or except in compelling circumstances, for individuals convicted of drug offenses, or (b) its governor certifying that he or she is opposed to such a law and that the state legislature has adopted a resolution opposing it.⁴ Thirty-two states have chosen the second option.

While there has been interest in nondriving suspensions in recent years, little is known about the prevalence of and reasons for such suspensions or who is affected. With driver licensure generally a state responsibility, national-level data are not available and cannot be readily compiled. According to researchers and state officials we spoke with, while states collect data on license suspensions, they do not consistently categorize suspensions by the type of offense or classify them as being related to driving or nondriving offenses. Even when states categorize suspension data by type of offense, they differ in the ways they do so. Moreover, states do not generally collect suspension data for drivers by income level. A study of one state found that the vast majority of drivers were suspended for a variety of compliance reasons that were not directly related to driving behavior, such as not paying parking tickets or failing to maintain proper insurance. This suggests that, at least in one state, the number of nondriving suspensions may have been significant.

In response to your request, we examined the following issues related to nondriving license suspensions:

1. Practices in place that may ease the financial impact on low-income individuals.
2. Any challenges involved in implementing these practices.

To address these issues, we collected information from federal and state sources, as well as from researchers and program staff. We interviewed

³42 U.S.C. § 666(a)(16).

⁴23 U.S.C. § 159.

officials from the Office of Child Support Enforcement of the Department of Health and Human Services (HHS) and the Department of Transportation (DOT); they administer the federal laws that address driver's license suspensions for child support arrearages and drug convictions, respectively.

We identified and reviewed literature on suspensions for nondriving offenses. We also asked state auditors, directors of state child support enforcement agencies, and administrators of state departments of motor vehicles in all 50 states and the District of Columbia to identify relevant studies. However, through these methods, we identified very few studies on the prevalence, impact, or effectiveness of nondriving suspensions or on the effectiveness of practices in easing the financial impact of these suspensions. We also identified and interviewed researchers and practitioners knowledgeable about practices that may ease the financial impact of suspensions on low-income individuals. Specifically, we asked them to identify states that had at least two entities with such practices in place. We identified four states (Maryland, New Jersey, Washington, and Wisconsin) using this method. In each of the four states, we interviewed state officials in the department of motor vehicles and the child support enforcement agency, representatives of the court system, and staff of other organizations involved in implementing the practices.⁵ Finally, we reviewed the relevant federal laws, as well as those in the four states in our review.

We conducted our work from November 2008 to February 2010 in accordance with all sections of GAO's Quality Assurance Framework that are relevant to our objectives. The framework requires that we plan and perform the engagement to obtain sufficient and appropriate evidence to meet our stated objectives and to discuss any limitations in our work. We believe that the information and data obtained, and the analysis conducted, provide a reasonable basis for any findings and conclusions.

On February 1, 2010, we briefed your staff on the results of our work. This report formally conveys the information provided during that briefing (see app. I for the briefing slides). In general, we found the following:

⁵While we made efforts to obtain as complete information as possible, there may be other practices, or entities that implement such practices, in these four or other states that we did not identify. For example, child support enforcement agencies in other states may have similar practices in place. We did not attempt to identify and describe practices used by child support agencies nationwide; our focus was on selected states, identified as having at least two entities with such practices in place.

-
- In the four states we studied, we found three types of practices that may ease the financial impact of suspensions on low-income individuals: payment assistance, license reinstatement support, and suspension exemptions.⁶ Payment assistance, which includes payment plans, payment alternatives, and fine reductions, generally helps drivers who have difficulty paying, for example, parking or traffic-related fines. License reinstatement support includes guidance, case management, and legal services that can help drivers navigate the sometimes complicated relicensing process. For example, some individuals owe fines to multiple courts and so must take several steps to address the reason for suspension. Suspension exemptions may apply with respect to certain nondriving offenses, such as the nonpayment of child support. In addition, exemptions can take the form of permitting restricted licenses, which allow individuals to drive to specific places. Courts, nonprofit organizations, child support enforcement agencies, and departments of motor vehicles implement these practices. Some of these practices were established to reduce administrative burdens on court systems, while others were created to lessen employment barriers, according to staff we interviewed.
 - Challenges to implementing these practices include the need to garner support from multiple organizations, difficulties in crossing jurisdictional boundaries, and sustaining program funding, according to program staff. Staff from one of the programs that involves multiple entities told us that building a strong collaboration among its four partner organizations was time-consuming but critical to establishing their program. In addition, jurisdictional boundaries limit the reach of some court-based programs. Several programs noted that while many drivers owe fines in multiple cities or counties, courts typically cannot offer payment assistance for fines owed to other jurisdictions. With respect to funding, two programs recently experienced budget reductions that affected program capacity.

In conclusion, the limited information on the prevalence and impact of nondriving suspensions, as well as on the effectiveness of the types of practices we found, may make it difficult for other localities and states to

⁶In this report, we use the term “suspension exemption” to denote any statutory provision or administrative arrangement under which discretion may be exercised not to suspend licenses—due to, for example, an individual’s disability, poverty, or other circumstances—when such suspension would otherwise be required.

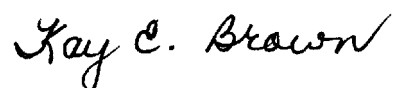
readily assess the need for these practices and to identify the most effective approaches. Also, while driver licensure is generally within the domain of state governments, some federal efforts exist that could facilitate information gathering and dissemination. DOT participates in a national working group that has brought together federal, state, and local officials to facilitate research, identify effective alternatives to suspension, and share information with state policymakers. In addition, HHS disseminates “best practices” for child support enforcement, including those related to driver’s license suspensions, which provides a mechanism for information-sharing among states.

