



## ROADBLOCK ON THE WAY TO WORK: DRIVER'S LICENSE SUSPENSION IN NEW JERSEY

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The New Jersey Institute for Social Justice, Inc., is a non-partisan urban research and advocacy organization established in 1999 by the Amy and Alan V. Lowenstein Foundation. Based in Newark, New Jersey, the Institute works at the state and local level to promote the development of economically healthy and vibrant urban communities and to challenge practices and policies that prevent urban New Jersey from achieving its full potential. The Institute, often in partnership with others, undertakes policy-related research and analysis, develops and implements model programs, and engages in advocacy, including litigation when appropriate, to further its mission.

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## EXECUTIVE SUMMARY

New Jersey's driver's license suspension system forms a significant and often overlooked barrier to economic advancement for New Jersey's businesses and residents, particularly those workers who are low-income and low-skilled. On July 1, 2001, almost 200,000 New Jersey drivers had suspended licenses, and overall in calendar year 2000 over 860,000 suspensions were imposed on the state's 5.5 million drivers. For businesses ranging from auto dealerships to the construction industry, this means that potentially qualified workers are unavailable. For workforce training, rehabilitation and other programs, the consequence is that significant efforts to link workers and job opportunities, undertaken with millions of dollars of federal and state funding, are frustrated.

The ultimate burden, of course, falls particularly heavily upon low-income and urban residents. In a recent survey of Newark workforce training programs, for example, as many as 80% of participants in some programs are unable to reach or are disqualified from job opportunities because their licenses have been suspended. Similarly, researchers in comparable areas of the country have found that urban dwellers are much more likely to have suspended licenses than suburban residents, with severe consequences for their access to employment.

Obviously, the suspension of drivers' licenses for unsafe driving is an important and valid sanction to ensure public safety. What makes the New Jersey system of particular concern, however, is that most suspensions are imposed for economic reasons and not for conduct implicating public safety. More than half of all suspensions in 2000 were imposed for failure to pay fines or fees, most notably insurance surcharges. Further, New Jersey has not followed the examples of other states, such as New York and Connecticut, by providing limited reinstatement for those needing a license to work or attend training or school. Such options are critical in a state where the suburban concentration of job growth and the limited availability of public transportation mean licenses are frequently required for employment.

In response to growing concerns about the significance of this problem, the New Jersey Institute for Social Justice has prepared the following report on license suspension as a barrier to employment for low-income New Jersey residents. Based on a review of national and local policy, state law and statistics, surveys of job training participants and discussions with advocates and other involved parties, it provides both background on the issue and identifies steps that might be taken to lift the barriers posed. These include:

- **Provide for conditional or job-related licenses.** At least half the states, including New York and Connecticut, have instituted some form of limited license for those under suspension, permitting them to drive for work, job training, or health reasons while paying off outstanding fees. License holding in New Jersey at present is an all-or-nothing situation.
- **Set up license reinstatement programs.** Reinstatement programs, through the courts and the DMV, would work with participants to set up realistic payment plans, scaled to income, for outstanding fines, insurance surcharges and other penalties owed to the state or municipalities. Driving under a regular or job-related license would be allowed during the payment period. Programs could

include a deferment option, allowing those experiencing financial hardship to defer all payments for a limited period of time, and potentially provide for community service as an alternative to payment.

- **Reform the insurance surcharge system.** Given the role surcharges play in suspensions, and the high rates of default, it is critically important to evaluate the operation of the current system, particularly the extent to which it undermines the state's workforce development objectives. At a minimum, the current statutory provision that limits payment plans to one year should be changed to allow realistic payment plans to be adopted, and the provision requiring automatic suspension for nonpayment should be removed.
- **Permit full or partial waiver of fines or surcharges as an incentive.** License suspension is used frequently as a stick; logically, license reinstatement could serve as a carrot. Fines and surcharges could be reduced or waived altogether for someone who successfully completes an accredited job training or other approved program and begins to pay down the debt.
- **Reduce discretionary suspensions.** Suspensions for certain traffic violations are not mandatory but are imposed at the discretion of the DMV. Other suspensions, such as for failure to appear in municipal court, are imposed at the discretion of the courts. Using alternatives to achieve some of the same enforcement goals could significantly reduce overall suspension rates. The efforts of some local courts to allow reinstatement upon establishment of a realistic payment plan should be refined and expanded.
- **Provide legal or lay assistance for low-income individuals facing suspension.** Although informed advocates can ensure that licenses are not unnecessarily suspended, legal assistance for those facing suspension is generally unavailable for many low-income drivers. There is immense potential for using lay advocates, particularly those assisting low-income persons gain employment.
- **Provide financial assistance through loans or other means for those needing their licenses reinstated to work.** The most significant barrier to license reinstatement is financial, as high fines and insurance surcharges must be paid even after temporary license suspensions have expired. Particularly given the substantial funding provided for employment preparation and support, use of these funds for revolving loan funds or other means to help low-income individuals is warranted. Such funding could be tied to completion of job training programs or other support activities.
- **Require better data collection.** Currently, DMV statistical data on license suspension is available only on a statewide basis, without further geographic breakdown or demographic characteristics. More detailed data collection is needed to better evaluate and develop appropriate interventions.

## INTRODUCTION

The law of unintended consequences applies with special force when people's livelihoods are at stake. Over the past twenty years, the growing reliance on driver's license suspension as a sanction has evolved into a mountain-sized barrier hindering employers looking for qualified workers, job training and other programs attempting to link people with jobs, and, most fundamentally, low-income and urban residents seeking quality employment opportunities. The issue is particularly significant for the many people identified as "at-risk" who take part in workforce development, rehabilitation, or other programs intended to enable them to work. Because their licenses have been suspended or revoked, they all too frequently find that they are disqualified from quality job opportunities.

Obviously, the suspension of drivers' licenses for unsafe driving is an important and valid sanction to promote public safety. What makes the New Jersey system of particular concern, however, is that the most prevalent reasons for suspension, and the most potent obstacles to license reinstatement, are fundamentally economic. More than half of all suspensions in 2000 were imposed for failure to pay fines or fees, most notably insurance surcharges, and recent interviews with job training program participants have found that it is almost commonplace for individuals to have outstanding charges in excess of \$5000. While some suspensions are imposed as time-limited penalties for particular kinds of offenses, the majority of individuals lose their licenses for failure to pay fines, fees, or insurance surcharges. Without the licenses, they cannot get jobs. Without the jobs, they cannot pay the sums they owe. Some drive anyway and have further suspension time and fines imposed for driving under suspension. Through this "catch-22," the suspension effectively becomes permanent.

