

# Debt, Race, and Physical Mobility

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*Residents in every state in the United States can lose their driver's license or car registration because they owe debt to the state. At least eleven million people across the United States suffer these debt-based driving restrictions at any given time. Because Americans overwhelmingly rely on personal automobiles for transportation, states, by controlling access to driver's licenses and vehicle registrations, use debt policy to control where and how people travel. And because these laws disproportionately affect people of color, primarily Black people, this kind of regulation props up racial segregation in both location and opportunity. This Article's first contribution is empirical, descriptive, and prescriptive: it catalogs debt-based driving restrictions across multiple categories for all fifty states and the District of Columbia, provides a long overdue analysis of their harms, and proposes corrective legislative action.*

*The driving suspension laws that animate this project are not the first instance where the government has turned to debt policy as a mechanism of racial control. These laws are not an aberration, but rather the latest iteration of a long tradition of government actors using debt policy to expand physical mobility for White people and simultaneously constrict physical mobility for Black people. Tracing this thread across American history provides the basis for this Article's second contribution—a theoretical one—that expands the traditional view of credit and debt as a mechanism of social and financial mobility to include an analysis of credit and debt as a force*

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*that acts on physical mobility. When we expand the lens to include debt policy's effects on physical mobility, we also see debt policy's differential effects on White and Black people in the United States. Thus, this Article begins a new conversation about debt and debt policy, one that interrogates debt policy's racialized effects on physical mobility, freedom, and personhood.*

|                                                                                     |     |
|-------------------------------------------------------------------------------------|-----|
| Introduction .....                                                                  | 835 |
| I. Credit and Debt are Instruments of (Unequal) Social and Financial Mobility ..... | 841 |
| A. Credit and Debt as Engines of Financial and Social Mobility and Immobility.....  | 842 |
| B. Race is a Factor in Good Debt and Bad Debt .....                                 | 845 |
| C. Physical Mobility is Connected to Freedom and Personhood .....                   | 848 |
| II. Debt Policy is Tied to Physical Mobility .....                                  | 849 |
| A. Black Codes and Convict Leasing .....                                            | 850 |
| B. The New Deal .....                                                               | 853 |
| C. Property Liens.....                                                              | 856 |
| D. State-Backed Private Debt .....                                                  | 858 |
| 1. Slavery .....                                                                    | 859 |
| 2. Sharecropping.....                                                               | 860 |
| 3. Eviction.....                                                                    | 861 |
| III. Physical Mobility and the Automobile .....                                     | 863 |
| A. The Automobile .....                                                             | 864 |
| B. Those With Cars and Those Without.....                                           | 866 |
| C. The State's Role in Automobile Supremacy.....                                    | 869 |
| IV. Debt-Based Driving Restrictions .....                                           | 870 |
| A. Types and Statistics .....                                                       | 873 |
| 1. Fines and Fees.....                                                              | 873 |
| 2. Child Support.....                                                               | 876 |
| 3. Taxes.....                                                                       | 879 |
| 4. Miscellaneous .....                                                              | 882 |
| 5. Perceived Efficacy of Debt-Based Driving Restrictions.....                       | 884 |
| 6. (Racialized) Effects of Debt-Based Driving Restrictions .....                    | 886 |
| V. A Direction for Change.....                                                      | 892 |
| Conclusion .....                                                                    | 897 |
| Appendix A - State Debt-Based Driver's License Suspension Laws .....                | i   |
| Appendix B - State Debt-Based Vehicle Registration Suspension Laws .....            | xiv |

## INTRODUCTION

Today, every state and the District of Columbia punish people for debt owed to the state or pursuant to a state-controlled system with loss of driving privileges. Because Americans overwhelmingly rely on personal automobiles for transportation, states, by controlling access to driver's licenses and vehicle registrations, use debt policy to control where and how people travel. In our car-centric country, losing a driver's license or vehicle registration severely limits where and when someone can travel, infringing on their opportunities for employment, education, socialization, and community.<sup>1</sup> The "automobile supremacy"<sup>2</sup> rooted in our spaces, laws, and consciousness puts driving at the core of physical movement and autonomy. Therefore, any regulation that inhibits automobility—travel by vehicle—also inhibits personal autonomy and freedom of movement. This is particularly true for people of color, who have historically faced and continue to face racism in public spaces<sup>3</sup> and have faced disproportionately negative effects of debt-based driving restrictions.<sup>4</sup> Because debt-based driving restrictions are part of a long history of using debt policy to expand physical mobility for White people and constrict physical mobility for Black people, a searching analysis of their harms and corrective legislative action is long overdue.

Thirty-seven states currently have "failure-to-pay" laws that permit or mandate the state to suspend or revoke a driver's license for unpaid civil or criminal fines and fees.<sup>5</sup> For example, when someone violates a state or municipal code that comes with a fine or engages with the court in a manner that generates a fee and cannot pay, the offender becomes indebted to the state. If the

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1. See *infra* Section III.A.

2. Gregory H. Shill, *Should Law Subsidize Driving?*, 95 N.Y.U. L. REV. 498, 502 (2020) (defining "automobile supremacy" as a structure that is "constructed by diverse bodies of law including traffic regulation, land use law, criminal law, torts, insurance law, environmental law, vehicle safety rules, and even tax law, all of which provide incentives to cooperate with the dominant transport mode and punishment for those who defect").

3. SARAH A. SEO, *POLICING THE OPEN ROAD: HOW CARS TRANSFORMED AMERICAN FREEDOM* 36 (2019) ("[O]pportunity to travel 'incognito' in a covered car without constantly confronting the significance of their skin color gave southern blacks a taste of the mobility, freedom, and equality that otherwise had not materialized after Reconstruction"). See generally Taja-Nia Y. Henderson & Jamila Jefferson-Jones, *#livingwhileblack: Blackness as Nuisance*, 69 AM. U. L. REV. 863, 872–97 (2020) (looking at how Black people are treated in public and private spaces, both in contemporary and historical times, through the lens of "Blackness as nuisance" and the intersection of criminal and property law).

4. See *infra* Subsection IV.B.2.

5. See Appendix A, Michael Leyendecker & Kate Sablosky Elengold, *State Debt-Based Driver's License Suspension Laws*; Appendix B, Michael Leyendecker & Kate Sablosky Elengold, *State Debt-Based Vehicle Registration Suspension Laws*. Failure-to-pay statutes, or FTP statutes, are laws that attach certain sanctions, like driving restrictions, when someone convicted of a crime or otherwise facing a citation fails to pay the fine associated with the infraction. FTP statutes also apply the sanctions when a person fails to pay a fee associated with their involvement with the justice system. For an explanation of the differences between fines and fees, see Lisa Foster, *The Price of Justice: Fines, Fees and the Criminalization of Poverty in the United States*, 11 U. MIAMI RACE & SOC. JUST. L. REV. 1, 5–8 (2020).

debtor does not pay, the state can then punish the debtor—not because of the underlying offense but because of the debt—with the loss of driving privileges.

Consider Kenneth Seay. In 2015, Seay owed more than \$4,500 in fines and fees to the State of Tennessee.<sup>6</sup> When Seay did not pay, those fines and fees became debt, and the state took a step that had a major effect on his life: suspending his driver’s license.<sup>7</sup> Living in a town with limited public transportation, Seay did what the majority of those with suspended licenses do—he continued to drive, which opened him up to additional fines and fees, along with jail time, for driving on a suspended license.<sup>8</sup>

Twenty states currently have failure-to-pay laws that result in restricting vehicle registrations.<sup>9</sup> Like driver’s license restrictions, vehicle registration holds can be permissive or mandatory. In Arizona, for example, the state will not renew a vehicle registration if the registered owner has unpaid fines for a civil or criminal traffic violation.<sup>10</sup> In California, vehicle registration restrictions are mandatory for those who fail to pay a parking violation penalty.<sup>11</sup> And Hawaii does not process vehicle registration requests where there are unpaid parking tickets.<sup>12</sup> Restrictions that focus on the vehicle, as compared to an individual driver, have additional ripple effects for families and communities, disproportionately affecting families of color who are more likely to share cars.<sup>13</sup>

Failure-to-pay laws that exist in the civil and criminal justice system are not the only laws that restrict driving privileges for debtors. Every state and the District of Columbia has a process by which the state can or must revoke driving privileges for parents behind on child support.<sup>14</sup> Let us return to Kenneth Seay.

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6. Shaila Dewan, *Driver’s License Suspensions Create Cycle of Debt*, N.Y. TIMES (Apr. 14, 2015), <https://www.nytimes.com/2015/04/15/us/with-drivers-license-suspensions-a-cycle-of-debt.html> [<https://perma.cc/7XUM-XTNU>]. Seay’s debt originated with fines and fees related to an underlying drug dealing offense. *Id.*

7. *Id.* Tennessee had the authority to take this step because of its failure-to-pay law. TENN. CODE ANN. § 40-24-105(b)(3)(C) (1972).

8. Dewan, *supra* note 6. See also William E. Crozier & Brandon L. Garrett, *Driven to Failure: An Empirical Analysis of Driver’s License Suspension in North Carolina*, 69 DUKE L. J. 1585, 1600 (2020) (“[Seventy-five] percent of those who have licenses suspended continue to drive.”).

9. See Leyendecker & Elengold, *State Debt-Based Vehicle Registration Suspension*, *supra* note 5.

10. ARIZ. REV. STAT. ANN. § 28-1632(A) (2006).

11. CAL. VEH. CODE § 9800(a) (West 1982).

12. HAW. REV. STAT. ANN. § 286-51(a)(1) (1929).

13. See Nicholas J. Klein & Michael J. Smart, *Car Today, Gone Tomorrow: The Ephemeral Car in Low-Income, Immigrant and Minority Families*, 44 TRANSPORTATION 495, 501–02 (2017) (finding that 30% of Hispanics, 18% of non-Hispanic Blacks, and 26% of Non-Hispanic Asians who own cars reported less than one car per adult in the household, compared to 12% of non-Hispanic Whites.).

14. State laws and processes vary. See Leyendecker & Elengold, *State Debt-Based Driver’s License Suspension Laws*, *supra* note 5; Leyendecker & Elengold, *State Debt-Based Car Registration Suspension Laws*, *supra* note 5.

While Seay was incarcerated, he fell behind on his child support payments.<sup>15</sup> Because Tennessee punishes those behind on child support by suspending or revoking their driver's licenses,<sup>16</sup> Seay owed even more money to get his license reinstated. Without driving privileges, Seay struggled to find and maintain steady employment. Seay reported that recovering his driver's license would be "the most wonderful thing that happened" to him in his life.<sup>17</sup>

States also restrict driving privileges for other state-owned debt. Thirty-four states restrict driving privileges for individuals with unpaid state taxes.<sup>18</sup> Five states take away driver's licenses for failure to pay a toll;<sup>19</sup> twenty-seven states limit vehicle registrations for the same.<sup>20</sup> All but three states tie unpaid judgments to loss of driving privileges.<sup>21</sup> Some states have passed additional unique laws that punish debtors with loss of driving privileges, including, for example, for unpaid student debt<sup>22</sup> and failure to pay a fine to the Alcoholic Beverage Laws Enforcement Commission.<sup>23</sup>

Researchers estimate that at least eleven million people are currently under a license suspension because of debt.<sup>24</sup> A Miami-Dade task force found that

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15. Dewan, *supra* note 6; see also Tonya L. Brito, *The Child Support Debt Bubble*, 9 U.C. IRVINE L. REV. 953, 970–73 (2019) (detailing a hearing where the judge denied a child support modification for an incarcerated noncustodial father and recognizing that states differ on whether incarceration is sufficient for a child support modification). *But see* 45 C.F.R. 302.56(c)(3) (2016) (providing that state guidelines may not categorically treat incarceration as "voluntary unemployment" in establishing or modifying child support orders).

16. See TENN. CODE ANN. § 36-5-702(b)(6) (1996).

17. Dewan, *supra* note 6.

18. See Leyendecker & Elengold, *State Debt-Based Driver's License Suspension Laws*, *supra* note 5 (seven states restrict driver's licenses); Leyendecker & Elengold, *State Debt-Based Vehicle Registration Suspension Laws*, *supra* note 5 (thirty-three states restrict vehicle registrations).

19. Appendix A. See Leyendecker & Elengold, *State Debt-Based Driver's License Suspension Laws*, *supra* note 5.

20. See Leyendecker & Elengold, *State Debt-Based Vehicle Registration Suspension Laws*, *supra* note 5.

21. See Leyendecker & Elengold, *State Debt-Based Driver's License Suspension Laws*, *supra* note 5; Leyendecker & Elengold, *State Debt-Based Vehicle Registration Suspension Laws*, *supra* note 5.

22. See S.D. CODIFIED LAWS § 1-55-11 (2015) (for nonpayment of state loan debt to a public institution); S.D. CODIFIED LAWS § 1-55-1 (2015) (including any debt due to a technical college).

23. See OKLA. STAT. ANN. tit. 63, § 1-229.13(F)(1) (1994) (for failure to pay fine resulting from selling tobacco products to underage persons).

24. These estimates focus on fines and fees and do not account for child support suspensions or other debt-based suspensions. Lisa Foster, *The Price of Justice: Fines, Fees and the Criminalization of Poverty in the United States*, 11 U. MIAMI RACE & SOC. JUST. L. REV. 1, 19 (2020); Joni Hirsch & Priya S. Jones, *Driver's License Suspension for Unpaid Fines and Fees: The Movement for Reform*, 54 U. MICH. J. L. REFORM 875, 876 (2021) (noting that the eleven million number is a "conservative" estimate). And anecdotal stories abound. See Amy Russo, *Arresting folks for being poor: How Providence will help drivers get their licenses back*, THE PROVIDENCE JOURNAL (Sept. 8, 2022), <https://www.providencejournal.com/story/news/local/2022/09/08/providence-ri-drivers-license-restoration-program-arpa-funds/8009548001/> [<https://perma.cc/S7YH-VVZ7>] (noting that the primary reason for arrests in Providence, Rhode Island is driving on a suspended license); Sophie Nieto-Munoz, *Bill would stop driver's license suspensions over unpaid parking tickets*, NEW JERSEY MONITOR (Feb. 3, 2022), <https://newjerseymonitor.com/briefs/new-bill-aims-to-stop-suspending-drivers-licenses-over->

almost one in three local drivers had a suspended license due to debt in 2022.<sup>25</sup> And a recent empirical analysis concluded that almost 400,000 North Carolinians had active driver's license suspensions caused by non-payment of debt related to fines and fees.<sup>26</sup>

These laws affect millions of people across the country, and they disproportionately harm people of color, particularly Black people. Of all of the active driver's license restrictions in the North Carolina study where failure to pay was an issue, 47% affected Black drivers, 11% affected Latinx drivers, and 37% affected White drivers.<sup>27</sup> The North Carolina driving population is 21% Black, 8% Latinx, and 65% White.<sup>28</sup> Aggregate child support arrearages exceed \$30 billion annually and number more than \$100 billion of child support in total.<sup>29</sup> Most is owed by poor fathers who will never be able to pay,<sup>30</sup> the majority of whom are men of color.<sup>31</sup> Understanding the relationship between automobility and personal autonomy, it becomes clear that the state's use of debt policy to restrict driving privileges operates as a mechanism to control where and how people travel. Since these laws disproportionately harm people of color, particularly Black people, they become instruments used to control the racialization of space and disrupt integration efforts.

