



# RESOLVE TRAFFIC DEBT: Advocate Toolkit

Second Chance Mobility Project

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## **WHO CREATED THE TOOLKIT?**

This toolkit is a product of the Second Chance Mobility Project. The Second Chance Mobility Project is an effort of NC advocates working to restore driving privileges for a significant portion of the approximately 300,000 North Carolinians with long-term driver's license suspensions based on unpaid traffic court costs and fines. Our goal is to break the destructive debt cycle that disproportionately impacts people of color and people living paycheck to paycheck.

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## **LEGAL DISCLAIMER.**

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# INTRODUCTION

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Thank you for taking on a campaign to advocate for a traffic debt relief program in your community. Use the materials in this toolkit to educate your community, local attorneys, the district attorney, and district court judges about the relief that is available under North Carolina law.

North Carolina is among the remaining states that automatically suspends a motorist's driving privilege for failure to pay a traffic ticket.<sup>1</sup> As of January 2021, more than 300,000 people have their driver's license suspended for failing to pay a North Carolina traffic ticket.<sup>2</sup> This scheme creates a common and destructive cycle that disproportionately impacts people of color and low-income families.<sup>3</sup>

The Division of Motor Vehicles (NC DMV) is required to automatically suspend or revoke a person's driver's license if the person is charged with a motor vehicle offense (such as a speeding ticket) and fails to pay the associated court fees or fines. These fees often total more than \$190 and are used for a range of things,<sup>4</sup> including contributing to the law enforcement retirement fund.<sup>5</sup>

Most individuals who enter this cycle of debt and suspension will never restore their driving privileges. Perpetually deprived of the legal ability to drive, and needing a way to get to work and care for their loved ones, some people continue to drive and risk deeper involvement in the criminal justice system. While the drivers may not be dangerous drivers, situations that lead them to drive without a license, registration, or insurance, put other drivers at risk and make our roads less safe. Others will stop driving and suffer severe isolation from the opportunities and resources necessary to satisfy basic human needs, including employment, housing, family unification, and access to health care. The indefinite, long-term loss of a driver's license often has catastrophic impacts on entire families, especially in neighborhoods and communities without access to public transportation.<sup>6</sup> More than 90 percent of all North Carolina residents use a car to get to and from work. The lack of a driver's license restricts job mobility because workers are limited to the work opportunities near bus routes or within walking distance.<sup>7</sup>

Research found that without a car the typical resident can only reach 30 percent of jobs within 90 minutes. In several North Carolina counties public transportation is not available or is not a meaningful option.<sup>8</sup> Where there is adequate public transportation, it limits the number of workable hours to the schedule of the bus system<sup>9</sup> and can significantly increase commute times. For example, a study found that in Winston Salem, NC, bus riders spend 8.6 extra hours a week on their commute than they would if they drove directly.<sup>11</sup> The same study calculated that this leads to a loss of approximately \$4,360.20 in wages.<sup>12</sup>

In response to this problem, the Second Chance Mobility Project is collaborating with District Attorney Offices around the state to provide access to debt relief under N.C. Gen. Stat. 15A-1363.<sup>13</sup> The statute allows district attorneys to motion for and gives judges authority to eliminate unpaid fees and/fines for traffic offenses. This statute, however, is severely underused. We hope this toolkit will lead to an increased number of restored driving privileges.





# THE DEBT SPIRAL

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## The Stop

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A motorist is stopped by law enforcement and is charged with a traffic offense, such as speeding, expired registration, or failure to wear a seatbelt. The officer gives the motorist a citation with a date to go to court to defend against the charge.

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## The Debt

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The motorist goes to court, is found guilty, and is ordered to pay court costs (\$190+) and possibly a fine (\$10-\$50). The motorist is given 40 days to pay the ticket.<sup>14</sup> If the motorist cannot pay within 40 days, the ticket will be marked as failure to comply, and the court sends a notice to the NC Division of Motor Vehicles (NC DMV).