The ramifications of New Jersey's broad use of license suspension for high priority policy initiatives are substantial. In the welfare field, it significantly frustrates attempts to provide employment for recipients of public assistance, particularly critical as New Jersey approaches the deadline in April 2002 when the first welfare recipients will be permanently barred from further public aid. Similarly, it demonstrably undermines the state policy, reflected in the State Plan and throughout its urban initiatives, to reduce barriers that limit mobility and access of city residents to jobs throughout the region. In addition, it fundamentally compromises the most promising efforts to reduce recidivism among ex-offenders and to promote rehabilitation of drug dependent residents. Finally, particularly given New Jersey's history with racial profiling, it is important to consider the likely racial disparity in license suspension, in part a possible legacy of those practices.

The purpose of this paper is to delineate the dimensions of this issue. We first provide background information on license suspension in the national policy context and then describe how it functions in New Jersey. We conclude by presenting an initial list of options for addressing license suspension as a barrier to employment.

## Background: New Jersey License Suspension in Context

The growth in use of driver's license suspension as a sanction dates roughly from the late 1980s. Shifts in national policy in two areas, drug enforcement and child support collection, brought attention to the possibility of using suspension, previously employed primarily as a public safety measure to curb reckless drivers, both as a punishment for all kinds of bad behavior and, more broadly, as a flexible enforcement mechanism. In 1989, in response to growing political pressure to "get tough on drugs," President Bush released a drug policy agenda with measures aimed specifically at casual drug users, including civil asset forfeiture, denial of federal student loans and suspension of drivers' licenses.<sup>1</sup> Congress subsequently amended the Federal Highway Apportionment Act to authorize the Secretary of Transportation to withhold a portion of federal highway funds from any state which failed to adopt a license suspension law for drug offenders.<sup>2</sup> In 1992, New Jersey became the first state to pass legislation meeting the federal statutory requirements.<sup>3</sup>

During the same period, a similar increase in federal involvement was taking place in the area of child support enforcement, following the national rise in divorce rates and out-of-wedlock births that began in the 1960s and 1970s.<sup>4</sup> In 1988, Congress passed the Family Support Act, which imposed a wide range of requirements on states for obtaining and enforcing child support agreements. Because of the potential increased burden on the state court system, the Act encouraged the use of administrative, as opposed to judicial, procedures; license suspension programs emerged as a popular state response to that encouragement.<sup>5</sup> The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 required states to have a statute suspending or restricting the drivers' licenses of delinquent child support obligors.<sup>6</sup> New Jersey passed a license suspension provision for child support enforcement in 1996.<sup>7</sup>

These two high profile uses of license suspension as a criminal and civil sanction provide two different models of how suspension might be used more generally, and both models have been adopted by states to one degree or another to supplement existing laws suspending the licenses of irresponsible drivers. The drug policy model construes a driver's license as a privilege of civil society, which an individual committing offenses against that society forfeits; the suspension is a punishment for wrongdoing, and, it is hoped, a deterrent against future wrongdoing. An alternative to incarceration, it is the

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<sup>1</sup> John Shaffer, *Just Say No . . . Driving: Rushworth v. Registrar of Motor Vehicles and the Massachusetts License Suspension Law*, 28 NEW ENG. L.REV. 1071, 1072, n.21 (1994).

<sup>2</sup> *Id.*; 23 U.S.C. § 159. The statute provides an exception for states if they provide written documentation of the governor's opposition to such legislation, plus certification that both houses of the state legislature oppose it as well.

<sup>3</sup> N.J.S.A. § 2C:35-16; For a fuller discussion of the statute, see below.

<sup>4</sup> Mark R. Fondacaro and Dennis P. Stolle, *Revoking Motor Vehicle and Professional Licenses for Purposes of Child Support Enforcement: Constitutional Challenges and Policy Implications*, 5 CORNELL J.L. & PUB. POL'Y 355, 359 (1996).

<sup>5</sup> *Id.* at 362.

<sup>6</sup> 42 U.S.C. § 666(a)(16).

<sup>7</sup> N.J.S.A. § 2A:17-56.43. For a fuller discussion of the statute, see the Appendix.

model used most frequently for juvenile license suspension. For example, in New Jersey, laws passed in the 1990s permit courts to suspend the license of juveniles for graffiti<sup>8</sup> and circulating a &quot;false public alarm.&quot;<sup>9</sup> Other states have enacted similar measures,<sup>10</sup> also using license suspension to punish truancy,<sup>11</sup> curfew violations,<sup>12</sup> teen cigarette smoking,<sup>13</sup> underage alcohol possession,<sup>14</sup> and taking a gun to school.<sup>15</sup>

The child support enforcement model uses the driver's license as leverage to obtain compliance with rules. It assumes that individuals depend enough on their licenses that they will eventually follow the rules to get their licenses back. In New Jersey, for example, drivers will have their licenses suspended for failure to pay insurance surcharges,<sup>16</sup> failure to pay parking tickets,<sup>17</sup> failure to appear in municipal court,<sup>18</sup> and failure to pay criminal fines, penalties or court-ordered restitution.<sup>19</sup> These suspensions last until compliance is reached.

License suspension functions partly as a limitation on liberty, and thus as an alternative to incarceration, but, most importantly, it also imposes a potentially significant financial burden, a way of fining someone that can be effective even if they don't or can't pay. Although discouraging work is not ostensibly the point of license suspension, the economic penalty is exacted primarily by making work difficult. According to the 1990 census, ninety percent of all workers who commute to their jobs rely on a private automobile.<sup>20</sup> The same pattern has been found in New Jersey, even in cities like Newark and Camden.<sup>21</sup> As with most economic penalties, suspension will necessarily hit hardest on the economically disadvantaged, who can least afford not to work, and who, in some cases, must work in order to comply with public assistance rules or with a condition of parole or probation. With the greatest job growth occurring outside central cities and, in many cases, outside the reach of public transportation, the penalty becomes particularly severe for inner city residents. By extension, it will hit their potential employers as well.

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<sup>8</sup> N.J.S.A. § 2A:4A-43.3.

<sup>9</sup> N.J.S.A. § 2C:33-3.1.

<sup>10</sup> See, e.g., Geoff Boucher and Bob Elston, *Task Force Launches Graffiti Crackdown*, L.A. TIMES, June 30, 1993, at B1, about a California program to punish graffiti with license suspensions.

<sup>11</sup> See, e.g., Michael J. Berens, *Uneven Use of Dropout Law Hit; Some Lose Driver's License, Some Don't*, BOARD SAYS, COLUMBUS DISPATCH, December 11, 1996, at 1A.

<sup>12</sup> See, e.g., John Flink, *Violators of Curfew Risk License*, CHICAGO TRIBUNE, June 23, 1998, at 1; Ken Williams, *Daytime Curfew Clamps Down on Rights of Parents, Students*, L.A. TIMES, November 30, 1997 at B9.

<sup>13</sup> See, e.g., Tammerlin Drummond, *Busted for Possession; Florida Tries to Snuff Out Teen Smoking by Taking Kids to Court*, TIME, December 7, 1998 at 50.