This Article not only collects and presents a comprehensive inventory of debt-based driving restriction laws to date and discusses their consequences, but it also connects those laws to a larger historic pattern in the United States, where state actors have long used debt policy to affect mobility. The searching inquiry of policy throughout American history and today revealed a missing analytical piece: debt policy's effect on *physical* mobility, along with downstream effects,

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unpaid-parking-tickets/ [https://perma.cc/ZZY8-BEYA] (“Critics of the current system [using driver’s license suspensions to punish non-driving violations] say it reinforces a cycle of debt and poverty. Suspending the licenses of drivers over unpaid fines removes a way for them to get to work to pay off the fines.”).

25. See, e.g., MIAMI-DADE COUNTY, DRIVER’S LICENSE SUSPENSION TASK FORCE: FINAL REPORT 15 (MAY 2022), <https://www.miamidade.gov/govaction/legistarfiles/Matters/Y2022/221237.pdf>

[https://perma.cc/D7JY-GAJC] (finding that approximately 600,000 Miami-Dade County residents have a suspended license, accounting for almost one-third of all licensed drivers).

26. Crozier & Garrett, *supra* note 8, at 1606 (reporting 263,000 suspensions for failure to pay and 135,000 for both failure to pay and failure to appear).

27. *Id.*

28. *Id.*

29. Elizabeth D. Katz, *Criminal Law in a Civil Guise: The Evolution of Family Courts and Support Laws*, 86 U. CHI. L. REV. 1241, 1243 (2019).

30. Cortney E. Lollar, *Criminalizing (Poor) Fatherhood*, 70 ALA. L. REV. 125, 130 (2018) (arguing that the criminal sanctions and collateral consequences of child support nonpayment punish “fathers for their reproductive decisions, for having ‘irresponsible sex,’ and for not living up to our societal expectation of fatherhood.”). See also Brito, *supra* note 15, at 955 (arguing that child support debt creates a “financial bubble” for poor families because it “is artificially inflated, largely uncollectible, and potentially destructive”).

31. Brito, *supra* note 15, at 963 (citing a study finding that sixty percent of poor fathers behind on child support are racial and ethnic minorities).

including segregation and the racialization of space, which have been largely unexplored.<sup>32</sup> By examining debt policy's effect on physical mobility, rather than limiting the analysis to financial or social mobility, this Article offers a theoretical contribution widely applicable to understanding credit and debt in American society. By controlling physical mobility through debt policy, the state controls freedom of movement and freedom in general. And because debt policy's effect on physical mobility is so deeply entrenched with race and racialized space,<sup>33</sup> debt policy acts as a mechanism of racial control. Thus, this Article begins a conversation about debt and debt policy, one that reframes debt through the lens of physical mobility, freedom, and personhood.

A couple of notes on language and scope. For purposes of this Article, I define "physical mobility" as the authority to move oneself from place to place without interference from the state.<sup>34</sup> I am particularly concerned about effects on physical mobility that do not rise to the level of incarceration.<sup>35</sup> Throughout,

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32. Sociologist Alexes Harris's work is relevant and useful. She argues that "the imposition of monetary sanctions [for criminal violations] is consistent with prior forms of American 'justice.'" ALEXES HARRIS, *A POUND OF FLESH: MONETARY SANCTIONS AS PUNISHMENT FOR THE POOR* xxii (2016). Although Harris's work has influenced this Article, her argument is different. Harris looked only at legal financial obligations (LFOs), *see infra* note 265, and she was primarily concerned about the relationship between criminal justice sanctions, especially for those convicted of felonies, and poverty. This Article is both broader and narrower. It focuses on state-owned debt, which includes but is not limited to unpaid LFOs, and it is concerned with both civil and criminal debt. It is also narrowly focused on one particular repercussion of unpaid state-owned debt—mobility restrictions—rather than the existence of state-owned debt *in primo loco*. Law professor Shayak Sarkar's insights also influenced this Article, yet Sarkar's arguments differ from the propositions herein. Sarkar makes the connection between tax compliance efforts and physical mobility, recognizing that high-income tax-delinquent citizens' physical mobility is treated differently, under tax and immigration policy, than low-income tax-delinquent noncitizens. *See generally* Shayak Sarkar, *Tax Law's Migration*, 62 B.C. L. REV. 2209 (2021). *See also* Sarah A. Seo, *The New Public*, 125 YALE L.J. 1616, 1641 (2016) (recognizing that debt-based driving restrictions "may very well have felt like a criminal sanction that restricted the freedom of movement").

33. Jamila Jefferson-Jones, "Driving While Black" as "Living While Black," 106 IOWA L. REV. 2281, 2289 (2021) ("To 'racialize' space is to claim or assign space as belonging to one racial group to the exclusion of other racial groups.").

34. The term "physical mobility" invokes a question of whether and how persons with disabilities can move themselves from place to place. This Article does not bring a disability lens to questions of how debt policy has inhibited physical mobility. That would be an important analysis and this author would appreciate engaging on that question with disability rights scholars. But it is outside the scope of this Article.

35. There is an important connection between debt and prisons, both historically and today. Historical debtors' prisons immobilized debtors through incarceration. *See e.g.*, Neil L. Sobol, *Charging the Poor: Criminal Justice Debt & Modern-Day Debtors' Prisons*, 75 MD. L. REV. 486, 494–98 (2016) (describing the ascent and decline of debtors' prisons in Europe and the United States). Today, those charged with crimes who cannot afford bail are imprisoned without a guilty plea or verdict. *See id.* at 508–16 (exploring how criminal justice debt has created modern-day debtors' prisons). *See generally* Christopher D. Hampson, *The New American Debtors' Prisons*, 44 AM. J. CRIM. L. 1 (2016). And even driving restrictions can lead to incarceration, including because of the need to drive on a suspended license. *See Foster, supra* note 24, at 15 (discussing how parking tickets are "often the entry point into the criminal legal system"); Vicki Turetsky & Maureen Waller, *Piling on Debt: The Intersections Between Child Support Arrears and Legal Financial Obligations*, 4 UCLA CRIM. J. L. REV. 117, 125–29, 135–36 (2020) (explaining how child support debt accrues during incarceration and

I use the term “state” generally to mean government action, not limited to individual state action. The theoretical argument that the state can and has used debt policy to affect physical mobility can be attributed to state actors at all levels of government. The primary descriptive contribution of the paper, however, is about debt-based driver’s license restrictions, which are created by individual state statutes and implemented at the state and municipal levels. Therefore, while in some ways guided by federal action, much of the description and analysis is focused specifically on state and local government actors. Finally, the Article focuses primarily on the ways that debt policy has disparately affected the physical mobility of Black people and White people. That is because, when one ties together the history of debt policy’s effect on physical mobility with today’s ubiquitous practice of debt-based driving restrictions, we see a differential effect on Black people and White people in the United States.<sup>36</sup>

Part I of this Article explores the traditional framing of consumer debt and debt policy as a driver of social and financial mobility. It catalogs scholarship that unpacks the effects of debt and debt policy on positive and negative financial and social mobility, exploring how debt can both be a tool for financial growth and an instrument of financial ruin. Part I also brings interdisciplinary scholarship to bear on the dual effects of consumer debt, describing the positive effects of “White debt” and the negative effects of “Black debt.”<sup>37</sup> Finally, Section I introduces the idea that we should expand our interrogation of debt policy to include an analysis of its effects on *physical* mobility and immobility. Only by expanding that lens will we be able to see the full effects of debt policy on autonomous movement and its corollary—freedom.

Part II offers a series of examples, throughout American history, that typify how debt policy has had profound effects on physical mobility. It posits that at least as early as transcontinental slave trading, debt policy has expanded physical mobility of White people while simultaneously constricting physical mobility of Black people. Because debt-based driving restrictions are state-owned debt or debt overseen by a state process, the examples focus on state-owned debt throughout American history—Black Codes and convict leasing, property liens and foreclosure, and New Deal mortgage debt policy. The Section ends, however, with a recognition that even privately-held debt is governed and

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can be enforced via driver’s license suspensions); Ann Cammett, *Shadow Citizens: Felony Disenfranchisement and the Criminalization of Debt*, 117 PENN. ST. L. REV. 349, 378 (2012) (discussing how “lingering debt accumulated during or as a result of incarceration, often acts as a gateway to reincarceration”). But rather than focus on the relationship between debt and imprisonment, for which there is already a robust literature outlined in this footnote, this Article is focused on how debt policy affects physical mobility that falls short of outright imprisonment.

36. Including additional racial and ethnic groups in the analysis would both complicate the analysis and yield additional results, but that is beyond the scope of this Article.

37. See Louise Seamster, *Black Debt, White Debt*, 18 CONTEXTS 30–35 (2019) (using “Black debt” and “White debt” as conceptual guides to examine the “multiple racialized dimensions of debt”).

enforced by the state, and thus suggests that the same analysis carries into the private sector.

Part III explores the role of the automobile in physical mobility, personal autonomy, and freedom. It looks at how the prioritization of the automobile and the state's regulation of it has elevated the car to a functional necessity in modern living. This sets the stage for exploration of a modern iteration of debt policy that affects physical mobility and entrenches physical space—debt-based driving restrictions.

Part IV then relies on original research cataloging every state's debt-based driving restriction laws, both for driver's licenses and vehicle registrations. It shows that states, through varied laws and processes, turn to driving restrictions to punish and control debtors who owe money to the state, including for child support arrearages, civil infraction fines, criminal fees, delinquent taxes, unpaid tolls, and other debts. Like debt policies that came before, research shows that these laws disproportionately burden Black residents. In so doing, these debt policies offer the state a mechanism to racialize movement, access, and space.

Part V concludes with a call for legislative action. Although at least thirty states and the District of Columbia have amended certain debt-based driving restriction laws to varied degrees,<sup>38</sup> this Article argues that those fixes are insufficient and proposes an alternate legislative solution. Debt policy should *never* be used to constrict physical mobility. Therefore, a uniform law stripping debt-based driving restrictions from state law should be written and adopted. Thereafter, where public safety is an issue, legislators can relocate driving restrictions to the relevant civil or criminal code. In other words, legislators can amend specific code sections to allow or require a driving restriction as a sanction for the underlying offense. This would more clearly achieve public safety goals without perpetuating problematic and racially disparate effects of debt policy tied to physical mobility.

## I.

### CREDIT AND DEBT ARE INSTRUMENTS OF (UNEQUAL) SOCIAL AND FINANCIAL MOBILITY

Credit is the ability to take on debt; debt is money already owed. Credit and debt are linked and have long existed. They have driven human relations, economies, war, violence, and growth.<sup>39</sup> In the United States, the availability of consumer credit has grown significantly over time. By the 1960s, “[t]o be denied credit went beyond an economic inconvenience; credit access cut to the core of what it meant to be an affluent, responsible adult in postwar America.”<sup>40</sup> Today,

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38. See Leyendecker & Elengold, *State Debt-Based Driver's License Suspension Laws*, *supra* note 5.

39. See generally DAVID GRAEBER, *DEBT: THE FIRST 5000 YEARS* (2011).

40. LOUIS HYMAN, *DEBTOR NATION: THE HISTORY OF AMERICA IN RED INK* 173 (2011). This privilege was also limited. Prior to the enactment of the Equal Credit Opportunity Act of 1974, “credit

credit and its analog, debt, are deeply entrenched in our economic system—a primary way that Americans purchase homes,<sup>41</sup> cars,<sup>42</sup> and education<sup>43</sup>—offering a path to prosperity or a road to ruin.<sup>44</sup> Credit and debt are driven by state action and state policy,<sup>45</sup> supplementing and sometimes supplanting other engines of economic growth and the social safety net.<sup>46</sup> Even when the state itself is not the lender or party owed, the state’s decisions about debt policy, including whether and how to regulate the private market, has manipulated the availability of and access to credit. This Section explores the traditional view of credit as connected to financial and social mobility, turning to both legal and sociological scholarship to explore its varied and racialized effects.

*A. Credit and Debt as Engines of Financial and Social Mobility and Immobility*

Over time, credit has become a primary mechanism of financial and social mobility in America. Credit’s inverse—debt—has simultaneously had deleterious effects on subsets of the population, disproportionately communities of color. This Subsection explores the twin effects of the ways that credit and debt affect social and financial mobility, which has been the primary measure of their effects on individuals, families, and communities.

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institutions were not prohibited from making oral or written statements to applicants or prospective applicants that would discourage a reasonable person from making or pursuing an application.” Susan Smith Blakely, *Credit Opportunity for Women: The ECOA and Its Effects*, 1981 WIS. L. REV. 655, 656–57 (1981).

41. See *Millions of Americans Have Used Risky Financing Arrangements to Buy Homes*, THE PEW CHARITABLE TRUSTS (May 23, 2022), <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2022/04/millions-of-americans-have-used-risky-financing-arrangements-to-buy-homes> [<https://perma.cc/23ZY-NRP3>] (noting that “[m]ost homebuyers in the U.S. use mortgages to purchase their homes,” but that riskier financial products like rent-to-own exist in the homebuying market).

42. See Pamela Foohey, *Consumers’ Declining Power in the Fintech Auto Loan Market*, 15 BROOK. J. OF CORP., FIN. & COM. LAW 5, 7 (2020) (describing how “most people must take out loans to purchase their cars”).

43. See Melanie Hanson, *Student Loan Debt Statistics*, EDUCATION DATA INITIATIVE (Aug. 20, 2023), <https://educationdata.org/student-loan-debt-statistics> [<https://perma.cc/H9HJ-L5FT>] (“The average public university student borrows \$32,637 to attain a bachelor’s degree.”).