Prior to our briefing of February 1, 2010, we provided a draft of this report to DOT and HHS for review and comment. DOT provided technical comments that we incorporated as appropriate. HHS agreed with our conclusion that states have the flexibility to implement appropriate practices that take into account the ability of noncustodial parents to pay overdue child support. It also emphasized that some child support enforcement agencies in states other than the four we reviewed have implemented similar practices and that other states often view suspension policies as a last resort. We added this point to the report. We also clarified our methodology, noting that we did not attempt to identify and describe practices used by child support enforcement agencies nationwide. Instead, our focus was on the four selected states identified, by researchers and knowledgeable practitioners, as having at least two entities with such practices in place. HHS also provided some information about states that suspend licenses for child support arrearages through an administrative process rather than through court systems; we added this information to the report. We also provided some additional information on state payment plan practices in response to HHS’s comment about this issue in the draft report. HHS’s written comments appear in appendix II.

We are sending copies of this report to relevant congressional committees, the Secretaries of Health and Human Services and Transportation, and other interested parties. In addition, this report will be available at no charge on GAO’s Web site at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-7215 or brownke@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix III.

Sincerely yours,

A handwritten signature in black ink that reads "Kay E. Brown". The signature is written in a cursive, flowing style.

Kay E. Brown
Director, Education, Workforce,
and Income Security Issues

Appendix I: Briefing Slides



License Suspensions for Nondriving Offenses:

Practices in Four States That May Ease the Financial Impact on Low-Income Individuals

Briefing for Congressional Staff
February 1, 2010

Introduction



Driver's License Suspension Policies

- States suspend driver's licenses for a variety of offenses that are not directly related to driving safety—such as failure to appear in court, pay fines, or meet child support obligations.*
- Although the federal government has a limited role with regard to driver's licenses, federal law does promote such suspensions in circumstances that involve drug convictions and child support arrearages.

*In this report, we focus on noncommercial driver's licenses.

Introduction



Concerns about Suspension Policies

- While recognizing that suspensions can be an effective tool for promoting compliance with various laws, some policymakers and advocacy groups have raised concerns that
 - certain drivers may face suspension because of their limited ability to meet financial obligations;
 - license suspensions make it difficult for some low-income individuals to maintain or find work, and may make it more challenging for them to pay fines or meet child support obligations;* and
 - suspensions for nondriving offenses** may clog court systems and divert resources to activities that do not improve traffic safety.

*See, for example, Sandra Gustitus, Melody Simmons, and Margy Waller, *Access to Driving and License Suspension Policies for the Twenty-First Century Economy* (Washington, D.C., The Mobility Agenda, June 2008).

**In this report, we use the term "nondriving offense" to denote an offense that does not directly involve driving an automobile. This would include, for example, failure to appear in court or pay a fine, even when related to an underlying driving offense, but not speeding, reckless driving or intoxicated driving.



Research Objectives

In response to your request, we examined the following issues related to nondriving license suspensions:

1. Practices in place that may ease the financial impact on low-income individuals.
2. Any challenges involved in implementing these practices.



Scope and Methodology

To address our objectives:

- We interviewed officials from the Office of Child Support Enforcement of the U.S. Department of Health and Human Services (HHS) and the U.S. Department of Transportation (DOT), which administer the federal laws that address driver's license suspensions for, respectively, child support arrearages and drug convictions.
- We identified and reviewed literature on driver's license suspensions for nondriving offenses.



Scope and Methodology (cont.)

- We also asked, in all 50 states and the District of Columbia, state auditors, directors of state child support enforcement agencies, and administrators of state departments of motor vehicles, separately via e-mail, to identify relevant studies on the prevalence, impact, or effectiveness of suspensions for nondriving offenses.
 - Through these methods, we identified one study that provided information on state suspension policies, but very few studies on the prevalence of nondriving suspensions or the financial impact of such suspensions on low-income individuals.
 - In addition, we did not find rigorous studies on the effectiveness of nondriving suspensions in changing behavior or the effectiveness of practices in easing the financial impact of suspensions.
- We identified and interviewed researchers and practitioners knowledgeable about practices that could ease the financial impact of nondriving suspensions on low-income individuals.



Scope and Methodology (cont.)

- We conducted work in four states (Maryland, New Jersey, Washington, and Wisconsin) identified by knowledgeable researchers and practitioners as having at least two entities with such practices in place. Although we made efforts to obtain as complete information as possible, there may be other practices, or entities that implement such practices, in these four or other states, that we did not identify as part of this study.*
 - In each of the four states, we interviewed state officials in the department of motor vehicles and the child support enforcement agency, representatives of the court system, and staff of other organizations involved in implementing the practices.
 - Finally, we reviewed the relevant federal laws, as well as those in the four states in our review.
- We conducted our work from November 2008 to February 2010 in accordance with all sections of GAO's Quality Assurance Framework that are relevant to our objectives. The framework requires that we plan and perform the engagement to obtain sufficient and appropriate evidence to meet our stated objectives and to discuss any limitations in our work. We believe that the information and data obtained, and the analysis conducted, provide a reasonable basis for any findings and conclusions.

*For example, child support enforcement agencies in other states may have similar practices in place. We did not attempt to identify and describe practices used by child support enforcement agencies nationwide; our focus was on selected states, identified as having at least two entities with such practices in place.



Summary of Findings

We found three types of practices that may ease the financial impact of suspensions on low-income individuals:

- payment assistance, such as for parking or traffic-related fines,
- license reinstatement support, and
- suspension exemptions.*

According to program staff, challenges to implementing these practices include:

- the need to garner support from multiple organizations,
- difficulties in crossing jurisdictional boundaries, and
- sustaining program funding.

*In this report, we use the term "suspension exemption" to denote any statutory provision or administrative arrangement under which discretion may be exercised not to suspend licenses—due to, for example, an individual's disability, poverty or other circumstances—when such suspension would otherwise be required. 8

Background



States Suspend Driver's Licenses for Offenses Not Directly Related to Driving Safety

According to a recent study by the American Association of Motor Vehicle Administrators (AAMVA), all states have adopted practices to suspend licenses for some nondriving offenses.*

- A majority of states have adopted policies to suspend licenses for such offenses as
 - failure to maintain proper insurance;
 - failure to appear in court for a traffic violation; and
 - failure to pay a motor vehicle or court fine, fee, or surcharge.