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## The Suspension

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After receiving notice from the court, the NC DMV sends the motorist a letter telling the motorist they have 60 days to resolve the debt or their license will be suspended. If 60 days elapses and the ticket has not been resolved, the motorist's driving privilege is automatically suspended.<sup>15</sup> It remains suspended until the motorist pays or otherwise resolves the ticket.

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## The Spiral

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The motorist is again stopped by law enforcement and charged with driving while license revoked, expired registration, etc. The motorist again goes to court and cannot afford to pay the new traffic ticket. Motorist obtains more debt and another suspension...

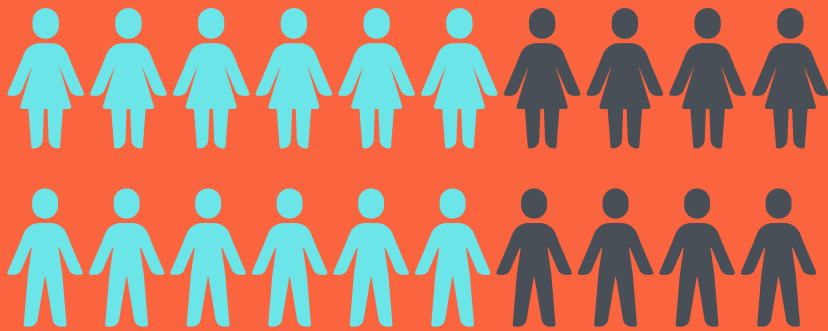
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## The hard decision

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With limited resources, the motorist has to decide whether to violate traffic laws and continue driving or avoid driving and miss out on needed opportunities. Faced with that decision 75% of people continue driving.<sup>16</sup>

# 300,000



# 58%

## Racial Minority

# 8.5 YEARS AVERAGE

# BY THE NUMBERS

Statewide Data

This data was received from AOC in January 2021.

- Approximately 300,000 North Carolinians have suspended driver's license for failure to pay criminal court fines and fees.<sup>17</sup>
- Fifty-eight (58) percent of the people with these suspensions are people of color.<sup>18</sup>
- Eight and a half (8.5) years is the average length of failure to pay based suspension.<sup>19</sup>

For information specific to your county, please visit [www.ncfairchance.org](http://www.ncfairchance.org).  
Visit <https://www.endcriminaljusticedebtnc.org/drivers-license-suspensions> to obtain downloadable data graphics.

# TALKING POINTS

## **Values, Problem, Solution, Action\***

### Values

- **Redemption:** We all grow and change over time and need a chance to start over when things go wrong. To foster redemption, we must provide conditions that allow people to develop, to rebuild, and to reclaim full responsibility for their lives.
- **Mobility:** Where people begin in life should not determine where they end up. When we trap already under-resourced people in further debt, it undermines their ability to advance socially and economically over the course of their lifetimes.
- **Public Wellness:** People are safest on the road when all drivers are licensed and insured. Furthermore, everyone should be able to meet their basic needs. In places with limited access to public transit, a driver's license often means access to food, medicine, education, and employment.

### Problem

- Thousands of North Carolinians across the state have faced the threat of consequences, such as driver's license suspension, extension of probation, and incarceration based on their inability to pay court costs.
- NC's scheme leads to long-term driver's license suspension, with devastating impacts for thousands of NC residents, disproportionately people of color
- The median length of a "Failure to Pay" suspension in NC is 5.8 years.
- A person's ability to pay a ticket is completely unrelated to their ability to drive safely.

### Solution

- End the practice of suspending driver's licenses due to a person's inability to pay criminal justice debt. Restoring driving privileges creates safer driving conditions and supports individuals ability to be productive members of society.

### Action

- District Attorneys can motion the court to eliminate mass debt that is causing long-term driver's license suspensions in their jurisdiction. Under NCGS 15A-1363, a prosecutor can request this mass relief at any time.
- Local municipalities can create a criminal justice debt payment assistance program using municipal fees allocated by the state.