44. Meta Brown & Matthew Mazewski, *Stepping Stone or Quicksand? The Role of Consumer Debt in the U.S. Geography of Economic Mobility* 205 (2015), [https://www.stlouisfed.org/community-development/publications/-/media/project/frbstl/stlouisfed/files/pdfs/community-development/econmobilitypapers/section2/econmobility\\_2-4brownmazewski\\_508.pdf](https://www.stlouisfed.org/community-development/publications/-/media/project/frbstl/stlouisfed/files/pdfs/community-development/econmobilitypapers/section2/econmobility_2-4brownmazewski_508.pdf) [<https://perma.cc/K8FA-QNMR>] (“Debt may enhance economic mobility, supporting otherwise impossible investments in human capital and small business, or it may trap low-income consumers in an inescapable cycle of obligation.”).

45. See Louis Hyman, *The Politics of Consumer Debt: U.S. State Policy and the Rise of Investment in Consumer Credit, 1920-2008*, ANNALS 644, 40–49 (Nov. 2012) (“The state, more than any other institution, guided credit from the margin of the economy in the nineteenth century to its center in the twentieth.”).

46. See Abbye Atkinson, *Rethinking Credit as Social Provision*, 71 STAN. L. REV. 1093, 1096, 1133–47 (2019) (recognizing that “[c]redit has become an important source of American social provision” and challenging the value of that transition).

Nationally, credit has become the primary mechanism of financial growth and mobility.<sup>47</sup> Scholars have found that debt and household net worth are positively, not negatively, correlated, meaning that as household debt rises, so too does household net worth.<sup>48</sup> At the same time, scholars and policymakers have shown that the reverse is also true; lacking access to credit is associated with economic stagnation.<sup>49</sup> In other words, the availability of credit and the accumulation of debt are regularly associated with financial growth. Credit is also the “principal mechanism of [positive] social mobility,”<sup>50</sup> primarily through home loans and higher education loans.<sup>51</sup> This “good debt” is largely viewed as an investment that will pay off in the future.<sup>52</sup>

In a fifteen-year study of American consumers’ borrowing and creditworthiness, researchers found that taking on student loan, credit card, and other debt promotes economic mobility in some cases.<sup>53</sup> The study concluded that “the use of unsecured credit shows a meaningful positive association with both absolute and relative mobility.”<sup>54</sup> Although American economic and social policy has touted credit as an instrument of financial and social mobility,

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47. See Mehrsa Baradaran, *How the Poor Got Cut Out of Banking*, 62 EMORY L.J. 483, 548 (2013) (“Providing credit to the underprivileged can help them escape poverty . . . . Although banking is not a right, it is a social good—not just for the low-income, but for the entire society.”); Todd J. Zywicki, *Consumer Use and Government Regulation of Title Pledge Lending*, 22 LOYOLA CONSUMER L. REV. 425, 426 (2010) (using economic theory to argue that title lending is a “valuable source of credit” for certain types of borrowers); Marion Fourcade & Kieran Healy, *Classification Situations: Life-Chances in the Neoliberal Era, Accounting, Organizations and Society*, 42 HIST. SOC. RSCH. 23, 26 (2017) (recognizing that, for some, “credit [is] a means of asset accumulation and mobility”).

48. Raphaël Charron-Chénier and Louise Seamster, (*Good Debt is an Asset*, 17 CONTEXTS 88, 89 (Winter 2018).

49. FED. RES. BANK OF N.Y., CREDIT AND INCOME INEQUALITY 4 (June 2020), [https://www.newyorkfed.org/medialibrary/media/research/staff\\_reports/sr929.pdf](https://www.newyorkfed.org/medialibrary/media/research/staff_reports/sr929.pdf) [<https://perma.cc/678F-572G>] (“[C]redit-constrained individuals often have limited wealth, and their exclusion from credit can hinder economic mobility and fuel persistent income inequality.”). See also Atkinson, *infra* note 53, at 1104 (explaining how debt, even extended on fair terms, is dangerous for low-income borrowers); Pamela Foohey & Nathalie Martin, *Fintech’s Role in Exacerbating or Reducing the Wealth Gap*, 2021 U. ILL. L. REV. 459, 463 (2021) (“The inability of some Americans, particularly minorities, to access credit and banking services at a reasonable cost is a key reason why these households cannot transform their income into wealth.”); DAVID GRAEBER, *supra* note 39, at 379–80 (citing the Grameen Bank, a lauded purveyor of small-dollar loans in developing nations, which insisted that “[c]redit . . . is a human right”).

50. Atkinson, *supra* note 46, at 1144.

51. See A. Mechele Dickerson, *The Myth of Home Ownership and Why Home Ownership Is Not Always a Good Thing*, 84 IND. L.J. 189, 193–94 (2009) (home loans); Kate Sablosky Elengold, *The Investment Imperative*, 57 HOUS. L. REV. 1, 12–13 (2019) (higher education loans). See also Angela Littwin, *Beyond Usury: A Study of Credit-Card Use and Preference Among Low-Income Consumers*, 86 TEX. L. REV. 451, 464 (2008) (noting that “[f]or many women in the [author’s original] study, credit cards have become symbols of access to mainstream American society”).

52. Abbye Atkinson, *Modifying Mortgage Discrimination in Consumer Bankruptcy*, 57 ARIZ. L. REV. 1041, 1064 (2015).

53. Brown & Mazewski, *supra* note 44, at 205 (recognizing that debt can be a positive or negative force on financial well-being).

54. *Id.* at 207.

Americans retain a particular discomfort with consumer debt.<sup>55</sup> Anthropological works on credit and debt find consistent reports that credit is considered productive, while debt is considered destructive.<sup>56</sup>

Importantly, Americans' discomfort with debt is consistent with the reality for many that their consumer debt is, in fact, debilitating. This is true for those facing predatory debt products like payday loans,<sup>57</sup> income share agreements,<sup>58</sup> and earned wage access debt,<sup>59</sup> for example. And it is particularly true where debt is separated from credit, as with most of the state-owned debt at the heart of this Article, such as fines and fees, child support, and taxes.<sup>60</sup> But it is also true for credit extended on fair terms. In critiquing the government's use of credit as social provision, Professor Abbye Atkinson argued that credit—a “form of intertemporal and intrapersonal redistribution”—does not work for low-income individuals and families because the idea that those borrowers will be financially better off in the future is “an unduly optimistic expectation” given the current borrowing rates and economic landscape.<sup>61</sup> And Professor Sara Sternberg Greene detailed how, after the 1996 welfare reform, many poor families were

55. See GRAEBER, *supra* note 39, at 16 (2014) (“Since colonial days, Americans have been the population least sympathetic to debtors.”). See also Kathryn A. Sabbeth, *The Prioritization of Criminal Over Civil Counsel and the Discounted Danger of Private Power*, 42 F.S.U. L. REV. 889, 915–16 (2015) (noting that debtors reported feelings of shame and stigma). But see Atkinson, *supra* note 46, at 1154 n. 414 (citing Alexander Hamilton to highlight “our enduring national devotion to credit”).

56. Gustav Peebles, *The Anthropology of Credit and Debt*, ANN. REV. OF ANTHROPOLOGY, 39:225-40, 226 (2010).

57. See generally ANNE FLEMING, CITY OF DEBTORS (2018) (detailing the history of small dollar loans, including payday loans, and the havoc they have wreaked on American debtors).

58. CFPB TAKES ACTION AGAINST STUDENT LENDER FOR MISLEADING BORROWERS ABOUT INCOME SHARE AGREEMENTS, CONSUMER FINANCIAL PROTECTION BUREAU (Sept. 7, 2021), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-student-lender-for-misleading-borrowers-about-income-share-agreements/> [<https://perma.cc/7QJE-TWC4>] (noting that “[t]he ISA industry has tried to evade oversight by claiming that its products are not loans”).

59. Nakita Q. Cuttino, *The Rise of “Fringetech”: Regulatory Risks in Earned-Wage Access*, 115 NW. U. L. REV. 1505, 1538 (2021) (noting that “some earned-wage programs can perpetuate, and in some instances exacerbate, the very risks providers claim to eliminate when displacing short-term creditors like payday lenders”).

60. In fact, some statutes would not even consider such arrearages to be “debt.” See e.g., NATIONAL CONSUMER LAW CENTER FDCPA MANUAL 14.10 (recognizing that the Federal Debt Collection Practices Act does not include tax arrearages, certain municipal services arrearages, unpaid fines and fees, or child support obligations in its definition of “debt”). Other statutes do consider such arrearages to be “debt.” See NRS 353C.040 (Nevada’s law defining “debt” that is collectible by the State Controller as “a tax, fee, fine or other obligation: 1. That is owed to an agency of the State of Nevada; and 2. The payment of which is past due”); Chicago, ILL. MUN. CODE ch. 3–4, art. I, § 020 (defining “debt due and owing” or “debt” to mean “a specified sum of money owed to the city for fines, penalties, fees, interest, or other types of charges or costs imposed by this code, or administrative or judicial judgments” after certain time has passed); Philip ME Garboden & Eva Rosen, *Serial Filing: How Landlords Use the Threat of Eviction*, CITY & CMY. 18:2 638, 642 (June 2019) (using the term “debt” to define “late or incomplete rental payments.”). This Article takes the latter position, labeling any money owed to be “debt.”

61. Atkinson, *supra* note 46, at 1101.

forced to turn to credit cards to weather financial shocks, but ended up facing unaffordable debt due to interests and late fees.<sup>62</sup>

*B. Race is a Factor in Good Debt and Bad Debt*

How is it that debt can be both a path to financial success and a road to financial ruin? This Subsection relies on sociological literature to conclude that, although socioeconomic class is an obvious way to look at debt, race is a key to understanding the difference between “good debt” and “bad debt.”

As with all complex causal questions, parsing the variables that affect debt’s consequences on a particular debtor is difficult.<sup>63</sup> But what is clear is that debt is a positive force in some lives and a negative force in others’ lives. Sociologists Raphael Charron-Chénier and Louise Seamster explained:

The role of debt varies across households. For better-off families, debt is often “good,” and financialization often lowers the cost of borrowing. Having debt does not mean living in an upside-down world of negative physical assets. It just means that families have deferred payments for the things they are currently enjoying: a home, a college education, or a new business . . . . It means improved credit scores and tax-deductible interest payments. Poorer and marginalized households by contrast are more likely to hold “bad” debt. For the portion of the population living paycheck to paycheck, debt is often tied to small sums needed to make ends meet. The assets that come with this debt are not durable investments in a house, a business, or a college degree; they are consumed right away to put food on the table, keep the heat on, or pay for healthcare.<sup>64</sup>

Other scholars have identified a similar divide, defining good debt as “liabilities tied to creating more wealth, including mortgages or small business loans” and bad debt as “liabilities often tied to exploitative and extractive lending systems, including penal fines and fees and payday loans.”<sup>65</sup>

But, as Seamster compellingly explained in a later article, socioeconomic class is not the only differentiator between good debt and bad debt. Instead, she argued that another way to understand debt is by reference to “White debt” and

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62. Sara Sternberg Greene, *The Broken Safety Net: A Study of Earned Income Tax Recipients and a Proposal for Repair*, 8 N.Y.U. L. REV. 515, 533, 547–57 (2013).

63. See GRAEBER, *supra* note 39, at 6–7 (“Now, it’s true that, throughout history, certain sorts of debt, and certain sorts of debtor, have always been treated differently than others.”).

64. Charron-Chénier & Seamster, *supra* note 48, at 89–90.

65. Fenaba R. Addo & William A. Darity, Jr., *Disparate Recoveries: Wealth, Race, and the Working Class after the Great Recession*, 695 ANNALS AM. ACAD. POL. SOC. SCI. 173, 176 (2021). Scholar Tamar Birkhead describes the landscape of fines and fees as a “justice tax” that she labels “the new peonage,” explaining that it “ultimately has the same societal impact as the post-Civil War practice of peonage; both function to maintain an economic caste system.” Tamar R. Birkhead, *The New Peonage*, 72 WASH. & LEE L. REV. 1595, 1607–08 (2015).

“Black debt.”<sup>66</sup> Because of different debt products, different terms on similar debt products, and different returns on debt, Seamster asserted that “these components interact to produce cumulative advantage [for White debt] and cumulative disadvantage [for Black debt].”<sup>67</sup> In other words, the structure of American debt markets and labor markets results in good debt for White people and bad debt for Black people.

Seamster is not alone in arguing that race is a variable that is regularly linked to disparate debt outcomes.<sup>68</sup> In fact, scholars have argued that race has long been the differentiator between two separate and unequal credit markets, and they have pointed to state policy as the primary driver of those systems.<sup>69</sup> Professor Mehrsa Baradaran explained how policy choices like those from the 1930s—including ones that codified racism by offering safe debt terms only to White borrowers and developers—created an “urban sharecropping system” in Black “ghettos,” where Black borrowers were trapped in an ongoing debt relationship with local merchants who took advantage of their captive market.<sup>70</sup> In newly-minted White suburbs, however, Baradaran detailed how “a virtuous credit cycle had taken hold.”<sup>71</sup> This is how state action created, out of thin air, separate and unequal credit systems based on race. Those separate systems led down two different paths of financial and social mobility—skyrocketing White borrowers into the middle-class and beyond, while ensnaring Black borrowers in lower-class status.<sup>72</sup>

Data support the argument that race is correlated with greater debt and worse debt outcomes. Black households lost a greater percentage of their wealth during the Great Recession than White households (48 percent to 26 percent) and did not share the subsequent economic gains equally with White households.<sup>73</sup> Professors Fenaba Addo and William Darity, Jr. looked at the economic fate of the working class during the economic expansion in the United States, from July

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66. Seamster, *supra* note 37, at 31–35. *See also* Addo & Darity, *supra* note 65, at 176 (citing Seamster).

67. Seamster, *supra* note 37, at 31–32.

68. *See* HYMAN, *supra* note 40, at 7 (“African Americans and women always had access to credit, but not always the same credit as white men, whose credit was cheaper and easier to get.”).

69. *See* Mehrsa Baradaran, *THE COLOR OF MONEY: BLACK BANKS AND THE RACIAL WEALTH GAP 1* (2017) [hereinafter *COLOR OF MONEY*] (discussing America’s “separate and unequal system of banking and credit”); Mehrsa Baradaran, *Jim Crow Credit*, 9 UC IRVINE L. REV. 887, 890 (2019) [hereinafter *Jim Crow Credit*] (noting that the government’s process of redlining, through the Federal Housing Administration’s actions, “eventually created a dual credit market based on race”); HYMAN, *supra* note 40, at 234–35.