<sup>14</sup> See, e.g., Rene Sanchez, *D.C. Targets Underage Drinkers*, WASH. POST, May 5, 1993, at A1.

<sup>15</sup> See, e.g., Lee Leonard, *Teen Taking Gun to School will Lose Driver's License*, COLUMBUS DISPATCH, December 31, 1996, at 2C.

<sup>16</sup> N.J.S.A. § 17:29A-35(b)(2).

<sup>17</sup> N.J.S.A. § 39:4-139.1 et seq.

<sup>18</sup> N.J.S.A. § 2C:12-31.

<sup>19</sup> N.J.S.A. § 2C:46-2.

<sup>20</sup> Shaffer, supra note 1, at 1091.

<sup>21</sup> Laura Hulsey, Joshua Haimson et al., *First Community Study Spatial Indicators Report: Taking Advantage of Local Job Opportunities*, Mathematica Policy Research, Inc., February 18, 2000, at 10.



No national data exists on the impact of license suspension statutes generally, but the concern that these measures particularly burden low-income inner city residents, constructing a barrier to employment, has been voiced and documented throughout the country. A recent study of the impact of driver's license suspension policies on Milwaukee County teenagers found that teens in the City of Milwaukee (as opposed to the surrounding suburbs) were much more likely to have a suspended rather than valid driver's license.<sup>22</sup> Of the total of 9,046 Milwaukee County youth with suspensions, eighty-nine percent were city residents. An analysis of all males between the ages of 18 and 55, during the period of 1992 to 1996, indicated that most suspensions for the City of Milwaukee were the result of nonpayment of fines, rather than traffic violations.<sup>23</sup> Because adults with suspensions tended to continue driving, they increased the number of conditions which would have to be corrected in order to be reinstated. The study noted a serious impact on employment for low-income city residents, as the highest demand for workers lay in outlying areas underserved by public transportation.<sup>24</sup>

Similarly, a recent report by a Washington State group seeking to address transportation barriers to work for economically disadvantaged people identified license suspension, mostly stemming from nonpayment of fines, as a major obstacle to employment.<sup>25</sup> At least one county in Washington has begun a "relicensing project," a collaboration between the courts, public defenders and prosecutors creating procedures and incentives to facilitate license reinstatement.<sup>26</sup> News reports in other states have also tracked the problem.<sup>27</sup>

## **How and Why Suspensions are Imposed in New Jersey**

As explained in detail below, the picture is similar in New Jersey. While license suspension in New Jersey can be imposed for a broad array of reasons, statistics suggest that the most frequent reasons for suspension, or at least, for continued suspension, are economic and not related to dangerous driving. Although the statistics do not indicate how suspensions are divided up between urban and suburban areas, or by other characteristics, such as income and race, anecdotal evidence from job training programs suggest that suspension among low-income inner city program participants is widespread, and that fines and surcharges are the largest obstacle to reinstatement.

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<sup>22</sup> John Pawasarat, *Removing Transportation Barriers to Employment: The Impact of Driver's License Suspension Policies on Milwaukee County Teens*, Employment and Training Institute, University of Wisconsin-Milwaukee, February 2000 at 2.

<sup>23</sup> John Pawasarat and Frank Stetzer, *Removing Transportation Barriers to Employment: Assessing Driver's License and Vehicle Ownership Patterns of Low-Income Populations*, Employment and Training Institute, University of Wisconsin-Milwaukee, July 1998 at 2.

<sup>24</sup> *Id.* at 4.

<sup>25</sup> Office of Port JOBS, *Working Wheels: A Guide to Overcoming Transportation Barriers to Work*.

<sup>26</sup> Telephone interview with Lisa Daugaard, Staff Attorney, Seattle/King County Defender Association, August 22<sup>nd</sup>, 2001.

<sup>27</sup> See, e.g., Michael J. Berens, *Enforcement of Dropout Law Spotty; Columbus Students Hit Hardest By License Suspensions*, COLUMBUS DISPATCH, November 17, 1996, at 1B; Beth Regan, *Law Requiring License Loss Taken to Court*, BOSTON GLOBE, March 27, 1991, at 79.

## A. Legal Framework

Under New Jersey law, licenses may be suspended either administratively, by the Division of Motor Vehicles (DMV), or judicially. Some of the statutes providing for license suspension are mandatory, but others grant discretion to the DMV Director or to the courts. This distinction is important to note, as it effects the options for effecting change. A complete description of the legal framework under which suspensions are imposed can be found in the attached Appendix; below is a summary.

- **Driving-Related Suspensions:** The DMV or the courts may suspend or revoke the license of anyone who violates any motor vehicle or traffic regulation. Licenses will be suspended for accumulation of 12 or more points. The duration will vary depending on the number of points and the amount of time in which they were accumulated. The DMV may suspend the licenses of “habitual offenders,” for up to three years. Licenses will be suspended upon a conviction for driving under the influence.
- **Failure to Pay Parking Violations:** A driver’s license may be suspended by the municipal court or the DMV under the Parking Offenses Adjudication Act for failure to pay any parking fine or failure to appear at a related hearing. Licenses may also be suspended upon a finding of guilty of a parking offense.
- **Failure to Pay Insurance Surcharges:** Surcharges are levied by the DMV on drivers who have accumulated 6 or more points in the preceding three-year period, at the rate of \$100 for 6 points and \$25 for each additional point, assessed annually for 3 years. Charges are also assessed for DUI (starting at \$1000), and for driving under a suspended license or failing to maintain liability insurance (\$250). Licenses will be suspended by the DMV for failure to pay. No opportunity for a hearing is permitted under the statute.
- **Failure to Appear in Municipal Court:** Licenses may be suspended by a municipal court if a defendant fails to appear at a scheduled court date, or fails to pay fines or comply with any other imposed penalty.
- **Criminal and Juvenile Justice Code Sanctions:** Every person convicted of a controlled substance-related crime forfeits their right to operate a motor vehicle for six months to two years under the Comprehensive Drug Reform Act. Crimes involving motor vehicles can also lead to license suspension, as can defaults in payment of any court-ordered penalty. Juveniles can also be suspended for graffiti, and will be suspended for initiating or circulating a “false public alarm.”

- **Failure to Pay Child Support:** A court can suspend or revoke a driver's license for failure to pay child support, as a last resort, but twelve-month payment plans must be made available if the suspension will cause significant hardship to the parent, other dependents or employees.
- **Driving Under Suspension:** Operating a vehicle while under suspension is cause for extending the suspension.

Thus, although extensive statutory provisions exist to rein in irresponsible drivers, the law also makes frequent use of suspension as method to punish or to enforce compliance. The amount of discretion varies: for general traffic violations, parking fines, failure to appear, and failure to pay child support, the DMV and the courts have some discretion, but for points, drug convictions, and failure to pay surcharges, suspension is almost entirely mandatory. In practice, the municipal court may have more, or less, discretion than the statutes and regulations describe. On a case by case basis, anecdotal evidence obtained from those with suspended licenses and from conversations with municipal court judges suggests that judges have been willing to reduce or eliminate certain fines or lift suspensions upon some showing of good faith, or participation in a training or rehabilitation program. However, evidence from these sources also suggests that judges in some cases have less discretion, because of outside pressure for strict enforcement and the ready availability of suspension to achieve that enforcement.