*Jon A. Carnegie and Robert J. Eger, III, *Reasons for Driver License Suspension, Recidivism, and Crash Involvement Among Drivers with Suspended/Revoked Licenses*, a study for the American Association of Motor Vehicle Administrators, sponsored by the U.S. Department of Transportation, January 2009.

Background



As Required by Federal Law, All States Have Suspension Procedures for Failure to Pay Child Support

- As a condition of federal funding for their child support programs, states are required to provide for the suspension of driver's licenses for individuals delinquent in making child support payments.*
- The statute specifies that states should suspend licenses "in appropriate cases," which gives states flexibility in implementing it, including setting the level of arrearage that would prompt a suspension.
- HHS monitors states for inclusion of such procedures in their child support enforcement plans.
- All states have procedures to suspend licenses for child support arrearages.

*42 U.S.C. § 666(a)(16). This law also covers the suspension of professional, occupational, recreational, and sporting licenses.

Background



In Response to Another Federal Law, Some States Also Suspend Licenses for Drug Convictions

- A state's receipt of some federal highway funding is contingent upon its enacting and enforcing a law to require in all cases, or in the absence of compelling circumstances warranting an exception, the suspension of the license of any individual convicted of a drug offense. The suspension is to be for at least 6 months and is irrespective of whether the offense involved driving.*
- Although DOT is authorized to withhold 10 percent of certain highway funds if a state does not comply with this provision, the law explicitly permits states to opt out without penalty,** and DOT reported that as of January 1, 2010, 32 states have done so.

*23 U.S.C. § 159.

**To opt out, a state's governor must submit a certification and the state legislature must adopt a resolution indicating their opposition to enacting and enforcing such a law.

Background



Various Agencies Are Involved in the Suspension Process

Courts and child support agencies are involved in carrying out suspensions by making referrals to state departments of motor vehicles, which are generally responsible for processing suspensions.

- Courts in some states have the authority to order license suspensions for such infractions as drug offenses or the nonpayment of traffic fines.
- Child support enforcement agencies generally refer for suspension those individuals who do not comply with their court-ordered child support payments.*

*In some cases, courts suspend licenses for non-payment of child support, while in other cases, licenses are suspended administratively by child support enforcement agencies. For some information on these processes, see U.S. Department of Health and Human Services, Office of Inspector General, *Review of States' License Suspension Processes*, CIN: A-01-96-02502 (Washington, D.C., July 2, 1997).

Background



National and State-Level Data for Nondriving Suspensions Are Not Readily Available

According to researchers and state officials we spoke with:

- While states collect data on license suspensions, they do not consistently categorize suspensions by the type of offense or classify them as being related to driving or nondriving offenses.
- Even when states categorize suspension data by type of offense, they differ in the ways they do so.
- States generally do not collect suspension data for drivers by income level.

Background



State-Level Data Offer Clues, but Are Still Imprecise

New Jersey study (2007)*

- Determined that about 300,000 licensed drivers statewide (about 5 percent) were suspended at any given time for driving and nondriving offenses combined.
- Found that the vast majority of drivers were suspended for a variety of compliance reasons that were not directly related to driving behavior, such as not paying parking tickets or failing to maintain proper insurance.**
 - About a third of suspensions involved failure to appear in court to satisfy a summons.***
- The suspension rate was more than four times higher for drivers residing in extremely low-income ZIP codes when compared to the rate statewide. (Due to a lack of income data, the researchers were unable to precisely match suspensions to suspended drivers, and instead examined suspension rates by income level of ZIP code.)

*Jon A. Carnegie, *Driver's License Suspensions, Impacts and Fairness Study*. Alan M. Voorhees Transportation Center, Rutgers, The State University of New Jersey (August 2007).

**The AAMVA study provided some additional information on the prevalence of nondriving offenses among suspended drivers based on a sample of data from six states including New Jersey. That study estimated that a quarter to a third of suspended drivers had lost their licenses for nondriving offenses from 2002 to 2006. However, based on our assessment of the study's methodology, this estimate cannot be generalized to the six states collectively nor to individual states.

***Data on reasons for suspensions reflect the number of suspension orders, not suspended drivers: an individual driver can have multiple suspension orders.

Background



Little Is Known about the Prevalence of Nondriving Suspensions or Who is Affected

The 2009 AAMVA study* was an initial effort to examine license suspensions nationwide, including those related to driving, as well as nondriving, offenses.

For all types of suspensions:

AAMVA study results for 2005:

- About 7 million drivers were suspended—for driving and nondriving offenses combined—according to data from 31 states and the District of Columbia.
- Across these states, on average, an estimated 7.4 percent of licensed drivers were suspended.

* Carnegie and Eger, *Reasons for Driver License Suspension, Recidivism, and Crash Involvement Among Drivers with Suspended/Revoked Licenses*. The latest year for which data were available is 2005.

Background



Little Is Known about the Prevalence of Nondriving Suspensions or Who Is Affected (cont.)

Figure 1: Estimated Number of Suspended Drivers in 31 States and D.C. (2005)

What is not known:

- the proportion of suspensions specifically for nondriving offenses, and
- demographic characteristics, such as income level, of those suspended.

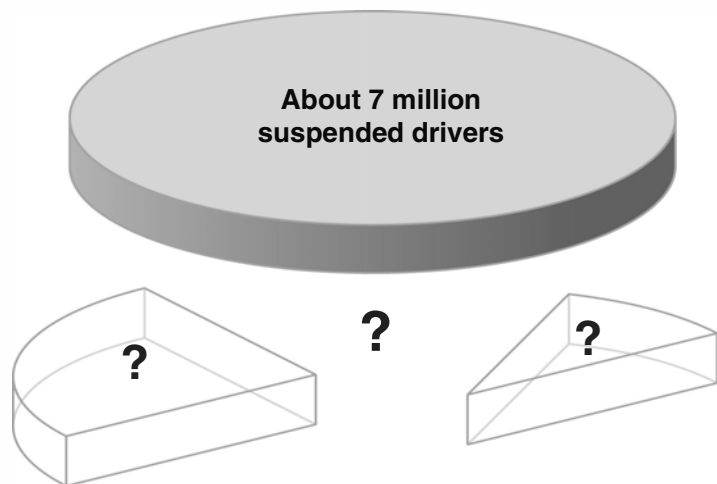


Figure sources: GAO analysis and AAMVA study.