70. *Jim Crow Credit*, *supra* note 69, at 908 (identifying that relatively higher cost of credit in poorer areas of New York resulted in higher prices for goods). *See also* HYMAN, *supra* note 40, at 173 (noting that urban credit “exploit[ed] poor consumers’ limited geographic mobility, meager financial resources, and fear of impersonal institutions”).

71. *Jim Crow Credit*, *supra* note 69, at 911.

72. HYMAN, *supra* note 40, at 234–35.

73. Addo & Darity, *supra* note 65, at 194–95 (cataloging literature).

2010 to 2019.<sup>74</sup> Although the median net worth of working-class households increased during that time, White working-class households greatly surpassed Black and Latinx households.<sup>75</sup> And, moving forward in time, economic analysis shows that Black and Hispanic households disproportionately shouldered the debt burden during and after the COVID-19 pandemic. Although Black households account for more than 13% of the population and 9% of homeowners, less than 4% of the nearly \$5.3 billion annual payment reduction achieved through mortgage refinancing during the pandemic accrued to Black families.<sup>76</sup> Further, Black mortgage holders have been slower to exit mortgage forbearance after the COVID-related moratoria were lifted.<sup>77</sup>

Similarly, costs associated with college—allegedly the great equalizer<sup>78</sup>—show that student debt has exacerbated racial financial divides between White and Black people. Black students graduate college with an average of \$25,000 more in student debt than their White colleagues and face growing balances for years after graduation.<sup>79</sup> Black college graduates are more likely to default on their debt than both White college graduates (21% to 4%) and White college dropouts (21% to 18%).<sup>80</sup> And when the debt is too much, the consumer bankruptcy system is itself unequal; studies have shown that Black debtors are more likely to file for the less favorable and more expensive Chapter 13 bankruptcy, rather than seeking a quicker and more certain discharge through Chapter 7.<sup>81</sup>

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74. *Id.*

75. *Id.* at 180.

76. Kristopher Gerardi, Lauren Lambie-Hanson & Paul Willen, *Racial Differences in Mortgage Refinancing, Distress, and Housing Wealth Accumulation During COVID-19*, FED. RES. BANK OF BOSTON, 2 (June 22, 2021), <https://www.bostonfed.org/publications/current-policy-perspectives/2021/racial-differences-in-mortgage-refinancing-distress-and-housing-wealth-accumulation-during-covid-19.aspx> [<https://perma.cc/4PDQ-X6ZH>].

77. *Id.* at 5.

78. Xiang Zhou, *Equalization or Selection? Reassessing the “Meritocratic Power” of a College Degree in Intergenerational Income Mobility*, AM. SOCIO. REV. 84(3) 459–485, 460 (2019) (noting that “many researchers have portrayed a college degree as ‘the great equalizer’ leveling the playing field between people from different socioeconomic backgrounds”). *But see* Danielle Douglas-Gabriel, *College is not the great equalizer for black and Hispanic graduates*, WASH. POST (Aug. 17, 2015), <https://www.washingtonpost.com/news/wonk/wp/2015/08/17/college-is-not-the-great-equalizer-for-black-and-hispanic-graduates/> [<https://perma.cc/5JK5-RRDF>] (citing a study by the Federal Reserve Bank of St. Louis).

79. Hanson, *supra* note 43. *See also* Melanie Hanson, *Student Loan Debt by Race* (Dec. 8, 2023), <https://educationdata.org/student-loan-debt-by-race> [<https://perma.cc/F46H-WUHZ>] (noting that, “[f]our years after graduation, black students owe an average of 188% more than white students borrowed”).

80. Dominique J. Baker, *Race, racism, and student loans*, Affordability and Student Loans Committee Meetings, 2021 U.S. Dep’t of Ed. Negotiated Rulemaking for Higher Ed. (2021), <https://www2.ed.gov/policy/highered/reg/hearulemaking/2021/raceandloans.pdf> [<https://perma.cc/F9WX-FEQ7>].

81. *See* Jean Braucher, Dov J. Cohen & Robert M. Lawless, *Race, Attorney Influence, and Bankruptcy Chapter Choice*, 9 J. EMPIRICAL LEGAL STUD. 393 (2012).

C. *Physical Mobility is Connected to Freedom and Personhood*

Although debt policy's effects on social and financial mobility are real and racialized, viewing debt policy through that lens is limiting. That is because understanding debt policy only with an eye toward social and financial mobility does not account for debt policy's effects on physical mobility, both connected to and distinct from social and financial mobility. And because debt policy's effect on physical mobility is so deeply entrenched with race and racialized space, understanding debt policy's relationship to physical mobility and the way it acts as a mechanism of segregation and racial control is critical.<sup>82</sup>

It is critical because physical mobility, which I define as the authority to move oneself from place to place without interference from the state, is central to our national ideas of freedom. Americans have a constitutional right to interstate travel<sup>83</sup> and a similar right to travel within a state, including the right to travel locally through public spaces and roadways.<sup>84</sup> Although there is some debate about the boundaries of those freedoms,<sup>85</sup> courts regularly recognize that physical mobility is core to an American sense of freedom.<sup>86</sup> They have noted that “a right to free movement is a synonym for the right to liberty,”<sup>87</sup> that

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82. Cf. HARRIS, *supra* note 32, at 158–59 (“The use of monetary sanctions as a form of punishment of criminal offenders serves in much the same way as prior mechanisms to control and further marginalize citizens deemed unworthy of redemption.”).

83. *United States v. Guest*, 383 U.S. 745, 757 (1966) (“The constitutional right to travel from one State to another, and necessarily to use the highways and other instrumentalities of interstate commerce in doing so, occupies a position fundamental to the concept of our Federal Union.”); *Saenz v. Roe*, 526 U.S. 489, 500 (1999) (recognizing that the right to interstate travel exists in “at least three different components”).

84. See, e.g., *Lutz v. City of York, PA*, 889 F.2d 255, 268 (3d Cir. 1990) (concluding that “the right to move freely about one’s neighborhood or town, even by automobile, is indeed ‘implicit in the concept of ordered liberty’ and ‘deeply rooted in the Nation’s history’”); *Potter v. City of Lacey*, 46 F.4th 787, 792 (9th Cir. 2022) (noting that the Washington Supreme Court has previously identified a right to intrastate travel under the United States Constitution).

85. *Mem’l Hosp. v. Maricopa Cnty*, 415 U.S. 250, 255 (1974) (suggesting some limits on the broad-based right to freedom of movement).

86. See Risa L. Goluboff, *Dispatch from the Supreme Court Archives: Vagrancy, Abortion, and What the Links Between Them Reveal About the History of Fundamental Rights*, 62 STAN. L. REV. 1361, 1367–68 (2010) (discussing Justice Douglas’s interest in physical mobility—“the pure ability to move about as one desired”—as part and parcel of liberty and freedom). Current issues, including access to abortion services and access to gender-affirming health care for children, have raised questions about the accuracy and stability of the constitutional right of interstate travel. According to Professor Anthony Michael Kreis, “the doctrine regarding the right to interstate travel and the power of a state to regulate out-of-state resident conduct remains a more open question and a subject of earnest debate.” Anthony Michael Kreis, *Prison Gates at the State Line*, HARV. L. REV. BLOG Blog (Mar. 28, 2022), <https://blog.harvardlawreview.org/prison-gates-at-the-state-line/> [<https://perma.cc/JH23-EVHS>]. Although Kreis argues that the Constitution does protect an associative right to travel, he also recognizes that “[t]here is an invidious history behind states restricting mobility as a form of social control.” *Id.* Courts have not ruled on this associative right to travel in the context of accessing abortion services or accessing pediatric gender-affirming care.

87. *Hutchins v. District of Columbia*, 188 F.3d 531, 536 (1999).

“[f]reedom of movement is basic in our scheme of values,”<sup>88</sup> and that freedom of movement is critical to maintain our free society.<sup>89</sup>

From the colonial days to today, mobility and space have always been associated with freedom.<sup>90</sup> Professor Elise Boddie’s theory of racial territoriality relies on a similar notion—that “the ability to choose space and to move unimpeded through and across the local spaces of everyday life are basic components of freedom, social belonging, status, and dignity.”<sup>91</sup> And controlling space by controlling mobility is a mechanism for the government to control race and racial relations; it is why historian George Lipsitz contends that space becomes racialized *and* race becomes spatialized.<sup>92</sup> Through debt policy, the state has historically rewarded White households with a mobility advantage over Black households. Thus, debt policy has been a mechanism for controlling racialized movement and creating separate White and Black spaces throughout the course of American history.

## II.

### DEBT POLICY IS TIED TO PHYSICAL MOBILITY

This Section turns to examples across history to show that debt policy has, in fact, had profound consequences on physical mobility. It explores how debt policy has operated to expand opportunities for physical mobility for White people and simultaneously constrain physical mobility for Black people.

Throughout American history, the state has used debt policy, specifically with respect to state-owned debt, to encourage physical movement by some and limit others’ movement.<sup>93</sup> In other words, debt policy set by the government has affected physical mobility for debtors themselves and non-debtors affected by

88. *Kent v. Dulles*, 357 U.S. 116, 126 (1958).

89. *Aptheker v. Secretary of State*, 378 U.S. 500, 519–20 (1964) (Douglas, J., concurring) (“Freedom of movement, at home and abroad, is important for job and business opportunities—for cultural, political, and social activities—for all the commingling which gregarious man enjoys. Those with the right of free movement use it at times for mischievous purposes. But that is true of many liberties we enjoy. We nevertheless place our faith in them, and against restraint, knowing that the risk of abusing liberty so as to give rise to punishable conduct is part of the price we pay for this free society.”). One’s constitutional safeguards protecting freedom of movement kick in when they are “seized,” or when “by means of physical force or a show of authority, [the person’s] freedom of movement is restrained.” *United States v. Mendenhall*, 446 U.S. 544, 553 (1980).

90. Jesus M. Barajas, *The Roots of Racialized Travel Behavior, in Social Issues in Transportation*, in *ADVANCES IN TRANSPORT PLANNING AND POLICY VOL. 8* 4, 6 (Rafael H. Pereira & Genevieve Boisjoly, eds., 2021) (“Freedom and mobility have been twin ideals in the United States from its colonial roots.”).

91. Boddie, *infra* note 93, at 420.

92. LIPSITZ, *infra* note 141, at 6. *See also* CASHIN, *infra* note 142, at 4 (“Geography helps to construct social and racial distinctions that justify the way things are.”).

93. Debt policy is not the only way that the state has used its power to maintain racially distinct spaces. *See* Elise C. Boddie, *Racial Territoriality*, 58 *UCLA L. REV.* 401, 425–34 (2010) (detailing how state policy throughout American history has “been deployed to ‘protect’ white space and to ‘contain’ nonwhite space, while regulating the movement of people of color within and across various racial borders in service of these objectives”).

the policies. Viewing state control of debt through a physical mobility lens crystallizes debt policy's racial implications.<sup>94</sup> This Section shows that debt policy in America has repeatedly (1) expanded White people's physical mobility and simultaneously limited Black people's physical mobility and (2) been utilized by the state as a mechanism of control over integration and the racialization of space. Policymakers—through debt policy—have thus created lasting and entrenched segregation of space and opportunity.

This Article, and this Section, are primarily concerned with debt policy regarding state-owned or guaranteed debts, looking specifically at the Black Codes and convict leasing, New Deal mortgage programs, and property liens and resulting foreclosures. In addition to specific debt policy created by the government, state action has also created structures and enforcement mechanisms that allow private debts to flourish in a way that reinforces the same racialized outcomes.<sup>95</sup> The final Subsection offers some specific examples—slavery, sharecropping, and evictions—that both identify the role of the state in privately-owned debt and suggest a future entry point for considering how private creditors, governed by debt policy and supported by state action, affect physical mobility, segregation, and the racialization of space.

#### A. *Black Codes and Convict Leasing*

In the wake of the Civil War and ratification of the Thirteenth Amendment, Southern states passed a series of laws that essentially made it illegal for Black freedmen to live, work, and engage in society.<sup>96</sup> Those arrested for violating these “Black Codes” faced expensive fines.<sup>97</sup> Although the Black Codes were largely designed to maintain the labor system already operating in the South, they also created state-owned debt that was used to control southern Black people's physical mobility.<sup>98</sup> If the convicted person could not pay the fine, the

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94. See *id.* at 401, 405–06 (arguing that “[r]acial territoriality occurs when the state excludes people of color from—or marginalizes them within—racialized white spaces that have a racially exclusive history, practice, and/or reputation”).

95. Hyman, *supra* note 40, at 40 (“At the center of the rise of consumer debt stands the state, facilitating the national connections of capital and the innovations in financial instruments that define our economy today.”). Cf. HARRIS, *supra* note 32, at 156–159 (describing America's “long history of both informal and formal practices linking the punishment of its marginalized populations to processes of debt,” focusing on the relationship between criminalization and servitude).

96. Michele Goodwin, *The Thirteenth Amendment: Modern Slavery, Capitalism, and Mass Incarceration*, 104 CORNELL L. REV. 899, 937–38 (2019).

97. *Id.*

98. A.E. Raza, *Legacies of the Racialization of Incarceration: From Convict-Lease to the Prison Industrial Complex*, 2011 J. INST. JUST. INT'L STUD. 159, 162 (2011) (upon radical Republic control of state governments in the south, “Black codes were usurped and became a primary form to implement control over African Americans”); Cecil J. Hunt, II, *Feeding the Machine: The Commodification of Black Bodies from Slavery to Mass Incarceration*, 49 U. BALT. L. REV. 313, 327 (2020) (“The Black Codes enabled the practice of convict leasing which ‘emerged as a uniquely southern solution for solving the postbellum labor shortage—and a powerful vehicle for the continuation of white supremacy.’”) (citing MICHAEL A. HALLETT, PRIVATE PRISONS IN AMERICA: A CRITICAL RACE

laws “authorized their confinement to labor.”<sup>99</sup> The convicted person’s alleged debt provided an excuse for the state to coerce free labor for itself and make money by renting convicted laborers to private companies and individuals.<sup>100</sup> This debt policy severely restricted physical mobility for Black freedmen and their families, all while flooding the coffers of states and companies relying on unpaid convict labor.