#### B. How the Law is Applied

Data showing the application of New Jersey law indicates how significant the use of suspension as an economic sanction may be. According to the DMV's Statistical Activity Report for Suspensions for the year 2000,<sup>28</sup> the largest number of suspensions were imposed for failure to pay insurance surcharges: there were 220,427 such suspensions, out of a total of 867,065. By comparison, only 13,909 suspensions were imposed for excessive points, and 24,497 were imposed for driving under the influence of alcohol or drugs. High rates of default on insurance surcharges have been common since they were first imposed, according to news reports, and appear to be snowballing.<sup>29</sup> Figures obtained from the Department of Treasury show the average default rate for the past five years to be about 50%; in the year 2000, for example, \$132,967,606 in surcharges were issued, but only \$68,431,261, or 51%, were paid.<sup>30</sup> Since 1983 when the

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<sup>28</sup> The report lists the total number of suspensions imposed for 2000. It includes multiple suspensions on the same license, so while the total number of suspensions was, for example, 867,065, the total number of drivers with suspended licenses is less, as described below. There are approximately 5.5 million licensed drivers.

<sup>29</sup> In 1990, drivers had paid only \$102.4 million out of \$184 million in surcharges owed, representing a payment rate of 56 percent, the worst since the program had begun. Jeffrey Page, *Driving is Lousy But Credit is Good*, THE BERGEN RECORD, September 9, 1992 at A03.

<sup>30</sup> In 1995, a spokesman for the DMV stated that 62,000 "hard-core scofflaws" owed the state \$525 million in unpaid surcharges, averaging around \$3000 per person. Jeffrey Page, *A Plan to Extend DMV Surcharge Payments*, THE BERGEN RECORD, April 18, 1995 at A03. Previously, in 1994, the same paper had reported that 58,000 drivers owed \$218 million. Kelly Richmond, *DMV to Seize \$218M Owed in Surcharges: Deadbeats Facing Crackdown*, THE BERGEN RECORD, July 8, 1994 at A01.

surcharge laws were enacted, approximately \$900 million remains outstanding of the \$2.6 billion in surcharges billed. The \$900 million is owed by 365,000 licensed drivers with open surcharges. The average amount owed is \$2465, plus costs and interest.<sup>31</sup> Clearly, paying the surcharges can present significant difficulties for New Jersey drivers particularly those who are low-income.

The next highest number of suspensions, aside from those on out-of-state drivers for failure to appear, were imposed under the Parking Offense Adjudication Act: there were 137,695 suspensions imposed for failure to pay parking tickets or failure to appear for a hearing on a parking offense. As noted above, suspensions for failure to pay parking tickets are discretionary on the part of the courts and the DMV. Other substantial suspension categories include:

- 58,040 licenses suspended for failure to comply with a court-ordered installment payment plan;
- 43,386 licenses suspended for driving with a suspended or revoked license;
- 32,104 licenses suspended for failure to pay child support;
- 24,018 licenses suspended by the DMV because insurance was cancelled;
- 17,543 licenses suspended under the Comprehensive Drug Reform Act;
- 12,953 suspensions ordered by courts for failure to appear;
- 11,800 licenses suspended on a summons for lack of liability insurance.

Court-ordered installment plans include any fines or penalties assessed by the municipal and superior courts, including parking and traffic tickets but also all other assessed fines, such as the Drug Enforcement and Demand Reduction (DEDR) penalties imposed on any person convicted of controlled substance-related offense.

It is important to clarify that the number of suspensions does not equal the number of suspended drivers: one driver may have multiple suspensions in the same year, either simultaneously, overlapping or at different points throughout the year. While DMV data do not track this phenomenon, a “snapshot” of licensed drivers on July 1, 2001 showed that 3.5%, 196,338 out of 5,596,059, were suspended on that day.<sup>32</sup>

Thus, the suspension statistics suggest a similar story to that being told in other states like Wisconsin and Washington. The largest number of suspensions are not being imposed for dangerous driving, but for financial failures, and a substantial number of people may be permanently barred from driving legally for economic reasons. Given the importance of driving in New Jersey, it seems unlikely that these failure rates reflect

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<sup>31</sup> When surcharges are not paid, they are sent to the superior court for a judgment, at which point 20% is added for costs, and simple interest is assessed at an average rate of about 5%. The figure of \$2465 was derived by dividing the amount currently uncollected, \$900 million, by the number of drivers with open surcharges, 365,000. Because this includes all open surcharges, including some which aren't delinquent, the average sum owed for those who are delinquent is probably higher. The exact figure is not available.

<sup>32</sup> Memorandum from Dana Sullivan, PIO, Motor Vehicle Services, September 11, 2001. Other data which would help clarify these statistics, such as the average length of a suspension, or the distribution of suspensions by county or municipality, are not available.

exclusively a problem of will rather than ability. Certainly, suspension may successfully force those who can pay to do so. Those with continuing suspensions are likely to be those who are least able to pay, and thus those who may be most hurt by the kind of employment barrier that suspension imposes.

Anecdotal evidence from several Newark programs supports the conclusion that suspension occurs or continues most frequently for economic reasons. According to a recent in-house survey at the residential program at Integrity House's drug rehabilitation facility, of forty residents with suspended license only three lost driving privileges for driving under the influence and twelve for drug convictions. The majority, the remaining twenty-five, were suspended for economic or the associated administrative reasons, including failure to pay parking fines and surcharges, driving on a suspended license, without a license, or without insurance. At a meeting at the Youth Automotive Training Center (YATC), a New Community workforce development program, approximately twenty out of twenty-four participants present on that day indicated that their licenses were currently under suspension. Two reported that they had fines and surcharges totaling as much as \$15,000, stemming originally from unpaid parking tickets, exacerbated by subsequent tickets for driving on a suspended license. When sixty-five participants of other New Communities job training programs were surveyed, more than one third reported that their licenses were suspended or had been suspended for a period in the past. Almost all of the suspensions were due to unpaid tickets, fines or surcharges, in addition to driving with a suspended license or with no license.

## **The Impact of License Suspension**

While information on the impact of suspension across New Jersey generally is not readily available, evidence from our interviews with workforce development program participants indicates how all suspensions, particularly those for failure to pay, will impact low-income New Jersey residents. Students in these programs are low-income residents of Newark and a few of the surrounding towns, seeking training to reach better paying jobs. They include public assistance recipients targeted by welfare-to-work initiatives. Others have either juvenile or adult criminal convictions and would be considered at risk for recidivism. Their participation in these programs represents an alternative, a way of entering the legitimate workforce via a stable job.