\* The Opportunity Agenda's values, problem, solution, action messaging model that establishes common ground (values), names the problem (problem), offers a vision for addressing the issue (solution), and provides steps that will help meet that vision (action).<sup>21</sup>

# TALKING POINTS

## **The Outcomes**

### Penalizes Poverty

- North Carolina is one of the remaining states that automatically suspends a person's driver's license for failing to pay traffic tickets.
- Most NC courts do not consider a person's ability to pay when imposing fines and fees, setting up low-income drivers for long-term suspensions.
- Court costs are a result of regressive state budgeting from the early 1990s and costs have risen by 263% since 1996.<sup>22</sup> Over the last several years, between mandated reporting on judicial waivers and notice requirements, judges have faced increased scrutiny when waiving fees/fines.<sup>23</sup>
- NC's scheme leads to long-term driving license suspension. Between 25 and 35 percent of traffic cases that fall into "failure to pay" status will NEVER come back into compliance.<sup>24</sup>
- Long-term license suspensions have devastating impacts for thousands of NC residents. As of 2021, 41% of Americans cannot afford to pay a \$250 expense.<sup>25</sup>

### Unfairly Impacts Vulnerable Families

- Long-term driver's license suspensions for "failure to pay" disproportionately impact people of color.
  - While Black residents account for 22 percent of NC's population, they represent 32 percent of all NC traffic stops.<sup>26</sup>
  - Debt-based license suspension rate of Black drivers is four times higher than that of white, non-Hispanic drivers in NC.<sup>27</sup>
- Debt-based driver's license suspension creates two-tier system.
  - Two people cited today for the same traffic violation, where one could afford to pay the fine and the other could not would have different outcomes.



# TALKING POINTS

## ***The Outcomes Continued...***

### Undermines Public Safety

- The median length of a “Failure to Pay” suspension in NC is 5.8 years.
- A person’s ability to pay a ticket is completely unrelated to their ability to drive safely. People who are deprived of their licenses cannot get insurance, but still may need to drive to get to work, appointments, school, etc.. This increase in uninsured drivers likely causes collateral consequences and costs for other drivers.
- Debt-based driver’s license suspension forces police officers, prosecutors, and judges to spend valuable time and resources on activities that are not related to public safety. Since a person’s ability to pay a fine is not related to their ability to drive safely, license suspensions based on ability to pay do not promote genuine safety.<sup>28</sup>
- Debt-based driver’s license suspension exposes people to further involvement with the criminal legal system. Most NC counties do not have reliable public transportation, so many will continue driving without a license to meet their basic needs. Driving without a valid license is a criminal offense. This can generate more unpayable fines and fees, leading to more suspensions, and even incarceration.

### Creates barriers to Opportunity

- Lack of transportation is a huge barrier to employment. Most meaningful employment requires either a valid driver’s license or reliable transportation.
- Lack of transportation affects where a person can reside. Without a valid driver’s license, people must take great pains to secure housing near a bus line, if there even is public transit available in their area.

# Relief Models

District Attorneys can motion the court to eliminate traffic-related debt that is causing long-term driver's license suspension in their jurisdiction. By law, a prosecutor can request this relief at any time. Several jurisdictions have completed one or more of the programs.

**01**

Your District Attorney can efficiently provide relief for thousands of people in their community by requesting the court eliminate debt for all eligible tickets during one special court session using one motion.

Your District Attorney can gradually provide relief for thousands of people in their community by requesting the court eliminate debt for all eligible tickets during multiple court sessions.

**02**

**03**

Your District Attorney can establish a restoration program that assists people on a case-by-case basis. While the programs are beneficial, they are resource intensive and do not assist as many people as the other two models.

# THE STATUTE

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N.C. Gen. Stat. § 15A-1363 allows district attorneys to motion for the reduction or elimination of criminal court fines and costs.