The end of the Civil War did not bring an end to forced labor. In 1865, the United States ratified the Thirteenth Amendment, which prohibits slavery and involuntary servitude, “except as a punishment for crime whereof the party shall have been duly convicted.”<sup>101</sup> With that exception built into the prohibition against slavery, Southern states took a page from northern prison systems<sup>102</sup> and immediately began enacting a series of laws that became known as the Black Codes. These laws severely limited Black freedmen from existing freely in society, prohibiting all manner of conduct related to “housing, family, sex, farming, associations, [and] possessing paperwork to farm and sell goods.”<sup>103</sup> Black Codes criminalized “vagrancy”<sup>104</sup> and “loitering”<sup>105</sup> and made it illegal “for a black person to be alone in public, walk down a road, or walk across a field.”<sup>106</sup> According to historian William Cohen, “[t]he main functions of the new codes . . . were to replace the labor controls of slavery and to limit the mobility of the black labor force.”<sup>107</sup> Unable to escape the countless rules required by the Black Codes, many Black men faced hefty fines for infractions.<sup>108</sup> Professor Michele Goodwin found that violations could carry penalties as high as \$50 in Alabama and \$150 in Mississippi.<sup>109</sup> Recently freed Black men, limited in their ability to move freely and make a living by the Black Codes themselves, could not pay those fines.<sup>110</sup> In this way, the Black Codes

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PERSPECTIVE 2 (2006)); James Gray Pope, *Mass Incarceration, Convict Leasing, and the Thirteenth Amendment: A Revisionist Account*, 94 N.Y.U. L. REV. 1465, 1513 (2019) (“Not only did legislators create crimes to ensnare black labor, but also law enforcement officers tailored their enforcement efforts to generate revenue and profit.”).

99. Goodwin, *supra* note 96.

100. Raza, *supra* note 98, at 163–64.

101. U.S. CONST. amend. XIII (1865).

102. Raza, *supra* note 98, at 163.

103. Goodwin, *supra* note 96, at 937.

104. Laura I. Appleman, *Bloody Lucre: Carceral Labor and Prison Profit*, 2022 WISC. L. REV. 619, 631 (2022) (noting that “(t)he South passed harsh vagrancy laws that were extremely broad in scope”).

105. Goodwin, *supra* note 96, at 944 (noting that North Carolina criminalized loitering and being a vagabond for Black people).

106. Hunt, II, *supra* note 98, at 326.

107. WILLIAM COHEN, AT FREEDOM’S EDGE; BLACK MOBILITY AND THE SOUTHERN WHITE QUEST FOR RACIAL CONTROL, 1861-1915 28 (1991).

108. Goodwin, *supra* note 96, at 937–38.

109. *Id.*

110. The most discriminatory Black Codes were repealed in most southern states by 1968, but vestiges remained in both form and application. COHEN, *supra* note 107, at 34–35.

initially limited physical mobility and created debt; the debt then became a secondary mechanism for limiting physical mobility.

And so they were conscripted into unpaid labor, ostensibly to pay off their debt to the state. In Georgia, where the state itself was deeply in debt, property values were falling, and there was little political will to raise taxes, the state turned to convicts to build roads and undertake other public works projects.<sup>111</sup> Elsewhere, states implemented the practice of convict leasing, where middlemen would pay the fines and fees owed to the state in exchange for the right to sublease the convict to a private individual or business.<sup>112</sup> The middleman would get a “fee per head” from the business and would pocket the difference between the fee and the debt he then repaid to the court.<sup>113</sup> It was nearly impossible for the prisoners to work off their fines and fees.<sup>114</sup> Because the industrial lessees deducted costs from their “wages,” the convicts were physically trapped by their debt. Few convicts were ever released from their debt bondage.<sup>115</sup>

Convict leasing was profitable for all parties involved, except the convicted. In addition to the fines assessed for the original infraction, courts collected fees for a variety of court processes.<sup>116</sup> Any debt collected was distributed to “almost any white person who played a part in the seizure and conviction of each prisoner, including the court clerk, the town solicitor, jury members, and witnesses.”<sup>117</sup> In addition, through convict leasing, both the state and the middleman would make money, and the private enterprise received free labor. Some states sought to “build up the convict pool” to support convict leasing.<sup>118</sup> Professor Cecil J. Hunt explains:

[I]n the convict leasing business, business was good, very good. The profits made by everyone in this chain of exploitation were enormous by any measure. This chain included the county that tried the convict, the broker or middleman who leased him out, and the private businesses who extracted large profits from virtually free labor, and then quite literally worked the convicts to death. Because convict labor was so cheap, the common refrain among those that practiced it was: “One dies, get another.”<sup>119</sup>

Long after the original Black Codes were repealed, convict leasing continued, acting as a check on Black people seeking to assert their rights during

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111. Raza, *supra* note 98, at 164–65.

112. Hunt, II, *supra* note 98, at 327.

113. *Id.*

114. *Id.* at 329–30.

115. *Id.* at 330.

116. Cortney E. Lollar, *The Costs of the Punishment Clause*, 106 MINN. L. REV. 1827, 1857 (2022).

117. *Id.*

118. COHEN, *supra* note 107, at 225.

119. Hunt, II, *supra* note 98, at 327.

the Jim Crow period.<sup>120</sup> The practice of convict leasing flourished for almost seventy years, until 1942.<sup>121</sup>

### B. *The New Deal*

Franklin D. Roosevelt's New Deal offers another example of state action, through debt policy, affecting Americans' physical mobility. More specifically, the 1930s mortgage programs offered White Americans great opportunity for physical mobility, while at the same time constraining Black Americans' physical mobility. The Home Owners' Loan Corporation ("HOLC") and the Federal Housing Administration ("FHA")—novel government programs that created and insured long-term, fully amortized mortgages—used debt policy to promote physical mobility. By offering safer mortgage loans to families, debt policy allowed families to take on debt to build new lives in the suburbs. But this good debt<sup>122</sup> was available only to White families and developers building homes for White families; the policies and programs largely excluded Black people.<sup>123</sup> Thus, White physical mobility was expanded, while Black physical mobility was constrained.

Through the Home Owners' Loan Act, Congress created the HOLC in 1933 to rescue homeowners from imminent foreclosure.<sup>124</sup> To save homes, the HOLC purchased risky mortgages and issued longer, fully amortized mortgages with low interest rates.<sup>125</sup> The HOLC commissioned local real estate agents to conduct refinancing home appraisals.<sup>126</sup> Because, at that time, the real estate agent board mandated that agents maintain segregation, the HOLC explicitly considered race in refinance applications.<sup>127</sup> The HOLC created "color-coded maps of every metropolitan area in the nation, with the safest neighborhoods colored green and the riskiest colored red."<sup>128</sup> A neighborhood was color-coded red (or "redlined")

120. COHEN, *supra* note 107, at 227 ("As white southerners struggled to regain racial control at the polls and in the social sphere, the omnipresent convict labor system threatened the liberty of any black who might challenge the new order.").

121. Hunt, II, *supra* note 98, at 332.

122. See *supra* notes 62–64 (making the connection between beneficial good debt and those, primarily White people, who have access to it).

123. See RICHARD ROTHSTEIN, *THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA* 63–65 (2017) (describing the Home Owners' Loan Corporation's and Federal Housing Administration's racially discriminatory practices that resulted in residential segregation).

124. Atkinson, *supra* note 46, at 1128; ROTHSTEIN, *supra* note 123, at 63.

125. In amortized mortgages, the mortgage holder's monthly payment goes to both interest and principal, allowing the homeowner to build equity in the home. ROTHSTEIN, *supra* note 123, at 63. Amortization "greatly increased the number of Americans who could afford to buy a home." HYMAN, *supra* note 40, at 57 (2011). Extending the length of the mortgage also brought down the monthly payment, allowing borrowers to borrow significantly more money. *Id.* See also ROTHSTEIN, *supra* note 123, at 63 (HOLC mortgages were fifteen-year mortgages that were later extended to twenty-five years).

126. ROTHSTEIN, *supra* note 123, at 64.

127. *Id.*

128. *Id.*

if any Black people lived there, regardless of income or class.<sup>129</sup> Although there is some evidence that HOLC funds were distributed in regions coded as yellow and red, the real negative downstream effect was that the maps survived and were adopted by other agencies to profoundly affect access to funds in later government programs and in private lending markets.<sup>130</sup>

For example, in 1934, the federal government created the FHA, which offered government-based insurance for bank mortgages with certain terms.<sup>131</sup> Following the HOLC procedures, the FHA used appraisal standards that discriminated against non-White people; “[t]he FHA judged that properties would probably be too risky for insurance if they were in racially mixed neighborhoods or even in white neighborhoods near black ones that might possibly integrate in the future.”<sup>132</sup> The FHA’s Underwriting Manual rigidly enforced segregation, which led to a general exclusion of Black people from FHA-insured mortgages and encouraged subdivisions and neighbors to aggressively enforce racial covenants excluding non-White people.<sup>133</sup> Historian Louis Hyman found that race was a significant factor in successfully seeking an FHA-insured mortgage; White households were 3.69 times more likely to succeed.<sup>134</sup>

The New Deal debt policy’s racialized effect on physical mobility cannot be overstated. Hyman estimated that the HOLC refinanced approximately 40% of all eligible property and 20% of all “owner-occupied, non-farm residences.”<sup>135</sup> Further, the HOLC’s and FHA’s appraisal policies were adopted by the Veteran’s Administration following World War II, embedding racism into the federally-guaranteed mortgages offered to returning servicemen.<sup>136</sup> Halfway into the twentieth century, “the FHA and VA together were insuring half of all mortgages nationwide.”<sup>137</sup> And the effects were not limited to acts of

129. *Id.*

130. Charles L. Nier, III, *Perpetuation of Segregation: Toward a New Historical and Legal Interpretation of Redlining Under the Fair Housing Act*, 32 J. MARSHALL L. REV. 617, 623–24 (1999).

131. ROTHSTEIN, *supra* note 123, at 64–65. The FHA insured mortgages with the following terms: covering eighty percent of the purchase price, twenty-year or longer terms, fully amortized, and subject to an FHA appraisal. *Id.*

132. *Id.* at 65. Redlining and appraisal policies were not limited to government-issued or insured mortgages. See *Jim Crow Credit*, *supra* note 69, at 890–91 (“It was not just the FHA that used these maps. Because the mortgage insurance market changed the nature of home lending, any bank providing a mortgage required an FHA guarantee. It would be foolish not to. Banks, credit unions, thrifts, building and loans associations, and other mainstream mortgage lenders relied on these risk calculations when they determined branch locations and made all lending decisions.”).

133. *Jim Crow Credit*, *supra* note 69, at 892–93.

134. HYMAN, *supra* note 40, at 141.

135. Atkinson, *supra* note 46, at 1128–29.

136. See ROTHSTEIN, *supra* note 123, at 70.

137. *Id.* See also Rachel D. Godsil & Sarah E. Waldeck, *Home Equity: Rethinking Race and Federal Housing Policy*, 98 DENV. L. REV. 523, 543 (2021) (noting that only 2 of the 3,000 VA-guaranteed mortgages in Mississippi went to Black veterans, even though half of Mississippi’s population was Black).

discrimination against individual applicants; the FHA financed entire subdivisions, using its discriminatory policies to create all-White enclaves.<sup>138</sup>

By opening up home ownership to a larger group of Americans, but limiting that group to White borrowers, New Deal programs created White suburbs.<sup>139</sup> And by limiting access to FHA insurance and VA funds, federal debt policy also created Black ghettos, trapping Black families in the cities.<sup>140</sup> Martin Luther King, Jr. called out the explicit relationship between race and suburbanization, stating that “[t]he suburbs are white nooses around the Black necks of the cities.”<sup>141</sup>

The effects of New Deal debt policies continue today; racially segregated spaces endure through continued racial exclusion, segregation, and gated communities.<sup>142</sup> And state actors continue to rely on state-owned debt to limit geographic choices for Black people, including, as Professor Bernadette Atuahene expertly details, through racially driven and illegal property tax assessments and resulting foreclosures.<sup>143</sup> This spatial separation not only continues to afford White people opportunities to grow wealth and achieve better health outcomes,<sup>144</sup> but it reinforces the physical distinction between White and Black spaces.<sup>145</sup>

138. *Id.*

139. HYMAN, *supra* note 40, at 136 (noting that the FHA Underwriting Manual’s “dictates shaped nearly all suburban construction”).

140. *Jim Crow Credit*, *supra* note 69, at 887 (“The New Deal created a separate and unequal credit market—high-interest, non-bank, installment lenders in black ghettos and low-cost, securitized, and revolving credit card market in the white suburbs.”).

141. GEORGE LIPSITZ, *HOW RACISM TAKES PLACE* 17 (2011).

142. *Id.* at 30 (“[Suburbs] draw their privileged relationship to freedom . . . from their exclusion of nonnormative others and the maximization of the exchange value of their houses. . . . These practices serve the interests of owners and investors twice over: increasing public spending in well-off districts increases their property values, while reducing spending in poorer communities makes residences in them worth even less to their inhabitants.”). See also SHERYLL CASHIN, *WHITE SPACE, BLACK HOOD: OPPORTUNITY HOARDING AND SEGREGATION IN THE AGE OF INEQUALITY* 72, 74 (2021) (noting that “[a]bout half of all Black metropolitan residents live in highly segregated neighborhoods” and that “Black Americans making \$100,000 tend to live in neighborhoods with amenities akin to neighborhoods occupied by whites making \$40,000”).

143. Bernadette Atuahene, *Predatory Cities*, 108 CALIF. L. REV. 107, 112–61 (2020) (using Detroit as a case study to explore “predatory cities,” where cities over-assess property taxes in primarily minority neighborhoods and then foreclose on those homeowners, shifting the related value to public coffers).

144. See, e.g., Nicole K. McConlogue, *The Road to Autonomy*, 75 OKLA. L. REV. 815, 830–32 (2023) (noting negative health outcomes for those in “food deserts” or without access to transportation).

145. See Godsil & Waldeck, *supra* note 137, at 540 (noting that “the most significant contribution to the creation and maintenance of white neighborhoods and white communities were the federal government New Deal programs”). And even as suburbs became less White, the White suburb maintained its hold on spatial imagination, explaining why non-White suburbs take on qualifier nomenclature (*i.e.*, Black suburbs, immigrant suburbs, ethnic suburbs, suburban ghettos, or barrio suburbs). Jodi Rios, *Racial States of Municipal Governance: Policing Bodies and Space for Revenue in North St. Louis County, MO*, 37 LAW & INEQ. 235, 263–64 (2019).

### C. Property Liens

Municipalities' use of property liens offers yet another example of debt policy's enduring effects on physical mobility. When an individual owes a debt to the federal government, the state government, or a municipality, the relevant government body can place a lien on the debtor's property.<sup>146</sup> While this most often arises when a homeowner fails to pay property tax on real property, municipalities can also place a lien on a home for debts like unpaid water or sewer charges<sup>147</sup> or child support delinquencies.<sup>148</sup> Property liens and their resulting foreclosures, disproportionately borne by Black Americans,<sup>149</sup> affect physical mobility in two opposite ways: (1) the lien itself can make it difficult for the homeowner to access additional credit for repairs or a move, often trapping them in their homes, and (2) a resulting foreclosure requires an unwilling mover to uproot their lives and move against their will.