Background



Ongoing Work by Federal and State Agencies

AAMVA's Suspended and Revoked Drivers Working Group

- Formed in 2005, it is comprised of representatives of state motor vehicle agencies, state and local law enforcement, courts, and DOT.
- The primary focus of the group is to consider the administrative burden on law enforcement personnel in stopping, and the courts in monitoring, suspended drivers who do not necessarily pose a safety hazard.
- In addition to conducting research, the group is exploring alternatives to license suspension, such as community service or garnishment of wages.

Health and Human Services

- HHS's periodic dissemination of "best practices"* broadly covering the federal-state child support enforcement program, including those related to license suspensions, provides a mechanism for information-sharing between states.

*The periodically issued HHS compilation covers a range of enforcement tools, including wage withholding practices and filing liens against property, among others.

Objective 1



Summary of Findings

We found three types of practices in four states that may ease the financial impact of suspensions on low-income individuals:

- payment assistance,
- license reinstatement support, and
- suspension exemptions.

Objective 1



Different Entities Implement These Practices, Which Vary in Scope and Timing

- Courts, nonprofit organizations, child support enforcement agencies, and departments of motor vehicles implement these practices.
- Some practices are carried out locally, while others are implemented statewide.
- The timing of aid also varies, since some practices provide support to suspended drivers, such as case management, while others, such as exemptions, help prevent suspension.

Objective 1

Table 1: Overview of Practices in Four States

State	Entity implementing the practice	Payment assistance			License reinstatement support			Suspension exemptions ^a
		Payment plans	Payment alternatives	Fine reduction	Guidance	Case management	Legal services	
MD	Maryland Legal Aid Bureau, Inc. (nonprofit) ^b						X	
	Dept. of motor vehicles							X
	Child support enforcement	X						X
NJ	Essex County Court License Reinstatement Program ^b	X						
	New Jersey Institute for Social Justice (nonprofit)				X			
	Child support enforcement	X						X
	Courts	X						X
WA	King County District Court Re-licensing Program ^b	X	X	X			X	
	Municipal Court of Seattle Re-licensing Program ^b	X	X		X	X	X	
	Child support enforcement	X						X
	Dept. of motor vehicles							X
	Courts	X						
WI	Center for Driver's License Recovery & Employability (nonprofit) ^b	X	X		X	X	X	
	Milwaukee Municipal Court Fine Reduction Program ^{b, c}			X				
	Child support enforcement	X						X
	Dept. of motor vehicles							X
	Courts	X						X

Source: GAO analysis based on documentation provided by and interviews with relevant entities.

^a We use the term "suspension exemption" to denote any statutory provision or administrative arrangement under which discretion may be exercised not to suspend licenses—due to, for example, an individual's disability, poverty or other circumstances—when such suspension would otherwise be required.

^b These entities implement practices locally, whereas the other entities implement practices statewide.

^c In 1998 and 2004, the Milwaukee Municipal Court Fine Reduction Program temporarily offered suspended drivers partial amnesty of their fines.

Objective 1



Some Practices Were Established to Reduce Administrative Burdens on Court Systems

Municipal Court of Seattle Re-licensing Program (Washington)

- The program was established in 1998, according to program staff, to reduce administrative burdens on the court system, such as backlogs and costs, resulting from individuals caught driving with a suspended license, a criminal offense in Washington.
 - At the time the program started, around 7,000 such cases were filed a year and represented approximately one-third of a city attorney's caseload.
 - Each case has costs associated with it. For example, if a suspended driver fails to appear in court, it costs about \$100 for arraignment and about \$80 per day to house them in jail.
- Staff also reported that another goal of the program is to help suspended drivers with license reinstatement.

Center for Driver's License Recovery and Employability (Milwaukee, Wis.)

- A pilot program was created in 2003 by the Milwaukee Bar Association primarily to reduce the backlog of court cases involving individuals caught driving with a suspended license, according to program staff.
- By the time the center was formally established in 2007, according to program staff, it also aimed to remove suspensions as a barrier to employment.

Objective 1



Other Practices Were Created to Reduce Employment Barriers

Essex County Court License Reinstatement Program (New Jersey)

- The program was initially developed in 2005 by the New Jersey Institute for Social Justice as a pilot program, according to program staff, in part because staff realized that clients would not be eligible to participate in a construction apprenticeship program without a valid license.
- The goal of the program, which is currently administered by the Essex County Court, is to remove driver's license suspension as a barrier to employment.

Maryland Legal Aid Bureau, Inc.

- The Baltimore City Child Support Project was developed by the Legal Aid Bureau in 2004 to enable clients to find work when their suspensions are due to a child support arrearage.*

*The Legal Aid Bureau discontinued the Baltimore City Child Support Project after losing funding in 2008 but has continued to assist clients with license reinstatement.

Objective 1: Payment Assistance



The Practice of Payment Assistance Targets Drivers Who Have Difficulty Making Financial Payments

- Nonpayment of fines is a frequent reason for license suspension, according to several program staff and state officials. Low-income individuals' licenses may be disproportionately suspended for this reason because they have difficulty paying fines.
- In particular, parking and traffic fines vary in amount but can be significant.
 - Parking fines in New Jersey range from \$17 to \$130 with most under \$50, according to a New Jersey-based study.*
 - Some traffic fines in Washington are high, according to staff from the Municipal Court of Seattle Re-licensing Program. They cited one that was over \$600 and noted that if the fine was not paid on time, the debt would increase.