For the students at YATC, a one-year training program in automotive repair, the lack of an automobile license represented almost an absolute bar to getting a job in the field for which they had trained.<sup>33</sup> To cite one example, one student, now 31, reported that his license had been suspended for nine years, initially because of a failure to pay parking tickets. Subsequent tickets for driving under suspension and without registration and insurance led to fines and surcharges which he had no way of paying. He stated that he did not see any way of getting the money without a job. Others interviewed showed printouts from the DMV with up to ten different kinds of offenses governing the

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<sup>33</sup> Program graduates are promised a salary of \$50,000 in five years, working for Ford and other dealerships, if they finish the program and stay employed.

continuation of the suspension, such that they could not identify exactly what they needed to do to get their licenses back.

Other examples are instructive. Two students estimated their insurance surcharge and fine amount to be about \$15,000, despite efforts to pay the amount down. One of these students, who is 25 years old, said he had been offered a payment plan by the DMV, under which he would pay \$850 up front, and \$500 per month until the debt was paid down.<sup>34</sup> With only part-time informal work, paying this much was impossible. He reported that he had put in numerous applications for automotive jobs but was turned down specifically because he lacked a license. While other students did not have the same amount of fees, and a number also had prior convictions which further hampered their search for jobs, all reported that the lack of license would make it next to impossible to reach the opportunities the course was designed to provide.

Similar stories are told by job training students in other types of programs. Apprenticeships in the building and construction trade unions require that participants have a valid driver's license, in order to be able to reach job sites. Five out of six participants interviewed in the building and construction trades program at New Communities had suspended licenses for fines, surcharges and drug-related convictions. Among those in the training program for medical assistants, mostly women, seven out of eighteen had suspensions. The main difficulty they reported, in addition to finding jobs that didn't require a license, was getting to jobs. In addition, students with children described difficulties managing to get children to school and daycare and getting to work without a car. Staff also noted that the lack of a license itself serves as a negative signal to employers: a suspended license is, in their minds, another strike against a job seeker with little work history and low skills.

For ex-offenders and those in rehabilitation programs like Integrity House, additional financial burdens impact those who are trying to turn their lives around and obtain stable employment. Those with drug charges will have time-limited suspensions imposed but may face continuing suspensions because of DEDR and other court-imposed penalties which they are unable to pay until they can get to work.

While this surveying is not scientific, the consensus among participants and staff in these programs that suspensions are a systematic, major barrier to employment was overwhelming. Constraints and opportunities in New Jersey's labor market affecting low-income workers render this barrier significant. In order to be able to access areas of greatest job growth, inner city residents need to be able to reach the suburban ring. At the same time, the passage of the Educational Facilities Construction and Financing Act in 2000, promising the expenditure of \$12 billion in school construction and renovation, is expected to create 10,000 to 12,000 full-time or full-time equivalent jobs in the construction trades, mostly in the urban centers which constitute the "Abbott Districts."<sup>35</sup> As noted above, however, the building trades unions require a driver's

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<sup>34</sup> This information is as reported by the interviewee. We were unable to check the reports of every person to whom we spoke. This report, however, was far from atypical.

<sup>35</sup> Alan Mallach, *State Policy Initiatives and New Jersey's Urban Centers*, working paper prepared for the New Jersey Institute for Social Justice, May, 2000, at 30.

license for admission into their apprenticeship programs. While the large demand for workers generated by school construction presents an opportunity for New Jersey's unemployed and underemployed to secure relatively high paying jobs with benefits, those who need them the most may be effectively shut out.

## **Moving Forward: Issues and Options**

What can be done? At the outset, it is worth examining the value of license suspension as a penalty for matters unrelated to public safety. The purpose of requiring automobile drivers to have licenses is to ensure that a potentially lethal activity is done safely. As reflected above, the state effort to use driver's license suspension for unrelated purposes undermines other significant policy objectives, such as promoting employment among urban youth and further linkage between city residents and suburban job opportunities. Assuming that license suspension of this kind remains a tool, however, the following section presents a range of possible approaches to eliminating the barrier to employment that has been created.

- **Provide for conditional or "job related" licenses:** As noted earlier, the majority of states provide for some kind of restricted license available for those under suspension (although not always all of them).<sup>36</sup> For example, in New York, restricted licenses are available, at the discretion of the commissioner of motor vehicles, upon proof that

a driving license or privilege is a necessary incident to the applicant's employment, business, trade, occupation or profession, or to his travel to and from a class or course at an accredited school, college or university or at a state approved institution of vocational or technical training or enroute to and from a medical examination or treatment as part of a necessary medical treatment for such participant or member of his household . . . and that a denial of such license or privilege would deprive the person of his usual means of livelihood and thereby constitute an unwarranted and substantial financial hardship on the applicant and his immediate family or would seriously impair such person's ability to meet the requirements of his education.<sup>37</sup>

Connecticut's statute, much more succinct, provides for a "special permit" which allows for travel to and from a person's place of

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<sup>36</sup> See, e.g., NY CLS Veh & Tr § 530; Conn. Gen. Stat. § 14-37a; Cal Veh Code § 13352.5; Rev. Code Wash. § 46.20.391; A.R.S. §28-3320 (Arizona); Fla. Stat. § 322.271; Burns Ind. Code Ann. § 9-24-15-2 (and §9-24-15-6.7); Iowa Code § 321J.4; 29-A M.R.S. § 1602 (and § 2503, Maine); Md. Trans. Code Ann. § 16-405 (and § 203); Minn. Stat. § 171.30; Mo. Rev. Stat. § 302.309; Nev. Rev. Stat. Ann. § 483.490; Tex. Transp. Code § 521.242; S.C. Code Ann. § 56-1-745; Ohio Rev. Code Ann. § 4507.169; Va. Code Ann § 46.2-391.

<sup>37</sup> NY CLS Veh & Tr § 530(1).

employment, or as necessary to perform his or her business or profession.<sup>38</sup> Washington's occupational driver's license statute contains provisions particularly geared towards low-income workers and welfare recipients. In addition to providing occupational licenses to those needing to get to work, the statute authorizes licenses for those with administrative suspensions for failure to appear, pay a traffic ticket or other financial failures, if they are in an apprenticeship or on-the-job training program, or applying for one, for which a license is required; if they are enrolled in a "Work First" program to become employed which requires a license; or if they are in treatment for substance abuse or attending twelve-step group meetings.<sup>39</sup> The license is not available if transit services are provided by the program in question.

Some of the statutes limit conditional licenses to specific kinds of suspensions, and require some proof of financial responsibility. Any one of these types of formulations could provide relief for New Jersey drivers, permitting them to work, attend training programs, or access treatment by car as necessary. Conditional licenses could be time limited and subject to renewal upon proof that the license was still needed for work or training. Proper use would be monitored the same way that proper use is monitored for all licenses.