Property liens have a long history in America. Federal liens for unpaid federal taxes originated at the end of the Civil War.<sup>150</sup> States and municipalities followed suit, primarily relying on statutory authority to place a property lien due to unpaid debt owed to the state.<sup>151</sup> By placing a lien on property—whether real or personal property—the creditor secures the debt owed with the property interest, ensuring that the owner is unable to sell the property until the debt is paid.<sup>152</sup> This limits physical mobility because the debtor cannot access additional credit and will not have an easy time finding a willing buyer. The lien also gives the creditor the right to foreclose on the property to recoup the money lent.<sup>153</sup> Foreclosure then forces physical mobility on an unwilling mover.

Compounding those effects, municipalities regularly sell their property liens to private investors as a profit-making enterprise.<sup>154</sup> Neither selling the right

146. A lien is a “charge against or interest in property to secure payment of a debt or performance of an obligation.” 11 U.S.C. § 101 (37). For an overview of the process, see Georgette C. Poindexter, Elizabeth Ann Rogovoy & Susan Wachter, *Selling Municipal Property Tax Receivables: Economics, Privatization, and Public Policy in an Era of Urban Distress*, 30 CONN. L. REV. 157, 169–70 (1997).

147. Coty Montag, *Lien In: Challenging Municipalities' Discriminatory Water Practices Under the Fair Housing Act*, 55 HARV. C.R.-C.L. L. REV. 199, 200, 207 (2020).

148. Monica Hof Wallace, *Child Support Savings Accounts: An Innovative Approach to Child Support Enforcement*, 85 N.C. L. REV. 1155, 1161 (2007); Drew A. Swank, *Das Boot! A National Survey of Booting Programs' Impact on Child Support Compliance*, 4 J.L. & FAM. STUD. 265, 266 (2002).

149. See *infra* notes 164–167 and accompanying text.

150. William T. Plumb, Jr., *Federal Liens and Priorities—Agenda for the Next Decade*, 77 YALE L.J. 228, 229 (1967) (noting that federal liens, or “secret lien[s],” originated from a Congressional grant at the end of the Civil War).

151. LIEN STRIPPING, JAEL MD-CLE 133. The process varies between jurisdictions. See Poindexter et. al., *supra* note 146, at 169–70 (describing the basic process of state-created property liens).

152. See Poindexter et. al., *supra* note 146, at 169–70 (describing the basic process of state-created property liens).

153. *Id.*; see also Montag, *supra* note 147, at 200.

154. By selling the rights to the property liens, the government recoups debts immediately and efficiently, which can “relieve[ ] the budgetary strain created by shortfalls resulting from nonpayment

to collect taxes to a private party nor transferring property liens to a third party is new.<sup>155</sup> Municipalities' interest in these transfers as "potential assets rather than administrative burdens," however, is a relatively new phenomenon.<sup>156</sup> Local governments transfer their rights to private persons through auction, negotiated bulk sale, or securitization.<sup>157</sup> This transfer then permits the new owners to "collect interest (which could run as high as twenty-four percent) and charge legal fees on a tax debt."<sup>158</sup> Then, "if the property owner fails to settle within the redemption period (which can range from six months to two years)," the private debt owners can "acquire [the] deed to the property—all for the price of a single missed tax payment."<sup>159</sup> These "tax buyers"<sup>160</sup> or "property tax privateers"<sup>161</sup> can collect payments, including interest, on their investment or foreclose to inexpensively acquire real estate.<sup>162</sup>

Black individuals and families have disproportionately borne the brunt of property liens, lien sales, and related foreclosures. Historian Andrew Kahrl describes how, after the Civil War, tax assessors over-valued Black farmland and undervalued White farmland, transferring property tax costs from White people to Black people.<sup>163</sup> He also explains how the mechanisms of a "Jim Crow bureaucracy" forced taxpayers into default by failing to undertake administrative tasks like mailing tax bills, recording payments, or providing notice of a lien prior to an auction.<sup>164</sup>

Professor Kahrl traces this behavior to the present day. He highlights Washington, D.C. to illustrate how government actors, in collaboration with private tax buyers, have shifted real estate holdings primarily from Black individuals and families to investors making windfall profits:

From 2001 through 2013, the annual number of tax sale foreclosures in the District of Columbia skyrocketed. From 2005 to 2012 D.C. tax buyers foreclosed on nearly 200 houses. By 2013 alone, the *Post* found, tax buyers were poised to foreclose[ ] on over 1200 additional properties, "many" of which were "owned free and clear by families for generations." The vast majority of these properties were located in

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of taxes and transform[ ] a nonperforming asset into cash without raising taxes." Poindexter et. al., *supra* note 146, at 158.

155. Frank S. Alexander, *Tax Liens, Tax Sales, and Due Process*, 75 IND. L.J. 747, 758–60 (2000) (tracing "tax farming" as far back as the Ptolemaic Egyptians and Greeks).

156. *Id.* at 760.

157. Poindexter et. al., *supra* note 146, at 171–72.

158. Andrew W. Kahrl, *Unconscionable: Tax Delinquency Sales as a Form of Dignity Taking*, 92 CHI.-KENT L. REV. 905, 905 (2018).

159. *Id.*

160. *Id.* at 908.

161. See Cameron M. Baskett & Christopher G. Bradley, *Property Tax Privateers*, 41 VA. TAX REV. 89, 92 (2021) (coining the term "'property tax privateers' to describe [investors] . . . who purchase and foreclose on tax liens for massive profits").

162. Kahrl, *supra* note 158, at 908–09.

163. *Id.* at 911.

164. *Id.*

heavily minority neighborhoods . . . . Between 2005 and 2008, tax buyers purchased liens on thirty-three properties along a single street in the historically black neighborhood of Deanwood. Tax buyers quickly resold properties acquired via tax foreclosure for massive profits. The *Post* investigation found examples of houses with liens of less than \$300 resold for nearly \$130,000.<sup>165</sup>

Other scholars have similarly sounded the alarm, finding that property liens and resulting property transfers disproportionately burden low-income individuals and “those who have faced historical discrimination.”<sup>166</sup>

Coty Montag traces similar, racialized outcomes for property liens assessed for unpaid water bills.<sup>167</sup> Citing a series of studies, Montag compellingly argues that water prices are higher, water shutoffs are more prevalent, and converting debt to property liens is more common in predominantly Black neighborhoods, even when controlling for income.<sup>168</sup> Though the process is legal, she critiques converting this kind of utility debt to a property lien because it “can be initiated based on very small overdue amounts, bills for property taxes or municipal services are often incorrect or inflated, and municipalities often have discretion in the process, which can lead to inconsistent and discriminatory outcomes.”<sup>169</sup>

Ostensibly about collecting unpaid debt to the state,<sup>170</sup> governments’ use of property liens operates to transfer wealth from traditionally marginalized communities to the government, debt buyers, and wealthier homeowners. This wealth transfer is facilitated disproportionately at the expense of Black debtors’ physical mobility.

#### D. State-Backed Private Debt

In addition to setting the terms for the collection of their own debt, states also prescribe policy, procedure, and enforcement of privately-held debt. Not only do the laws of property acquisition and ownership set the parameters of credit and debt exchanges, but law enforcement and courts—arms of the state—are necessary for debt collection and enforcement. Throughout American history, even policy related to privately-held debt relied on the state in enforcing and reinforcing physical mobility controls, segregation, and racialized space. This Subsection briefly explores three—slavery, sharecropping, and eviction.<sup>171</sup>

165. *Id.* at 928–29 (citing Michael Sallah, Debra Cenziper & Steven Rich, *Left with Nothing*, WASH. POST (Sept. 8, 2013), <http://www.washingtonpost.com/sf/investigative/2013/09/08/left-with-nothing> [<https://perma.cc/W6FV-V2FB>]).

166. Baskett & Bradley, *supra* note 161, at 118.

167. Montag, *supra* note 147, at 201 (“Black communities are disproportionately impacted by these municipal water debt collection practices.”).

168. *Id.* at 205–06.

169. *Id.* at 210.

170. Baskett & Bradley, *supra* note 161, at 100 (“Champions of the property tax often point to economic efficiency or political accountability to justify its prominence in the state and local tax landscape.”).

171. There are, undoubtedly, many more examples.

### 1. Slavery

Slavery provides a first—and forceful—example of the way that private debt policy and enforcement affected and racialized physical mobility and the freedoms that arise from the right to bodily autonomy. In the slave trade on the African continent and once enslaved in America, enslaved people represented debtors, currency, and collateral for other debt.

While kidnapping and capturing were part of the Transatlantic Slave Trade,<sup>172</sup> most people enslaved during that period were first immobilized by debt.<sup>173</sup> Anthropologist David Graeber details how, in places like the Cross River region, “ritual laws and penalties” were “so comprehensive and severe that everyone was at constant risk of falling afoul of them,” leaving the alleged violator in debt to the state.<sup>174</sup> When debtors were unable to pay, they would be forced to pawn their children or themselves; from there, they were given to a local merchant society like the Aro Confederacy or to the British and, “finally, shackled and chained, crowded into tiny slaving vessels and sent off to be sold on plantations across the sea.”<sup>175</sup>

A complex government-support debt scheme underpinned the Transatlantic Slave Trade itself.<sup>176</sup> Graeber explains how “[s]hip-owners based in Liverpool or Bristol would acquire goods on easy credit terms from local wholesalers, expecting to make good by selling slaves (also on credit) to planters in the Antilles and America, with commission agents in the city of London ultimately financing the affair through the profits of the sugar and tobacco trade.”<sup>177</sup> During the course of the intricate exchange of goods, credit, and copper bars, enslaved Africans were used both as currency and as collateral for the credit. Once they arrived in America, enslaved people remained part of the official debt system, becoming the foundation of local currency and of the national economy.<sup>178</sup> Slave bodies became currency,<sup>179</sup> slaveholders rented out their enslaved workers,<sup>180</sup> and legal institutions offered a structured mechanism for recording debts collateralized by slaves.

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172. GRAEBER, *supra* note 39, at 152–55.

173. *Id.*

174. *Id.* at 152.

175. *Id.* at 152–55.

176. *Id.* at 150–55. Private actors could not have undertaken these actions without the scaffolding of the law and the enforcement mechanism of state action.

177. *Id.* at 150.

178. COLOR OF MONEY, *supra* note 69, at 10–11. Professor K-Sue Park also details how debt creation was an economic tool for the dispossession of Native land and the wealth-building credit formation for colonial settlers. K-Sue Park, *Race, Innovation, and Financial Growth: The Example of Foreclosure*, in HISTORIES OF RACIAL CAPITALISM 28 (Justin Leroy & Destin Jenkins, eds. 2021).

179. COLOR OF MONEY, *supra* note 69, at 10–11 (“Between 1820 and the Civil War, banks across the South issued notes with images of slaves printed on the money. The currency of the South was the slave. Slaves were not just the labor in the cotton production process; they were the collateral used to finance the operations.”).

180. COHEN, *supra* note 107, at 6.

While debt policy stripped enslaved Black people of their autonomy, freedom, and physical movement, it simultaneously benefitted White people in America and overseas.<sup>181</sup> Plantation growing promoted physical mobility for slaveholders: “Slavery was often associated with mono-culture staple crop production, which led to land exhaustion, meaning that slaveholders often sought out new land and migrated to new regions in search of the greatest profits.”<sup>182</sup> White speculators and banking institutions also built wealth by trading in slave-backed securities.<sup>183</sup> By using enslaved people as both free labor and collateral, White slaveholders and the global financial marketplace directly benefitted from slavery’s debt systems and the related mechanisms for immobilizing or stripping autonomous physical mobility of Black enslaved people.

## 2. *Sharecropping*

The second example of state-backed private debt policy that affected physical mobility is sharecropping. Just as slavery trapped enslaved workers, sharecropping was a system based in credit and debt that trapped exploited workers (sharecroppers), not only financially, but physically as well.<sup>184</sup> Technically, sharecropping was a contractual relationship between a landowner and a sharecropper, where the sharecropper paid rent to the landowner in the form of crops. Sharecroppers rented their land, supplies, and necessary tools on credit; the creditor was the plantation owner.<sup>185</sup> Because sharecroppers often earned less than they owed, sharecroppers had no choice but to remain on for the following season.<sup>186</sup> The sharecroppers’ cycle of debt and physical immobility was similar to the way that debt had been used to perpetually (and primarily) trap Black men in convict leasing. The nature of the sharecropping exchange trapped

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181. See Matthew Desmond, *In order to understand the brutality of American capitalism, you have to start on the plantation*, N.Y. TIMES MAG. (Aug. 14, 2019), <https://www.nytimes.com/interactive/2019/08/14/magazine/slavery-capitalism.html> [https://perma.cc/T24Q-E979] (noting that the Mississippi Valley housed the greatest number of millionaires in the U.S. per capita at the beginning of the Civil War).

182. CLAIRE PRIEST, CREDIT NATION: PROPERTY LAWS AND INSTITUTIONS IN EARLY AMERICA 159 (2021).

183. COLOR OF MONEY, *supra* note 69, at 11 (“Slavery modernized credit markets, creating complex new forms of financial instruments and trade networks through which slaves could be mortgaged, exchanged, and used as leverage to purchase more slaves.”). See also Edward E. Baptist & Louis Hyman, *American Finance Grew on the Backs of Slaves*, CHICAGO SUN-TIMES (Mar. 7, 2014), <https://norbertobarreto.blog/2014/03/14/american-finance-grew-on-the-back-of-slaves/> [https://perma.cc/H52U-WQ8Z]; Desmond, *supra* note 181 (“Thomas Jefferson mortgaged 150 of his enslaved workers to build Monticello.”).

184. COLOR OF MONEY, *supra* note 69, at 33 (“The credit arrangements of the South also had the veneer of self-determination and freedom, but this turned out to be yet another form of bondage.”).