*Jon A. Carnegie, *Driver's License Suspensions, Impacts and Fairness Study*.

Objective 1: Payment Assistance



Payment Assistance Includes Payment Plans, Payment Alternatives, and Fine Reductions

Some courts and nonprofit organizations, as well as all four state child support enforcement agencies, offer payment assistance.

The King County District Court Re-licensing Program (Washington)

- Helps individuals caught driving with a suspended license, according to program staff, by
 - establishing payment plans that allow users to pay fines through smaller monthly payments over a longer time period;
 - offering payment alternatives such as performing community service or serving on a work crew in lieu of making a payment; and
 - reducing fines, which judges have the authority to do depending on the circumstances.

New Jersey, Washington, and Wisconsin Courts

- Offer payment plans, as required by laws in their states, to individuals who are unable to pay traffic fines because of poverty.*

*N.J. Stat. Ann. § 39:4-203.1, Wash. Rev. Code § 46.63.110(6), and Wis. Stat. § 345.47(1).

Objective 1: License Reinstatement Support



The Practice of License Reinstatement Support Helps Drivers Take the Sometimes Complex Steps to Obtain a Valid License

- To obtain a valid license, a suspended driver must generally
 - address the reason for suspension with the issuing agency, and
 - pay a reinstatement fee to the department of motor vehicles.
- In some cases, individuals owe fines to multiple courts and so must take several steps to address the reason for suspension.
- According to the Center for Driver's License Recovery and Employability in Milwaukee, license reinstatement can be a complicated and confusing process.

Objective 1: License Reinstatement Support



Support with Reinstatement Can Include Guidance, Case Management, or Legal Services

Several nonprofit organizations and two court programs offer license reinstatement support.

The Center for Driver's License Recovery and Employability (Milwaukee, Wis.)

- Provides low-income suspended drivers with personalized guidance, ongoing case management, and legal advice and representation.
 - Between March 2007 and July 2008, the center provided*
 - 650 clients with case management services, 53 percent of whom successfully obtained a valid license, and
 - 212 clients with both case management and legal services, 70 percent of whom successfully obtained a valid license.

*Lois M. Quinn and John Pawasarat, *Second Year Evaluation of the Center for Driver's License Recovery & Employability* (Employment and Training Institute, University of Wisconsin-Milwaukee, November 2008).

Objective 1: Suspension Exemptions



The Practice of Suspension Exemptions Generally Prevents Suspensions

- Suspension exemptions may be granted for certain nondriving offenses, such as the nonpayment of child support and drug offenses.*
- Suspension exemptions may take the form of restricted licenses, which allow individuals to drive to specific places, such as work and school.**

*In the context of drug offenses, federal regulations require a state to implement any such exemptions through law, regulation, policy, or statewide published guidance establishing circumstances under which they will apply. 23 C.F.R. § 192.4(d) (2009). DOT indicated that there is a certain degree of uniformity required across a state.

**The term "restricted license" is used generally to describe any license that grants limited driving privileges to otherwise suspended drivers, such as occupational licenses.

Objective 1: Suspension Exemptions



Exemptions May Be Granted for Child Support Arrearages and Nondriving Related Drug Offenses

All four states grant suspension exemptions for child support arrearages, and two states grant exemptions for certain nondriving drug offenses.

- Child support officials in all four states said that license suspensions are used as a last resort when other enforcement tools have not resulted in receipt of payment. Noncustodial parents are notified twice before suspension and directed to contact child support enforcement to resolve the situation.
- Officials in all four states said that they believe that suspensions are an effective tool for obtaining past-due child support.*

The practices and perspectives we identified in these four states may be more widespread. HHS officials who monitor states' child support enforcement policies told us that, in addition to these four states, other state child support agencies often use their discretion to avoid routinely suspending the driver's licenses of low-income noncustodial parents and view suspensions as a last resort.

*A 2002 GAO report noted that suspensions lead some noncustodial parents with past-due support to make their child support payments, but no data were reported on these parents' income levels. *Child Support Enforcement: Most States Collect Drivers' SSNs and Use Them to Enforce Child Support*, GAO-02-239 (Washington, D.C.: Feb. 15, 2002).

Objective 1: Suspension Exemptions



Exemptions May Be Granted for Child Support Arrearages and Nondriving Related Drug Offenses (cont.)

- Child support-related suspension exemptions stem from both state laws and administrative practices. Some examples include:
 - A Washington law provides that licenses of noncustodial parents will not be suspended if at a hearing they demonstrate that they made a good faith effort to comply with the support order—based, for example, on their efforts to find employment. Wash. Rev. Code § 74.20A.322(4).
 - A Maryland law provides child support officials with discretion regarding the initiation of suspensions and specifically prohibits the initiation of a suspension in certain circumstances, such as when it would be an impediment to employment. Md. Code Ann., Fam. Law § 10-119(c)(4).
 - Administrative practices in New Jersey and Wisconsin, according to child support officials, allow for suspension exemptions for certain populations, such as individuals with disabilities.
- While New Jersey and Wisconsin have state laws that authorize license suspensions for nondriving-related drug offenses, both states also allow judges to exempt drivers from suspension.*

*N.J. Stat. Ann. § 2C:35-16 and Wis. Stat. § 961.50(1). These laws were recently amended to allow for exemptions. Maryland, Washington, and Wisconsin have opted, as explicitly permitted by statute (23 U.S.C. § 159(a)(3)), not to have laws requiring license suspension for all drug convictions, according to DOT. Maryland only suspends driver's licenses for drug convictions that directly involve driving. Washington revokes the licenses of all juveniles convicted of drug offenses and does not provide exemptions. Wash. Rev. Code §§ 46.20.265 and 69.50.420.