**N.C. Gen. Stat. 15A-1363** provides the following:

A defendant who has been required to pay a fine or costs, including a requirement to pay fine or costs as a condition of probation, or a **prosecutor, may at any time petition the sentencing court for a remission or revocation of the fine or costs or any unpaid portion of it. If it appears to the satisfaction of the court** that the circumstances which warranted the imposition of the fine or costs no longer exist, that it would otherwise be unjust to require payment, or **that the proper administration of justice requires resolution of the case, the court may remit or revoke the fine or costs** or the unpaid portion in whole or in part or may modify the method of payment.

According to the official criminal code commission commentary “The first two grounds go to changed factual circumstances or changed ability of the defendant to pay. That last ground is aimed at the situation in which an unpaid fine will apparently go unpaid forever and the court wishes to close the case.”



# Sample Op-Ed



Note: An op-ed is generally published in a local newspaper and expresses an opinion about an issue. Length requirements vary from by newspaper.

District Attorney [insert name] should take important steps to reduce driver's license suspension

In the wake of the economic impact of the coronavirus and the uprising for black lives, District Attorney [insert name] should enact a proven project that addresses an issue that disproportionately affects people of color that will be worsened because of the coronavirus - debt based driver's license suspension.

North Carolina is one of the states that automatically suspended someone's driver's license for failure to pay a traffic ticket. The automatic scheme has caused more than 300,000 people in North Carolina to have at least one debt-based suspension. In [insert county name], there are XXX people whose driver's licenses are suspended for nonpayment. XXX% are for racial minorities.

We are in an economic recession. Millions of North Carolinians have applied for unemployment insurance, and are not able to pay for their necessities such as rent, utilities, food, or medicine. Additionally, they are not able to pay traffic debt. This is especially the case for people who could not afford to pay their tickets before the coronavirus outbreak. Most who are cash-poor, people of color.

Data reveals that there are several thousand residents of [insert court name] County who have long-term driver's license suspensions not because of unsafe driving offenses, but only because of failure to pay traffic court fees. In North Carolina, traffic court fees have increased significantly in recent years and now average hundreds of dollars per ticket. If a person does not pay the court fees within 100 days, the person's license is indefinitely suspended—often causing the person to lose their job and otherwise isolating them from basic economic opportunities. Many of these people fall into a perpetual cycle of suspension, which has devastating impacts on them, their families, other drivers, and our entire community.

The District Attorney should use his/her power to motion the court to eliminate long-term traffic debt to reduce the number of suspended driver's licenses in [insert county name]. Using data, the District Attorney should bring these old traffic cases back into court to ask that the unpaid fees be eliminated and driving privileges restored.

Your Name, Title  
Contact Information

# Sample Letter to the Editor



Note: Generally, a letter to the editor is written in direct response to previous article. While length requirements vary by newspaper, typically a letter to the editor should be no more than 250 words.

Dear Editor,

While I am pleased that your [insert date] article [insert title] addressed driver's license suspension in North Carolina, it did not identify an actor who has the power to combat driver's license suspension for failure to pay traffic based criminal court debt - the district attorney.

As highlighted in the article, driver's license suspension for inability to pay traffic court fines and fees is a devastating scheme that disproportionately impacts low-income families and families of color. Many times, individuals with suspended driver's license are left to make the impossible decision of either (1) stop driving and miss out on opportunities such as meaningful employment, affordable housing, etc. or (2) continue driving and be exposed to another traffic ticket, more criminal court debt, and further suspension.

While the general assembly is the entity with the power to change that law to end or limit debt-based driver's license suspension, the District Attorney also has power to combat the problem. Under NC law, the District Attorney can motion the court at any time to eliminate the underlying court debt leading to long term driver's license suspension. Several District Attorneys have already executed such programs and provided relief for thousands of people in their community.

With the average debt-based suspension in [insert county] being XX years, District Attorney [insert name] should take immediate action to combat debt-based driver's license suspension for people with tickets in [insert county].