185. *Id.*

186. ROTHSTEIN, *supra* note 123, at 154. See also COHEN, *supra* note 107, at 21 (citing the 1867 annual report from the commissioner of the Freedman’s Bureau “that in Mississippi the plantation laborer was often charged so heavily for negligence or incidental expenses that ‘at the end of the year he is poorer than at the beginning’”).

the sharecroppers in circumstances that kept them in a kind of bondage to the land.<sup>187</sup>

The physical immobility inherent in the sharecropping system was state-enforced. If sharecroppers tried to leave, the state interceded on behalf of the plantation owners to prevent them from doing so; local sheriffs enforced debt bondage by “arresting, assaulting, or murdering those who attempted to leave, or by condoning violence perpetrated by owners.”<sup>188</sup> And while the system primarily trapped Black sharecroppers, the system benefitted White plantation owners and cotton traders.<sup>189</sup> Cotton production went up after the Civil War and the United States continued as the world’s leading cotton producer and exporter.<sup>190</sup>

### 3. Eviction

The final example is eviction. By removing tenants from their landlord-owned properties, landlords displace individuals and families and affect larger communities. Landlords have authority to expel people from their homes for numerous reasons, but nonpayment of rent—debt—is by far the most common.<sup>191</sup> And although the contract creating the debt is between two private parties, the substance and procedure of evictions are state-created and state-enforced. Evictions displace individuals and families, disproportionately burden Black women, and force physical mobility on an unwilling mover.

Eviction law and procedure are created by state law. State statutes often set forth a special process for eviction actions outside of the regular rules of civil procedure. This limits procedural structures and fast-tracks trials. In North Carolina, for example, eviction cases are heard in Small Claims Court and

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187. See *COLOR OF MONEY*, *supra* note 69, at 33. *But see* COHEN, *supra* note 107, at 4 (1991) (recognizing that “[o]ne of the most significant constants of the postwar era was the effort of southern planters to find ways of legally restricting black movement,” but also finding that “planters were rarely able to use their legal instruments effectively enough to interdict seriously black movement from one state to another”).

188. ROTHSTEIN, *supra* note 123, at 154. These arrests, of course, were related to the larger practice of imprisoning debtors. See Jill Lepore, *I.O.U.*, *NEW YORKER* (Apr. 6, 2009), <https://www.newyorker.com/magazine/2009/04/13/i-o-u> [<https://perma.cc/7YFZ-AME6>] (providing a historical look at official debtors’ prisons in existence in the United States until the 1830s). For reasons stated in the Introduction, *supra* note 34, a searching look at debtors’ prisons is outside the scope of this Article.

189. *COLOR OF MONEY*, *supra* note 69, at 34. It is important to note that there were White sharecroppers ensnared in the same system, although they remained a step above Black people in the “class-and-race-based hierarchy in the South.” See Angela Onwuachi-Willig, *Policing the Boundaries of Whiteness: The Tragedy of Being ‘Out of Place’ From Emmett Till to Trayvon Martin*, 102 *IOWA L. REV.* 1113, 1139 (2017).

190. *COLOR OF MONEY*, *supra* note 69, at 34.

191. Hon. Gerald A. Williams & Hon. Charles J. Adornetto, *Pandemic Residential Eviction Moratoriums: An Analysis of Judicial Implementation and Recommendations for the Future*, 54 *TEX. TECH. L. REV.* 603, 605 (2022).

pursuant to a standard court filing.<sup>192</sup> The fast-track court process, with repeat player landlords, allows sophisticated plaintiffs to end-run around the defendant's already-limited procedural rights.<sup>193</sup> Those statutory procedures set the stage for a court to quickly, and without significant attention to the details of the case, rule for the landlord plaintiff. Landlord plaintiffs in eviction actions are what Professor Daniel Wilf-Townsend calls "assembly-line" plaintiffs. Assembly-line actions generally involve a sophisticated repeat player, numerous similar, small-value claims, and absent or *pro se* defendants. Eviction actions are mainly heard and processed by passive judges and courts.<sup>194</sup> And they are ubiquitous: landlords filed more than 3.6 million eviction cases in 2018 prior to the disruption created by the COVID-19 pandemic;<sup>195</sup> early evidence suggests that post-pandemic filings have returned to pre-pandemic levels.<sup>196</sup>

Eviction filings and evictions disproportionately burden Black people, particularly Black women.<sup>197</sup> Undertaking in-depth and longitudinal studies in Milwaukee, Wisconsin, sociologist Matthew Desmond found that women from Black neighborhoods were the targets of thirty percent of eviction actions, even though they represented less than ten percent of the population.<sup>198</sup> In high-poverty White neighborhoods in Milwaukee, Desmond found that one in 134 male and one in 150 female renters were subjected to eviction, whereas, in high-poverty Black neighborhoods, one in thirty-three male and one in seventeen female renters faced eviction.<sup>199</sup> Desmond equates evictions for poor Black women to mass incarceration for poor Black men.<sup>200</sup>

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192. See N.C. GEN. STAT. ANN. §§ 42-1 to 42-76 (West 2004) (governing summary ejections). See also N.C. GEN. STAT. ANN. § 42-3 (West 2004) (requiring a ten-day notice period prior to eviction for nonpayment of rent).

193. Dona Lewandowski, *G.S. 42-3: The Landlord's Life Preserver*, UNIV. N.C. SCH. GOV: ON THE CIVIL SIDE (Dec. 9, 2015), <https://civil.sog.unc.edu/g-s-42-3-the-landlords-life-preserver/> [<https://perma.cc/S2R8-4JTN>] ("As a general rule, a landlord enjoys great benefit from a skillfully written forfeiture clause allowing the landlord to recover possession of rental property with a minimum of procedural requirements and triggered by whatever violations are of consequence to the landlord."). See also Kathryn A. Sabbeth, *Eviction Courts*, 18 U. ST. THOMAS L.J. 359, 376–85 (2022) (identifying ten "key design features" of eviction courts).

194. Daniel Wilf-Townsend, *Assembly-Line Plaintiffs*, 135 HARV. L. REV. 1704, 1717 (2022) (defining "assembly-line plaintiffs" and recognizing that landlord/tenant cases are likely to fall within such a construct).

195. Juan Pablo Garnham, Carl Gershenson & Matthew Desmond, *New Data Release Shows that 3.6 Million Eviction Cases were Filed in the United States in 2018*, <https://evictionlab.org/new-eviction-data-2022/> [<https://perma.cc/C3GH-H24A>] (July 11, 2022).

196. Camila Vallejo, Jacob Haas & Peter Hepburn, *Preliminary Analysis: Eviction Filing Patterns in 2022*, <https://evictionlab.org/ets-report-2022/> [<https://perma.cc/D2X7-3FE7>].

197. Tonya L. Brito, Kathryn A. Sabbeth, Jessica K. Steinberg & Lauren Sudeall, *Racial Capitalism in the Civil Courts*, 122 COLUM. L. REV. 1243, 1268 (2022).

198. Matthew Desmond, *Poor Black Women Are Evicted at Alarming Rates, Setting Off a Chain of Hardship* 1 (March 2014) [https://www.macfound.org/media/files/hhm\\_research\\_brief\\_-\\_poor\\_black\\_women\\_are\\_evicted\\_at\\_alarming\\_rates.pdf](https://www.macfound.org/media/files/hhm_research_brief_-_poor_black_women_are_evicted_at_alarming_rates.pdf) [<https://perma.cc/B622-473K>].

199. *Id.* at 2.

200. *Id.* at 1 ("Poor black men may be locked up, but poor black women are locked out. Both phenomena work together to propagate economic disadvantage in the inner city.")

Legal professors Tonya L. Brito, Kathryn A. Sabbeth, Jessica K. Steinberg, and Lauren Sudeall argue that such statistics are borne not just of poverty or private dispute, but of racial capitalism in eviction courts, in which “a primary function of the civil courts is the racialized production of profit,” rather than a strict application of the relevant substantive law.<sup>201</sup> In a related vein, Wilf-Townsend argues that in cases involving assembly-line plaintiffs, including evictions, “courts transfer assets from unsophisticated, often-indigent persons to major corporations without seriously evaluating the merits of each case.”<sup>202</sup> The effect, scholars argue, is that the civil courts, including eviction courts, serve as “state-run sites of racialized commodification,” where primarily Black tenants are evicted from their homes to benefit a profit-driven corporation.<sup>203</sup> Through eviction, private landlords work within the state-created and state-enforced system of eviction to disproportionately affect Black people’s physical mobility, all while transferring wealth from those evicted to private landlords and corporations.

The right to move oneself freely *is* connected to financial and social mobility. Black people ensnared in the Black Codes and leased out to governmental or corporate enterprises were forced to work without pay, unable to control not only their physical beings, but also their finances and relationships.<sup>204</sup> New Deal mortgage programs offered accessible and affordable debt to aspiring White homeowners, but they withheld such options from aspiring Black homeowners.<sup>205</sup> And property liens have long operated to disproportionately trap Black homeowners in distressed housing and force them to move against their will.<sup>206</sup> But, as explored more fully above, these policies have also affected physical mobility. While the debt policies did not physically restrain Black people, they effectively limited their opportunities to freely move from place to place without state interference. And physical mobility is about something more than financial and social mobility. Rather, physical mobility is about freedom, an idea more fully explored in the following Part.

### III.

#### PHYSICAL MOBILITY AND THE AUTOMOBILE

This Part addresses why physical mobility matters, as both related to and distinct from social and financial mobility. Physical mobility is deeply connected

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201. Brito et al., *supra* note 197, at 1268, 1250. The latter citation is in reference to debt collection suits, not eviction cases. The authors, however, acknowledge that both kinds of cases operate similarly and are subject to the inequities of racial capitalism. *Id.* at 1246–47.

202. Wilf-Townsend, *supra* note 194, at 1709.

203. Brito et al., *supra* note 197, at 1270–74.

204. *See supra* Subsection II.A.

205. *See supra* Subsection II.B.

206. *See supra* Subsection II.C.

to notions of freedom and personhood.<sup>207</sup> This Part focuses on the importance of personal automobiles in unlocking physical mobility in America’s automobile-centric society. Today, driving stands as a symbol of bodily autonomy and physical freedom. But the “automobile supremacy”<sup>208</sup> rooted in our spaces, laws, and social consciousness did not arise from thin air; it is the product of state action, prioritization, and legal decision-making. Thus, this Part not only connects driving to the essence of physical mobility (namely, freedom), but it also sets the stage for Part IV, which explores the intersection of debt policy, automobility, and physical mobility through the lens of debt-based driving restrictions.

### A. *The Automobile*

Over the last century and a half, the car has become the primary mechanism of personal travel and autonomous movement. Introduced in the United States in 1895,<sup>209</sup> the modern motorcar quickly became the primary means of personal travel. Though the automobile was initially the province only of the ultra-wealthy<sup>210</sup> and then of the agrarian farmer,<sup>211</sup> Henry Ford’s introduction of the Model T in 1908 made cars available to the average person.<sup>212</sup> There were more than 8 million vehicle registrations in 1920; that number had increased to 23 million by 1930 and to more than 27 million by 1940.<sup>213</sup>

Cars democratized travel. Largely for the first time, people could easily travel on their own schedules and with their own passengers. “Cars radically changed daily lives and aspirations, culture and the built environment, and people’s relationships with each other and their communities.”<sup>214</sup> Not only did

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207. See Dawinder S. Sidhu, *Threshold Liberty*, 37 CARDOZO L. REV. 503, 507 (2015) (defining the scope of the Thirteenth Amendment relative to “the liberty necessary for physical mobility,” which the author deems “threshold liberty”). See generally Nancy Leong, *The Open Road and the Traffic Stop: Narratives and Counter-Narratives of the American Dream*, 64 FLA. L. REV. 305 (2012) (looking to cultural texts to find that the “open road” is the epitome of the American dream and manifest destiny).

208. Shill, *supra* note 2, at 502 (defining “automobile supremacy” as a structure that is “constructed by diverse bodies of law including traffic regulation, land use law, criminal law, torts, insurance law, environmental law, vehicle safety rules, and even tax law, all of which provide incentives to cooperate with the dominant transport mode and punishment for those who defect”).

209. JAMES J. FLINK, *AMERICA ADOPTS THE AUTOMOBILE, 1895-1910* 2 (1970).

210. Miriam Julia Pinski, *Right or Privilege? The History of Driver’s Licenses in California* 21 (2022) (Ph.D. dissertation, University of California Los Angeles) (ProQuest).

211. PETER J. LING, *AMERICA AND THE AUTOMOBILE: TECHNOLOGY, REFORM AND SOCIAL CHANGE, 1893-1923* 13–16 (1990).

212. *Automobile History*, HISTORY (Aug. 21, 2018), <https://www.history.com/topics/inventions/automobiles> [https://perma.cc/GK8G-KT5H].

213. Margaret Walsh, *Gendering Mobility: Women, Work and Automobility in the United States*, 93 HISTORY 376, 377 (2008).

214. SEO, *supra* note 3, at 9–10.

cars change travel, but they became synonymous with “individual solitude and freedom”<sup>215</sup> necessary for “human flourishing.”<sup>216</sup>

The ability to travel by car evokes a sense of freedom and relates to feelings of pride, status, and independence.<sup>217</sup> At the outset of the car revolution, this was particularly true for exploited and disenfranchised groups. Women could travel without fear or challenges to their competence.<sup>218</sup> For Black drivers, cars represented the freedom that was promised, but never realized, by emancipation and Reconstruction.<sup>219</sup> Legal historian Sarah Seo explains:

The motoring lifestyle represented racial progress, one that speedily trickled down . . . . According to an early twentieth-century sociologist, the “feel of power, even in an old automobile, [was] most satisfying to a man who owns nothing, directs nothing.” Becoming “machinery wise,” the ability to drive as fast as the richest planter in the county, and the opportunity to travel “incognito” in a covered car without constantly confronting the significance of their skin color gave southern blacks a taste of the mobility, freedom, and equality that otherwise had not materialized after Reconstruction.<sup>220</sup>

Consistent with the ethos of the Progressive Age, however, the advent of automobility led to a rise in state involvement.<sup>221</sup> The state regulated drivers through licensing schemes implemented as early as 1903,<sup>222</sup> and then controlled drivers through an increased police presence on roadways.<sup>223</sup> Mass automobility led to more police, necessary to regulate both drivers and pedestrians.<sup>224</sup> With increased numbers of police and greater regulation of the road, drivers—especially Black drivers—were subjected to increased scrutiny. Scrutiny directed at Black drivers became so well known that, after the Court’s decision in *Whren v. United States*, which “effectively sanctioned the pretextual traffic stop as a legitimate law enforcement tool,” the term “driving while Black” became commonplace in the public

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215. *Id.* at 10 (pointing to the role of the car in privacy, self-determination, and liberation, as recognized in popular songs, scripts, and advertisements). See also Leong, *supra* note 207, at 307 (“Simply to travel the road is to exercise the freedom of movement and choice of destination intrinsic to our ideals.”).