Objective 1: Suspension Exemptions



Restricted Licenses Exempt Drivers from Full Suspension of Driving Privileges

Maryland, Washington, and Wisconsin allow eligible drivers suspended for certain nondriving offenses to obtain restricted licenses that limit where and when the individual can drive.* Two examples are:

- In Maryland, noncustodial parents in partial compliance with their child support may be issued a restricted license, which lets them drive to and from work during work hours. To obtain a restricted license, a driver must provide the department of motor vehicles with a letter of authorization. The child support enforcement agency typically issues this letter after the individual has entered into a payment plan that will bring him or her into full compliance.
- In Wisconsin, drivers suspended for a drug offense, among other offenses, can also apply for a restricted license, and if they meet the eligibility criteria, the department of motor vehicles will issue it.

*Md. Code Ann., Transp. § 16-203(b)(2), Wash. Rev. Code § 46.20.391, and Wis. Stat. § 343.10.

Objective 2



Summary of Findings

According to program staff, challenges to implementing these practices include:

- the need to garner support from multiple organizations,
- difficulties in crossing jurisdictional boundaries, and
- sustaining program funding.

Objective 2



Garnering Support from Multiple Organizations Can Be a Challenge

Center for Driver's License Recovery and Employability (Milwaukee, Wis.)

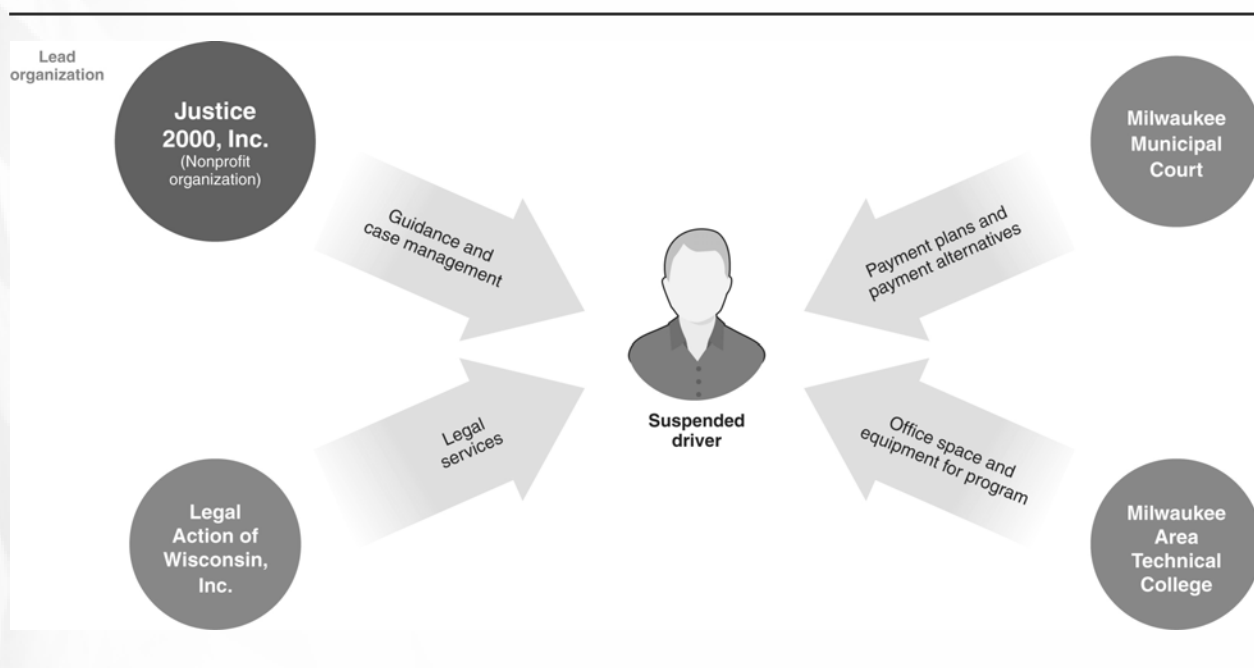
- Offers both payment assistance and license reinstatement support to suspended drivers through a partnership between four organizations (see fig. 2).*
- According to program staff, building a strong collaboration among these partner organizations was time-consuming but critical to designing and carrying out the program.
- Staff noted that establishing and maintaining such partnerships would likely be a challenge to implementing the program in other communities.

*At the time of our interviews, the center operated as a partnership between Justice 2000, Inc., Legal Action of Wisconsin, Inc., the Milwaukee Municipal Court, and the Milwaukee Area Technical College. The center planned to begin a new partnership with Wisconsin Community Services, Inc. in January 2010. At that time, Wisconsin Community Services, Inc. is expected to replace Justice 2000, Inc. as the lead organization in the partnership.

Objective 2



Figure 2: Center for Driver's License Recovery and Employability: Partner Organizations and Roles



Source: GAO analysis.
Note: Partner organizations are as of 2009.

Objective 2



Garnering Support from Multiple Organizations Can Be a Challenge (cont.)