Your name, Title  
Contact Information

# Additional Reforms

Along with District Attorney - initiated traffic debt relief programs, advocates can encourage local system actors to adopt additional policy and practice reforms that challenge, slows down, or eliminates debt-based driver's license suspension.

## ADOPT ABILITY TO PAY RULE

Resident District Court judges and Chief Superior Court judges can adopt local policies that requires judges to conduct meaningful ability to pay assessments before imposing traffic court costs and fines on residents. Individuals deemed to be unable to pay should not be given monetary obligations. To ensure quality assessments, judge can rely on UNC's School of Government's Criminal Monetary Obligations Bench Card for guidance.<sup>9</sup> Local Judges can also use the Administrative Office of the Court's Motion for Relief from Fines, Fees, and Other Monetary Obligations, and Order on Motion (NC AOC-CR-415).<sup>10</sup>

## ALLOW PAYMENT PLANS FOR TRAFFIC DEBT

Local Courts can adopt policy or practice to allow payment plans for individuals determined to have the resources to pay the traffic ticket(s). The amount of the payment plan should be based on the individual's resources, and should not exceed 2% of their monthly income or \$10, whichever is greater.<sup>11</sup> The court should also waive the \$20 installment fees to enroll in the payment plan.

## ESTABLISH CRIMINAL JUSTICE DEBT FUND

Local actors can establish a fund to provide relief to individuals with criminal justice debt that is not otherwise eligible for district attorney-initiated traffic debt relief program. In January 2020, the Town of Chapel Hill established a fund by re-allocating the money it received from "facility fees" court costs to assist low-wealth Chapel Hill residents struggling with criminal court debt.<sup>32</sup>

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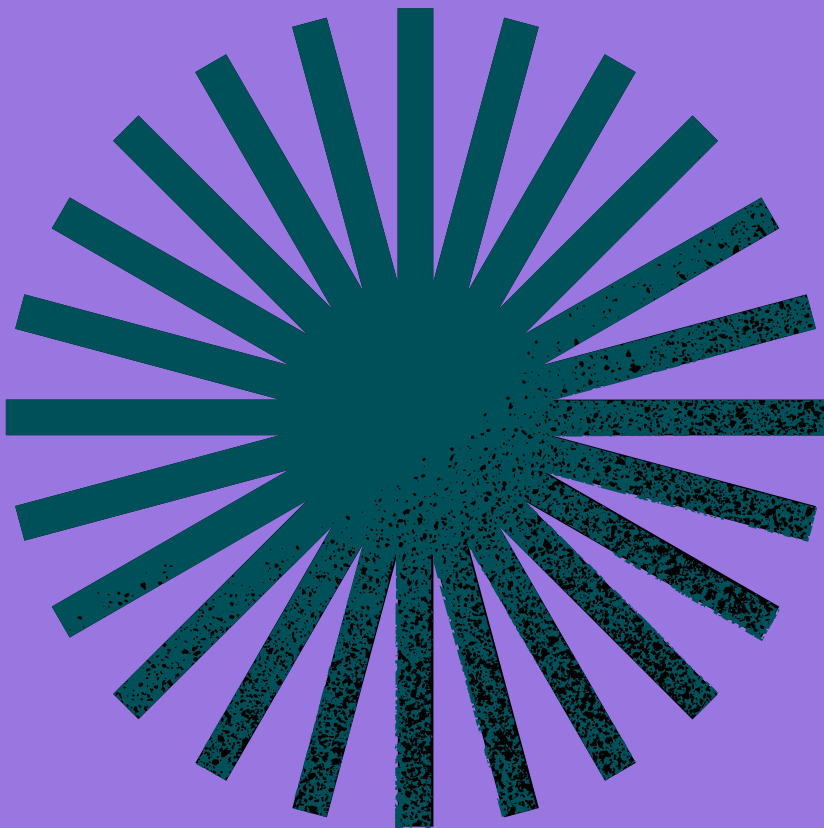
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