- **Fine Payment Plans, Waivers or Deferment:** Providing a legal way for those who need it to be able to drive addresses part of the problem, but paying the amounts owed from tickets and fines, even with greater access to employment, will remain a significant obstacle to permanent reinstatement. Payment plans for unpaid tickets and fines are currently available on an ad hoc basis through each municipal court jurisdiction. At present, each jurisdiction must be addressed separately, meaning that one person with tickets in several different municipalities will have to go to each to negotiate a plan and then keep track of them all. This is inefficient for both the individual and the court system, and makes payment that much more difficult for those who are trying or would try if they could.

A multi-faceted reinstatement program could establish a consolidated payment plan for unpaid tickets and fines and allow for reinstatement, or use of a conditional license, during the payment period. Another option would allow fines to be waived after partial payment is made if the individual has successfully completed a training or rehabilitation program, or at least permit a deferral of payment until the program is completed and employment is obtained.<sup>40</sup> Optimally, a provision for paying other kinds of fines or penalties would supply an incentive for successful completion without ultimately penalizing those who are successful enough to get a job by making all fines come due at that point. Among the people surveyed, all expressed a willingness to pay outstanding fines,

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<sup>38</sup> Conn. Gen. Stat. § 14-37a(a).

<sup>39</sup> Rev. Code Wash. § 46.20.391(1) and (2).

<sup>40</sup> There is some New Jersey precedent for this kind of approach: collection of DEDR penalties can be suspended if a person is participating in a court-ordered drug or rehabilitation program for which he or she is paying all or some of the costs, N.J.S.A. § 2C:35-15(e), and points can be reduced via remedial driving classes. N.J.S.A. § 39:5-30.9



including suggesting wage garnishment as an option, if they could get a viable payment plan and have a license that would permit them to get to work.

- **Restructure, reduce or provide reasonable payment plans for insurance surcharges:** The surcharge provisions were initially enacted to raise money for a fund to underwrite policies for bad drivers, replacing the assigned risk pool supported by charges imposed by private insurers. Collection rates, however, remain low and the burden on drivers who can least afford to pay is disabling. A thorough evaluation of the surcharge system that would examine fundamental restructuring is clearly needed. An important option to consider to reduce the employment barrier will be removing or limiting suspension as a sanction for failure to pay surcharges. While suspension may spur those who can pay to do so, those who cannot pay will be those for whom the resulting suspension will be the most damaging. There is no evidence that those who have surcharges and can afford to pay them differ in potential dangerousness on the road from those who have the surcharges but cannot pay.

Apart from broader reforms, several modifications in the existing system are possible and should be implemented expeditiously. Even though insurance surcharges add up quickly and become unmanageable, current provisions for payment plans statutorily limit the payment period to one year for surcharges when they are imposed. Suspensions are imposed for failure to make any installment payment. Similarly, plans offered by the DMV have required large payments up front and high monthly installments, which limits their utility for low-income people. To remedy these problems, steps should be taken to (1) provide for reasonable payment plans geared to income levels, (2) allow and authorize optional garnishment, and (3) permit individuals to drive legally during the payment period.

- **Reduce discretionary suspensions:** The DMV statistics suggest that administrative and judicial discretion both play a role in increasing the number of initial suspensions, which can lead to mandatory suspensions for driving under a suspended license and failure to pay insurance surcharges. Reducing discretionary suspension, either by providing better or more options for repayment of fines or alternatives to suspension (see below) prior to suspension, should be a goal. The efforts of some local courts to allow reinstatement upon establishment of a realistic payment plan should be refined and expanded.
- **Providing alternatives to suspension:** Driver's license suspension was adopted as a civil and criminal sanction for non-driving offenses for a number of reasons. As a form of punishment, it is seen as effective because it hurts, and because it provides an alternative to incarceration that restricts liberty but is less expensive to administer and less harsh. As a tool to force compliance, suspension is valued, again, because it hurts, and can therefore serve as leverage against the recalcitrant. Moreover, it can be effectively imposed regardless of the location of the driver.  
Alternatives to suspension need to address these needs. In the punishment context, restricting driving privileges, as opposed to prohibiting driving outright,

would impose constraints while at the same time promoting positive behavior (working, responsibility for family, attending treatment, etc.) Particularly under the current workfare regime, a sanction that promotes unemployment seems counterproductive and contrary to sound policy. Restriction as opposed to suspension could also be an option for compliance-based suspensions, particularly in the case of child support enforcement. In addition, where the problem is unpaid tickets and fines, alternative forms of payment, such as community service, could be offered for those unable to pay.

Suspension for failure to appear poses particular problems. If the failure to appear is the result of lack of notice, because notice was sent to an old or improper address, or because the recipient was incarcerated, then it is likely—and anecdotal evidence from our respondents suggests this—that the only way an individual will learn of a suspension is at traffic stop, at which point mandatory additional suspension, plus fines, plus insurance surcharges, will be imposed. In the same way that suspensions may be lifted upon disposition of the case, fees and surcharges could ultimately be lifted or waived if the defendant subsequently appears, establishes lack of notice or good cause for absence. Again, if suspension is used as leverage to obtain compliance, using it as a carrot as well as a stick seems logical.

- **Legal Assistance:** While changes in the legal and policy regime are optimal, solutions aimed at facilitating reinstatement in the current system could provide some relief until such changes are made, or in addition to those changes. Anecdotal evidence from survey participants and from others, including judges, suggests that assistance from legal and/or lay advocates may help those who are trying to pay down fines or get their licenses reinstated negotiate workable agreements and stick with them.
- **Financial Assistance:** Given the prominence of the financial reasons for suspension, it is worth exploring the feasibility and utility of a revolving loan or grant fund that would provide one-time assistance to pay down fines or surcharges. Such assistance could be tied to completion of a job training program and demonstration that an available job opportunity requires a valid license.
- **Better Data Collection:** There is currently limited data available on whose licenses get suspended in New Jersey. The DMV system can provide only statewide statistics, with no further geographic breakdown and no information on the demographic characteristics (age, race, income bracket, urban/suburban, etc.) of those who get suspended. In addition, we do not know how long the average suspension lasts, and the ratio of short term to long term suspensions. All of this data would provide a much needed gloss on New Jersey's use of the sanction and on its impact. Given the amount spent by the state on workforce development and rehabilitation, it is critical to develop the mechanisms to understand whether those larger efforts are being undermined by other policies which make workforce participation and reintegration that much more difficult.

## **Appendix: New Jersey License Suspension Law**

Under New Jersey law, licenses may be suspended either administratively, by the Division of Motor Vehicles (DMV), or judicially. Some of the statutes providing for license suspension are mandatory, but others grant discretion to the DMV Director or to the courts. This distinction is important to note, as it effects the options for effecting change. What follows is a description of the general statutory framework under which suspensions are imposed.