Municipal Court of Seattle Re-licensing Program

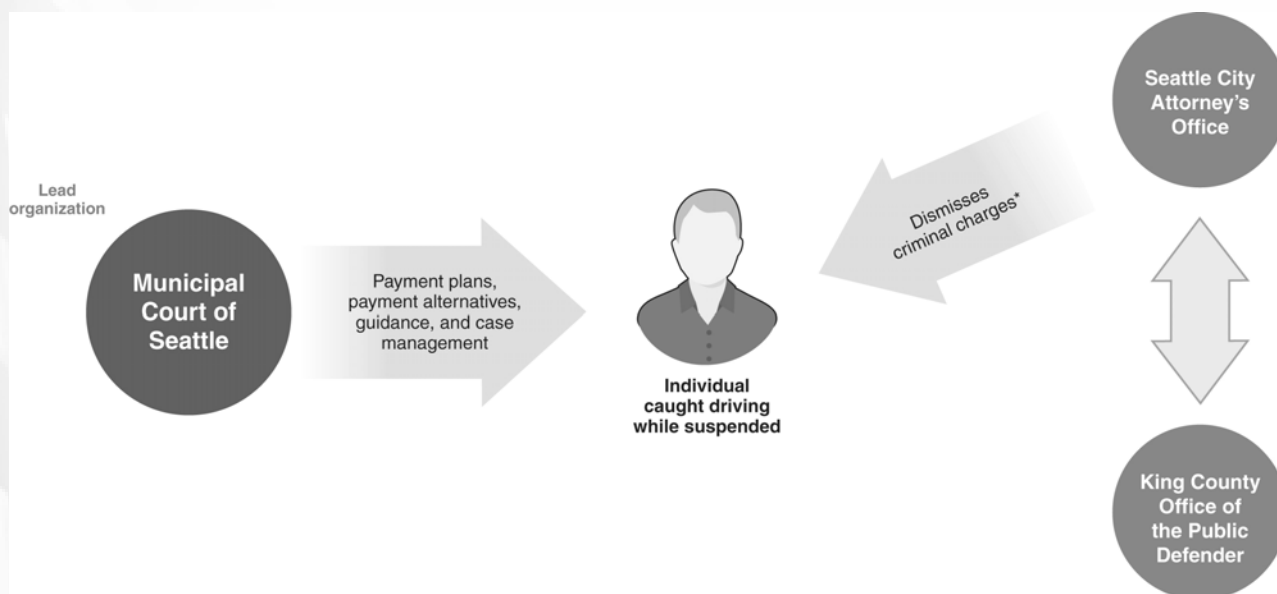
- Offers both payment assistance and license reinstatement support to individuals caught driving with a suspended license through a partnership between the court, the Seattle City Attorney's Office, and the King County Office of the Public Defender (see fig. 3). While the program serves all individuals regardless of income, many participants are low-income.
 - The court also dismisses the criminal charge for driving while suspended if the individual meets certain requirements.
- According to court staff, a key factor in establishing the program was that these partner organizations agreed on overall program goals, despite tensions related to their different perspectives and areas of responsibility.

34

Objective 2



Figure 3: Municipal Court of Seattle Re-licensing Program: Partner Organizations and Roles



Source: GAO analysis.

*The Seattle City Attorney's Office provides a prosecutor and the King County Office of the Public Defender provides a defense attorney at each initial court appearance for individuals caught driving while suspended. If an individual meets certain requirements, the prosecutor and defense attorney agree to dismiss the criminal charge.

35

Objective 2



Court-Based Programs Are Challenged by Jurisdictional Boundaries

Jurisdictional boundaries limit the reach of court-based programs.*

- Several programs reported that many drivers owe fines in multiple cities or counties. For example, the 862 suspended drivers served by the Center for Driver's License Recovery and Employability between March 2007 and July 2008 owed fines in 60 different city and county court systems in Wisconsin.** Staff from the Municipal Court of Seattle Re-licensing Program explained that many drivers owe fines in multiple jurisdictions because the Seattle metropolitan area is large, and drivers often commute to work across multiple cities or counties.
- However, courts typically cannot offer payment assistance for fines incurred in other jurisdictions. For example, the Municipal Court of Seattle does not have the authority to offer payment assistance for fines incurred outside the city of Seattle. If a suspended driver also owes fines elsewhere but cannot afford to pay them, he or she cannot obtain a reinstated license, despite receiving payment assistance for the Seattle fine.
- Staff from all three court-based programs said that jurisdictional boundaries would be a challenge to implementing these programs more broadly.

*By court-based programs, we are referring to the Essex County Court License Reinstatement Program, the King County District Court Re-licensing Program, and the Municipal Court of Seattle Re-licensing Program.

**Quinn and Pawasarat, *Second Year Evaluation of the Center for Driver's License Recovery and Employability*.

Objective 2



Court-Based Programs Are Challenged by Jurisdictional Boundaries (cont.)

Efforts to overcome jurisdictional boundaries may face administrative challenges.

Essex County Court License Reinstatement Program

- The court obtained permission from the state Administrative Office of the Courts to consolidate fines incurred throughout the county into one payment plan based on income.
- According to staff, the program is cumbersome to administer because they must identify fines owed across 21 municipalities. Differences in information technology systems among municipalities also make it difficult to track payments and assess compliance with payment plans.
- While the court can consolidate fines incurred within Essex County, payment plans cannot include fines incurred outside of Essex County.

37

Objective 2



Sustaining Program Funding Can Also Be a Challenge

Two programs recently experienced budget reductions that affected program capacity.

Municipal Court of Seattle Re-licensing Program

According to program staff:

- Due to state budget cuts during the severe economic recession, the court eliminated an ombudsman position in July 2009. The loss of the ombudsman, who provided individual assistance to program participants, has decreased the court's ability to provide personalized license reinstatement support.
- If the court is forced to eliminate additional positions, it might be unable to continue offering payment plans and community service as payment assistance options.

Objective 2



Sustaining Program Funding Can Also Be a Challenge (cont.)

Maryland Legal Aid Bureau, Inc.

According to Legal Aid staff:

- The Legal Aid Bureau discontinued the Baltimore City Child Support Project after the project lost private foundation funding in 2008, but has continued to assist clients with license reinstatement. These efforts are now funded entirely by the Legal Aid Bureau.
- License reinstatement assistance is currently provided on a part-time basis by one attorney, who said that funding is not available for additional staff support. There are currently no plans to expand the project, as additional staff would be needed in order to do so.

In addition, staff from two other programs noted that resource constraints would be a challenge to broader implementation.



Concluding Observations

- State and local needs and concerns have been the impetus behind the practices we found to help drivers retain, or suspended drivers regain, their licenses. While there were often challenges to be addressed, the entities involved in license suspensions—courts, child support enforcement agencies, and departments of motor vehicles—were sufficiently flexible to allow for the development of such practices in the four states we reviewed.
- The limited information on the prevalence and impact of nondriving suspensions, as well as on the effectiveness of the types of practices we found, may make it difficult for other localities and states to readily assess any potential need for such practices and to identify the most effective approaches.