### **Driving-Related Suspensions**

New Jersey's motor vehicle and traffic regulation title provides for discretionary suspension, revocation or prohibition or disqualification from obtaining a license by the director of the DMV for a violation of any motor vehicle or traffic regulation, after notice and an opportunity to be heard.<sup>41</sup> The director may issue an immediate preliminary suspension for any kind of driving violation that has resulted in death or serious bodily injury.<sup>42</sup>

Drivers' licenses will also be suspended for periods of between thirty to one hundred eighty days, unless good cause is shown, for the accumulation of twelve or more penalty points; the amount of time will vary depending on the number of points and the amount of time in which they were accumulated.<sup>43</sup> The amount may be reduced if the driver satisfactorily completes a DMV driver improvement course, for which the driver must pay \$100.<sup>44</sup> Drivers who violate motor vehicle laws within a year after having their licenses restored following a points-based suspension or completion of a driver improvement program, will be subject, absent good cause, to additional suspensions, from forty-five to one hundred eighty days, depending on the number of violations and the time elapsed.<sup>45</sup> In addition, the Director has the discretion to suspend for up to three years the license of a "habitual offender," defined as a person committing motor vehicle violations resulting in three suspensions within three years.<sup>46</sup> Failure to show up at a hearing on this suspension, which must be requested by the licensee, will lead to a mandatory suspension of at least three years.

As in most states, licenses may be suspended or revoked upon a conviction for driving under the influence, with increasing duration (and fines) for each additional offense: six months to a year for the first, two years for the second, and ten years for the third or subsequent violation.<sup>47</sup> Reinstatement must be applied for to the DMV and is discretionary, and usually requires participation in drug and alcohol and highway safety

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<sup>41</sup> N.J.S.A. § 39:5-30(a).

<sup>42</sup> N.J.S.A. § 39:5-30(e).

<sup>43</sup> N.J.S.A. § 39:5-30.8; N.J.A.C. § 13:19-10.2.

<sup>44</sup> N.J.S.A. § 39:5-30.9; N.J.A.C. § 13:19-10.3. Last year saw legislative attempts to make suspension permanent for the third violation. Valerie Brown, *Pending Legislation: Municipal Court Practice*, NEW JERSEY LAWYER, January 17, 2000 at 32 (on Assembly Bill A-440); Valerie Brown, *Pending Legislation: Municipal Court Practice*, NEW JERSEY LAWYER, March 13, 2000 at 36 (on Assembly Bill A-1885).

<sup>45</sup> N.J.A.C. § 13:19-10.6.

<sup>46</sup> N.J.S.A. § 39:5-30b.

<sup>47</sup> N.J.S.A. § 39:4-50.

programs (for which additional fees are charged).<sup>48</sup> Further suspension or revocation is also a penalty for driving while on an alcohol related suspension<sup>49</sup> or for failing to install or use an interlock (breathalyzer) device when required to do so.<sup>50</sup>

The statute also provides particular penalties for underage persons caught driving after consuming alcohol.<sup>51</sup> They forfeit their right to operate a vehicle or are prohibited from obtaining a license for 30 to 90 days from the date they become eligible to get a license or the date of conviction, whichever is later.

### **Failure to Pay Parking Violations**

Under the Parking Offenses Adjudication Act, a driver's license may be suspended by the municipal court or by the DMV for failure to pay a parking fine or penalty or failure to appear at parking offense-related hearing.<sup>52</sup> Suspension is discretionary. Those who are indigent or participating in a government-based income maintenance program must be permitted to pay by installment, but they can still have their licenses suspended if they fail to make an installment payment.

### **Failure to Pay Insurance Surcharges**

New Jersey has imposed "insurance surcharges" since 1983, additional charges assessed over a three-year period for drivers with excessive points on their licenses, or specifically with convictions for driving under the influence.<sup>53</sup> The monies collected initially were split between the DMV and the Joint Underwriting Association (JUA), set up to reimburse insurance companies for losses incurred by high-risk drivers and replacing the "assigned risk pool," which had previously served drivers unable to purchase insurance through the voluntary market. The JUA ran an annual deficit of about \$300 million in the 1980s, when it was replaced first by the Market Transition Facility and then, in 1992 by the Personal Automobile Insurance Plan. The surcharges collected have continued to be used to pay down the successive deficits of these and subsequent plans.

At present, surcharges will be levied against any driver who has accumulated six or more penalty points in the preceding three-year period, at the rate of \$100 for six points, and \$25 for each additional point.<sup>54</sup> This amount is assessed annually for three years. Surcharges will also be assessed for certain kinds of violations. For DUI offenses, the amount is \$1000 for each of the first two convictions, and \$1500 per year for the third

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<sup>48</sup> Id.

<sup>49</sup> N.J.S.A. § 39:4-50.4a.

<sup>50</sup> N.J.S.A. § 39:4-50.19.

<sup>51</sup> N.J.S.A. § 39:4-50.14.

<sup>52</sup> N.J.S.A. § 39:4-139.1 et seq.

<sup>53</sup> New Jersey first passed the New Jersey Insurance Reform Act in 1982. The purpose of the bill was to make insurance available for all drivers, while allowing the industry some profit as well. The surcharge system of the Merit Rating Plan established under the Act replaced surcharges that were imposed directly by private insurers at varying, and, it was held, inequitable rates. For a description of the history and need for the legislation, see State of New Jersey, Dep't of Law and Public Safety v. Bigham, 119 N.J. 646 (1990)(holding that regulations imposing surcharges on motorists with expired licenses did not exceed authority of Insurance Reform Act of 1982).

<sup>54</sup> N.J.S.A. § 17:29A-35(b)(1).

conviction occurring within a three-year period.<sup>55</sup> Convictions for driving under a suspended license and failing to maintain liability insurance on a motor vehicle each give rise to a \$250 surcharge,<sup>56</sup> as do administratively imposed suspensions for those two violations.<sup>57</sup>

If a driver fails to pay any of these surcharges after written notification is sent to the driver's last address of record, the DMV will suspend the license until the surcharge is paid; the driver has thirty days from the date of notification to pay before a suspension is imposed, except that the DMV may authorize payment over an installment period of up to twelve months.<sup>58</sup> Failure to make any installment payment results in the entire amount becoming due immediately. As additional resources to collect the debt, the DMV may utilize the provisions of the Setoff of Individual Liability program, which permits the Department of Treasury to use an individual's state tax refund or other rebates to pay down any indebtedness to a state agency.<sup>59</sup> The DMV may also issue a certificate of indebtedness, to be docketed as a judgment, with the same force and effect as a civil judgment docketed in the Superior Court and all the attendant remedies for collection.<sup>60</sup> Once the surcharges are sent to the Superior Court, costs are imposed at a rate of 20%, and simple interest, at an average rate of about 5%.