Concluding Observations (cont.)

- While driver licensure is generally within the domain of state governments, some federal efforts exist that could facilitate information-sharing and dissemination:
 - DOT is playing a role in sharing information about such practices. DOT is participating in AAMVA's Suspended and Revoked Drivers Working Group that has brought together DOT, state, and local officials to facilitate research, identify effective alternatives to suspension, and share information with state policymakers.
 - In addition, HHS's dissemination of "best practices" for child support enforcement, including those related to driver's license suspensions, also provides a mechanism for information-sharing between states.

Appendix II: Comments from the Department of Health and Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF THE SECRETARY

Assistant Secretary for Legislation
Washington, DC 20201

JAN 22 2010

Kay Brown, Director
Education, Workforce,
and Income Security Issues
Government Accountability Office
441 G Street NW
Washington, DC 20548

Dear Ms. Brown:

Enclosed are the Department's comments on the U.S. Government Accountability Office's (GAO) draft report entitled: "LICENSE SUSPENSIONS FOR NON-DRIVING OFFENSES: Practices in Four States That May Ease the Financial Impact on Low-Income Individuals (GAO-10-217).

The Department appreciates the opportunity to review and comment on this report before its publication.

Sincerely,

Andrea Palm
Acting Assistant Secretary for Legislation

Enclosure

GENERAL COMMENTS OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES ON THE GOVERNMENT ACCOUNTABILITY OFFICE'S (GAO) DRAFT REPORT ENTITLED, "LICENSE SUSPENSIONS FOR NON-DRIVING OFFENSES: PRACTICES IN FOUR STATES THAT MAY EASE THE FINANCIAL IMPACT ON LOW-INCOME INDIVIDUALS" (GAO-10-217)

The Department appreciates the opportunity to comment on this Government Accountability Office (GAO) draft report.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) enacted section 466(a)(16) of the Social Security Act, which requires States to have (and use in appropriate cases) the authority to withhold, suspend or restrict the use of driver's licenses of individuals owing past due support or failing after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.

For the Child Support Enforcement (CSE) program, license suspension and revocation is an enforcement mechanism designed to encourage obligors to pay their child support or risk restriction of driver's licenses and other licenses. States report that the threat of losing a driver's license is an effective means of bringing a delinquent obligor into compliance, and often leads to the successful collection of past due child support payments. See *Office of Inspector General, Review of States' License Suspension Processes*, A-01-96-02502 (July 1997). The 2002 GAO report (GAO-02-239), cited on page 28 of the draft report, reiterates the value of this enforcement tool, stating:

"Driver's license suspension alone, or in conjunction with other enforcement actions, does lead some noncustodial parents with past-due support to make their child support payments. We obtained data on driver's license suspension in calendar year 2000 in four states—Colorado, Maryland, Pennsylvania, and Washington. We found that in nearly one out of every three cases, parents who were subjected to this action made at least one child support payment after being notified that their licenses could be, or were being, suspended for nonpayment of child support. In calendar year 2000, 104,608 noncustodial parents in the four states we examined had their driver's licenses threatened or suspended and the total amount of child support collected from these parents was \$48 million."

States have a great deal of flexibility in establishing criteria for driver's license suspensions. Some States use a time frame trigger, such as payments that are 30 days in arrears, while others use a dollar amount trigger, such as past due support in excess of \$2,000, and still others use a combined trigger. Other practices vary as well. For example, some States issue a warning letter to the delinquent obligor that provides additional time for the obligor to pay, other States offer a hearing before a license is suspended, and some States provide an opportunity to enter into a payment plan.

For the draft report, the GAO studied four States (Maryland, New Jersey, Washington and Wisconsin) with practices that could ease the financial impact of non-driving suspensions on low-income obligors. We agree with the draft report's conclusion that States have the flexibility to implement appropriate practices that take into account the

**GENERAL COMMENTS OF THE DEPARTMENT OF HEALTH AND HUMAN
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OFFENSES: PRACTICES IN FOUR STATES THAT MAY EASE THE
FINANCIAL IMPACT ON LOW-INCOME INDIVIDUALS" (GAO-10-217)**

ability of obligors to pay overdue child support. However, we would like to correct any misimpression that such practices are rarely implemented by State child support agencies, or that very few State child support agencies use their discretion to avoid routinely suspending the driver's licenses of low-income obligors.

Draft slide 7 accompanying the draft report notes that while the GAO made efforts to obtain complete information, there may be other practices or entities that implement such practices. While the GAO study is focused on the four study States, we are aware of several additional States that do not seek to suspend a driver's license except as a last resort after other enforcement remedies have been attempted first, when the non-custodial parent is unable to pay the ordered amount of support, or when the license is needed for work (GA, KY, ID, IL, IA, MA, MN, OR, PR, VI). In addition, a number of States provide a restricted license that can be used for work purposes. The 1997 Office of Inspector General (OIG) report found that "Some of the States used another set of criteria to exclude cases where the NCP was incarcerated, deceased, bankrupt, without a valid license, or without the means to pay child support."

We would like to also raise the following issues that we identified in the report:

- The draft report does not mention that several States suspend licenses administratively, without the need for judicial involvement, thus not contributing to clogged court systems.
- Page 17 of the draft report identifies background information related to the current study, but does not mention the 1997 OIG report, cited above, which found that the administrative process of suspending driver's licenses for past due child support generally targeted more cases, had more collections, and took less time than the judicial process.
- Page 20 of the draft report includes a table that provides an overview of practices in the four study States. The chart indicates that none of the four child support agencies provide payment assistance, such as payment plans, payment alternatives, or fine reduction; however, page 30 of the report indicates that in Maryland, the child support agency typically issues a letter authorizing a non-custodial parent to obtain a restricted license for work purposes after the individual has entered into a payment plan.

Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact

Kay E. Brown, (202) 512-7215 or brownke@gao.gov

Staff Acknowledgments

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