### **Failure to Appear in Municipal Court**

Drivers' licenses may be suspended, or obtaining a license prohibited, by a municipal court if a defendant charged with any offense for which a penalty may be imposed fails to appear at any scheduled court proceeding after receiving written notice.<sup>61</sup> Such suspensions will last until the matter is adjudicated or otherwise disposed of. Similarly, this section provides for the possibility of suspension for failure to pay fines or costs, make restitution, perform community service, or any other act required as penalty. After compliance with these provisions, the court must forward to the DMV a notice to restore the driving privileges.

### **Criminal Justice Code and Juvenile Justice Code Sanctions**

Under the Comprehensive Drug Reform Act, in addition to any other disposition ordered for a controlled substance-related conviction, or an adjudication of delinquency

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<sup>55</sup> N.J.S.A § 17:29A-35(b)(2).

<sup>56</sup> N.J.A.C. § 13:19-13.1.

<sup>57</sup> N.J.A.C. § 13:19-13.2. One source notes that, in addition to the surcharges themselves, a driver found driving on a license suspended for failing to pay a surcharge can be fined up to \$3000. Kenneth Vercammen, *Suspended Driver's License; What Lawyers Don't Know Can Hurt Their Clients*, NEW JERSEY LAWYER, March 24, 1997 at 10.

<sup>58</sup> N.J.S.A § 17:29A-35(b)(2); N.J.A.C. § 13:19-12.1. The Director has the discretion to restore the driving privileges of a driver based upon an agreement to pay the debt on an installment basis, or upon partial payment according to the installment plan. N.J.A.C. § 13:19-12.12. Drivers with surcharges for driving while intoxicated must be permitted to pay in twelve monthly installments, with failure to make any installment payment resulting in immediate suspension. N.J.A.C. § 13:19-12.11.

<sup>59</sup> N.J.S.A § 17:29A-35(b)(2); N.J.S.A § 54A:9-8.1.

<sup>60</sup> N.J.S.A § 17:29A-35(b)(2).

<sup>61</sup> N.J.S.A § 2C:12-31.

related to controlled substances, every person convicted or adjudicated delinquent forfeits their right to operate a motor vehicle for six months to two years, as fixed by the court.<sup>62</sup> If the defendant is under 17, the period of suspension begins on the date the suspension is imposed but continues until six months to two years past the date they can obtain a license. The suspension, revocation or postponement will run in addition to and after any existing suspension or revocation period is completed.<sup>63</sup> The license is supposed to be collected by the court, if possible, but if not, the court must send a report of the conviction to the DMV. New Jersey's drug-related penalties stem from federal law passed in 1992, which required the Secretary of Transportation to withhold a portion of federal highway funds from any state which did not adopt mandatory license suspension provisions for drug offenders.<sup>64</sup> New Jersey's Comprehensive Drug Reform Act was amended to comply with the federal law.

Other specific crimes require or permit license suspension as a penalty. Auto theft carries with it a mandatory suspension, as well as fines,<sup>65</sup> as does using a motor vehicle or boat to attempt to elude a law enforcement officer,<sup>66</sup> and using a motor vehicle to engage in or promote prostitution.<sup>67</sup> The court may also, in addition to or instead of any other disposition, postpone, suspend or revoke driving privileges for at least two years of any person convicted of a crime, disorderly persons offense, or petty disorderly persons offense if a motor vehicle was used.<sup>68</sup>

The Code of Criminal Justice further provides that any defendant who defaults in paying any court-ordered financial penalty or restitution, or any installment of such penalties, without good cause will be subject to license suspension, or will be prohibited from obtaining a license until all past due payments are made.<sup>69</sup> This would include mandatory drug enforcement and demand reduction (DEDR) penalties, which are assessed per offense at rates set by the degree of the crime.<sup>70</sup> Thus, a person convicted of a drug-related offense would incur time limited suspensions but also, potentially, continued suspension until the DEDR penalties are paid off.

The Code of Juvenile Justice provides for suspension, or prospective suspension, as a disposition option in delinquency adjudications where a motor vehicle was used in the commission of a crime. In addition, a juvenile's license can be suspended for an act of graffiti.<sup>71</sup> The criminal code also requires mandatory license suspension for juveniles, though not for adults, for initiating or circulating a "false public alarm" about a fire, explosion or other catastrophe.<sup>72</sup>

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<sup>62</sup> N.J.S.A § 35-16.

<sup>63</sup> Id.

<sup>64</sup> 23 U.S.C. § 159. See the discussion, above, for more on the context for this statute.

<sup>65</sup> N.J.S.A § 2C:20-2.1.

<sup>66</sup> N.J.S.A § 2C:29-2.

<sup>67</sup> N.J.S.A § 2C:34-1.

<sup>68</sup> N.J.S.A § 2C: 43-2.

<sup>69</sup> N.J.S.A § 2C:46-2.

<sup>70</sup> N.J.S.A § 2C:35-15.

<sup>71</sup> N.J.S.A § 2A:4A-43.3.

<sup>72</sup> N.J.S.A § 2C:33-3; N.J.S.A § 2C:33-3.1.

## **Failure to Pay Child Support**

A court can suspend or revoke the driver's license of a parent for failure to pay child support, but the sanction is described basically as a last resort, after all other enforcement methods have been exhausted and only if no equitable reason, such as involuntary unemployment or disability, for non-compliance exists.<sup>73</sup> If, however, the suspension or revocation will result in a significant hardship to the individual, to legal dependents under 18 living in his household, employees, or persons, businesses or entities to whom he provides goods or services, the court can set up a twelve-month payment arrangement which will allow the parent to avoid suspension or revocation, after the parent has paid twenty-five percent of the amount owed up front.<sup>74</sup> Failure to comply with a court-ordered payment plan results in immediate suspension, unless the parent has filed a motion with the court requesting an extension.

## **Driving Under Suspension**

A person found operating a motor vehicle while under suspension is cause for extending the suspension for an additional six months or some other period determined by the director of the DMV.<sup>75</sup> In addition, the driver may also lose vehicle registration privileges for the same period.

## **Restoration of a Driver's License After Suspension**

In addition to paying any fines, penalties or surcharges, the DMV charges a \$50 fee for restoration of a suspended or revoked license.<sup>76</sup> Drivers convicted of driving while intoxicated must also pay a \$100 fee to the Alcohol Education, Rehabilitation and Enforcement Fund.<sup>77</sup>

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<sup>73</sup> N.J.S.A § 2A:17-56.43.

<sup>74</sup> Id.

<sup>75</sup> N.J.A.C. § 13:19-10.8. One attorney practicing in the municipal courts estimated that "the absolute minimum costs on a first-offender conviction would be \$1281 in fines, surcharges, and costs, plus possibly an additional \$1000 in car insurance premiums. Kenneth Vercammen, *Suspended Driver's License; What Lawyers Don't Know Can Hurt Their Clients*, NEW JERSEY LAWYER, March 24, 1997 at 10.

<sup>76</sup> N.J.S.A § 39:3-10a.

<sup>77</sup> N.J.S.A § 39:4-50.