216. SEO, *supra* note 3, at 207. See also Barajas, *supra* note 90, at 7 (noting that the car is the “quintessential symbol of freedom” all around the world); LING, *supra* note 211, at 5 (“[M]otoring could be embraced as an activity which relied upon personal initiative, gave a sense of independence, and permitted willful individualism.”).

217. Barajas, *supra* note 90, at 7.

218. SEO, *supra* note 3, at 35–36.

219. See *id.* at 36; but see Leong, *supra* note 207, at 341 (recognizing that the culturally-embedded “open road narrative” is “largely raced white,” whereas the traffic stop is “generally raced black”).

220. SEO, *supra* note 3, at 36. See also Seo, *supra* note 32, at 1648–51 (describing law professor Charles Reich’s view of the automobile as a way to experience liberation as a gay man in the 1960s).

221. LING, *supra* note 211, at 3.

222. Pinski, *supra* note 210, at 27 (noting that Massachusetts and Missouri adopted the first state licensing schemes in 1903).

223. See SEO, *supra* note 3, at 76.

224. *Id.* at 70.

lexicon.<sup>225</sup> Black people are more than two times as likely to be killed by the police as White people.<sup>226</sup> Traffic stops when driving (whether valid or invalid) increase interactions with the police, further increasing the dangers posed to Black drivers. This means that, especially for Black drivers, there is an inherent tension between automobility's offer of personal autonomy and the invasive surveillance that has saturated the roadways.<sup>227</sup> But while automobiles and interstates have done much to negatively affect individuals and communities (especially Black and Brown communities),<sup>228</sup> the automobile remains the principal mechanism for individual autonomous travel. This Article recognizes the inequities and violence that can and do occur to drivers of color as a critical issue,<sup>229</sup> at the same time, it argues that punishing state-owned debt by revoking driving privileges further exacerbates the perpetuation of segregated spaces and the racialization of space.

### B. *Those With Cars and Those Without*

Cars are not only a symbol of freedom, but they are also a functional necessity of modern American life. After the introduction of the automobile, American society quickly became car-centric.<sup>230</sup> America's obsession with cars is evident in the number of cars Americans own (nearly 104 million),<sup>231</sup> the

225. Jefferson-Jones, *supra* note 33, at 2295–96.

226. *Id.* at 2297.

227. SEO, *supra* note 3, at 159 (“The contradiction of the automobile as both the preeminent symbol of American values and an object of extensive policing threw into sharp relief the vexing conundrum of discretionary policing in a society based on the rule of law.”). *See also* Leong, *supra* note 207, at 307–08 (contending that traffic stops sit as a “counter-narrative” to the freedom of travel). Automobiles also led to increased private debt. As more people wanted cars, prospective drivers turned to loans (particularly installment contracts) to purchase their vehicles, bringing the automobile finance company to the United States. HYMAN, *supra* note 40, at 21. *See also* Andrew Ross & Julie Livingston, *Once You See the Truth About Cars You Can't Unsee It*, N.Y. TIMES (Dec. 15, 2022) (“But for many low-income and minority Americans, automobiles have been turbo-booster engines of inequality, immobilizing their owners with debt, increasing their exposure to hostile law enforcement, and in general accelerating the forces that drive apart haves and have-nots.”). And as debt flourished with the automobile, so too did the business of debt. HYMAN, *supra* note 40, at 18 (“[R]eselling of debt began through the most quintessentially American of inventions—the automobile.”).

228. *See* Deborah N. Archer, *Transportation Policy and the Underdevelopment of Black Communities*, 106 IOWA L. REV. 2125, 2127 (2021) (arguing that transportation policy has long been a driver of racial inequality); Deborah N. Archer, “White Men’s Roads Through Black Men’s Homes”: *Advancing Racial Equity Through Highway Reconstruction*, 73 VAND. L. REV. 1259, 1286–1298 (2020) (exploring the effect of modern highway redevelopment on racial and economic segregation).

229. *See* Jefferson-Jones, *supra* note 33, at Part III (tying pretextual stops and violence against Black drivers to efforts to reinforce White peoples’ claim to the “open road”).

230. *See* SEO, *supra* note 3, at 76 (recalling that President Harding called the car “an indispensable instrument in our political, social and industrial life” in 1921). *See also* Shill, *supra* note 2, at 500 (“There’s little question that the car is now central to American life.”).

231. *See* FED. HIGHWAY ADMIN., U.S. DEP’T OF TRANSP., HIGHWAY STATISTICS 2020: STATE MOTOR-VEHICLE REGISTRATIONS — 2020, <https://www.fhwa.dot.gov/policyinformation/statistics/2020/pdf/mv1.pdf> [https://perma.cc/UC5T-G4EH] (including private and commercial vehicles).

percentage of families that own cars (between 85 and 95%),<sup>232</sup> legislative policies and budgets that prefer surface transportation to public transportation (80 versus 20% of the federal budget),<sup>233</sup> and decisions about where and when to build infrastructure that benefits drivers.<sup>234</sup> Scholars project continued mass reliance on the private automobile in the United States and around the world.<sup>235</sup> Therefore, it is no surprise that carlessness is associated with negative financial, social, and physical mobility.

Government policy has prioritized car travel and de-prioritized mass transportation, pedestrian access, and alternative personal transportation.<sup>236</sup> The result is that non-drivers' lives have become more expensive and more difficult. Households without cars have become poorer both in absolute terms and in comparison to households with cars.<sup>237</sup> In the years between 1960 and 2014, poverty in the United States fell ten percentage points, from 24% to 14%.<sup>238</sup> In those same years, however, poverty for carless households in the United States rose two percentage points, from 42% to 44%.<sup>239</sup> Having access to a personal vehicle is "associated with less stress, more employment, and higher earnings."<sup>240</sup> Lacking access to a car inhibits full participation in American society, making it more difficult and more expensive to work, go to school, socialize, parent, and live.<sup>241</sup> In fact, the Supreme Court has recognized that

232. See McConlogue, *supra* note 144, at 5–6 (looking to Federal Highway Administration Statistics to conclude that 91% of American households have cars and 58% have more than one car); Adam J. Levitin, *The Fast and the Usurious: Putting the Brakes on Auto Lending Abuses*, 108 GEO. L. J. 1257, 1259 (2020) (finding 95% of households own at least one car); Pamela Foohey, *Bursting the Auto Loan Bubble in the Wake of COVID-19*, 106 IOWA L. REV. 2215, 2216 (2021) (finding at least 85% of households own at least one car).

233. See Deborah N. Archer, *Transportation Policy and the Underdevelopment of Black Communities*, 106 IOWA L. REV. 2125, 2142 (2021).

234. See Kate Sablosky Elengold, *Mobility Matters: Where Higher Education Meets Transportation*, 13 U.C. IRVINE L. REV. 619, 651 (2023).

235. Joyce Dargay, Dermot Gately & Martin Sommer, *Vehicle Ownership and Income Growth, Worldwide: 1960-2030*, 28 ENERGY J., no. 4, 2007, at 143 (building and interpreting a model that predicts the vehicle saturation level of countries to increase from 800 million in 2002 to more than two billion units in 2030).

236. See *infra* Subsection III.D.

237. David A. King, Michael J. Smart & Michael Manville, *The Poverty of the Carless: Toward Universal Auto Access*, 42 J. PLAN. EDUC. & RES. 464, 465 (2022) (noting that households with no access to cars are "poorer in absolute terms than they were sixty years ago"). See also Klein & Smart, *supra* note 13, at 497–99 (showing that "the gap in auto ownership between poor and non-poor families is growing").

238. King et al., *supra* note 237, at 465.

239. *Id.*

240. *Id.* (citing studies).

241. In states with voter ID laws, loss of a driver's license also raises significant democratic participation concerns. See Richard L. Hasen, *The Untimely Death of Bush v. Gore*, 60 STAN. L. REV. 1, 20 (2007) (recognizing that driver's licenses are the most common form of identification used for voter identification purposes); Bertrall L. Ross II & Douglas M. Spencer, *Passive Voter Suppression: Campaign Mobilization and the Effective Disfranchisement of the Poor*, 114 NW. U. L. REV. 633, 649 (2019) (commenting on a voter ID law in Indiana by noting that the statistics about who had a driver's license indicated whom a voter identification law would affect).

driving a car is a “virtual necessity for most Americans.”<sup>242</sup> Therefore, it is not surprising that households spend 95% of their transportation budget on personal automobiles<sup>243</sup> and drivers turn to the bankruptcy system to save their cars.<sup>244</sup>

Carlessness—and the downsides associated with carlessness—disproportionately harms the poor and people of color. Scholars have found correlations between carlessness and poverty,<sup>245</sup> but have separately found correlations between carlessness and race, even when controlling for poverty.<sup>246</sup> And even among households that have access to a vehicle, households of color are more likely than White households to have fewer cars than adults.<sup>247</sup> Thus, losing access to a car (including a shared family car or a family driver) deepens the physical mobility limitations in communities that are already “held hostage” by lack of reliable and affordable transportation.<sup>248</sup> This is true even in densely-packed, urban areas; studies have shown that automobile access enhances job gains even in large metropolitan areas.<sup>249</sup>

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242. *Wooley v. Maynard*, 430 U.S. 705, 715 (1977).

243. *See* King et al., *supra* note 237, at 467. Even increased teleworking in the wake of COVID-19 does not suggest a decreased reliance on personal automobiles. In fact, “[t]he existing literature on the effect of COVID-19 on mobility trends suggests that the mobility balance has shifted *toward* the private car.” Maria Vega-Gonzalo, Panayotis Christidis & Juan Gomez, *Car Ownership and Post-COVID Urban Mobility across European Cities*, 69 *TRANSP. RSCH PROCEDIA (SPECIAL ISSUE)* 305, 206 (2023) (collecting literature) (emphasis added). One study of individuals in twenty-one European cities after the COVID lockdown was raised in 2021 showed that teleworkers “have bought significantly more cars than other occupation categories.” *Id.* at 311.

244. *See* Pamela Foohey, Robert M. Lawless & Deborah Thorne, *Driven to Bankruptcy*, 55 *WAKE FOREST L. REV.* 287, 315 (2020).

245. *See, e.g.*, Eric Mann, *Los Angeles Bus Riders Derail the MTA*, in *HIGHWAY ROBBERY: TRANSPORTATION RACISM & NEW ROUTES TO EQUITY* 33–34 (Robert D. Bullard et al. eds., 2004) (explaining that Los Angeles has long had a “two-tiered” transit system, with the carless “urban poor” relegated to public transportation); King et al., *supra* note 237, at 465 (noting that “carlessness is increasingly associated with poverty”). The Department of Labor reported that an average vehicle costs nearly \$10,000 annually to own and operate. *CONSUMER EXPENDITURES—2018*, *BUR. OF LABOR STATS.*, <https://www.bls.gov/news.release/pdf/cesan.pdf> [<https://perma.cc/TG3K-FWRX>].

246. *See* Klein & Smart, *supra* note 13, at 498–502.

247. *Id.* at 501–02 (30% of Hispanics reported less than one car per adult in the household, compared to 12% of non-Hispanic Whites, 18% of non-Hispanic Blacks, and 26% of Non-Hispanic Asians).

248. McConlogue, *supra* note 144, at 11 (arguing that any policy solution to the racialized “transportation gap” must include access to private autonomous vehicles). This is compounded by automobile debt, wherein lenders can automatically disable a car for default on an auto loan. Juliet M. Moringiello, *Automating Repossession*, 22 *NEV. L.J.* 563, 564 (2002) (“Secured lending has not escaped this phenomenon. Article 9 of the Uniform Commercial Code (UCC), which governs loans secured by personal property collateral, allows a lender, after its borrower’s default, to take possession of the collateral without judicial process in order to sell that collateral to satisfy the debt.”).

249. Evelyn Blumenberg & Gregory Pierce, *A Driving Factor in Mobility? Transportation’s Role in Connecting Subsidized Housing and Employment Outcomes in the Moving to Opportunity (MTO) Program*, 80 *J. OF AM. PLANNING ASS’N* 52, 62 (2014).

Thus, in our car-centric society, losing access to a car has multiple negative repercussions.<sup>250</sup> There are financial and social repercussions, such as lower income, lower job retention, and college non-completion.<sup>251</sup> Because people of color are disproportionately carless, these repercussions are already connected to and correlated with race. But because the automobile is a key symbol of freedom and the primary mechanism for daily travel in the United States, losing access to a car also means losing access to personal and physical autonomy. When state action—through debt policy—limits physical mobility by limiting access to the car, it both harkens back to prior state action that segregated and subjugated Black people and provides a current example of the same.<sup>252</sup>

### C. *The State's Role in Automobile Supremacy*

Although the car industry has influenced society's partiality for car travel over other motorized travel and walking,<sup>253</sup> America's obsession with cars is embedded in and supported by law. State policy has supported and encouraged reliance on cars over other forms of transportation. With that groundwork, states then have the authority to regulate driving through licensing and registration. Together, this gives the state an incredible amount of power.

Through laws and policies, state actors at all stages of the government prioritize cars and drivers. As Professor Gregory Shill explains, a diverse body of law creates a paradigm of "automobile supremacy," which operates not only to shift costs from drivers to non-drivers, but also to "legitimate a state of choice deprivation and inequity, serving as an excuse for the status quo's many curable flaws and injustices."<sup>254</sup> Shill details how different legal schemes—from tort law to insurance law to land use law to tax law—subsidize driving to the detriment of all other forms of transportation, including public transportation.<sup>255</sup> For example, by making "jaywalking" a citable infraction, municipalities sided with the auto industry to give a preference to drivers over pedestrians.<sup>256</sup> Similarly,

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250. It would be environmentally sound for America and Americans to become less car-centric. But in the absence of policies that incentivize or require such action for all Americans, I am loathe to place the onus on the most vulnerable among us—the carless, who are disproportionately poor and people of color.

251. See *supra* Subsection IV.a.i.

252. See *infra* Section IV.

253. See McConlogue, *supra* note 144, at 30 (noting that "[p]rivate interests swept in to reconceptualize the streetways as being reserved for private use," meaning automobiles).

254. Shill, *supra* note 2, at 502. See also Aaron Golub, Richard A. Marcantonio & Thomas W. Sanchez, *Race, Space, and Struggles for Mobility: Transportation Impacts on African Americans in Oakland and the East Bay*, 34 URBAN GEOGRAPHY, no. 5, 2013, at 722 (2013) (concluding, after looking at a thirty-plus-years-long history of California's East Bay, that "African American communities in the East Bay were, in effect, imprisoned through a series of public and private policies which, on the one hand, immobilized them and, on the other hand, imposed on them the burden of others' mobility by running regional transportation infrastructure through their communities").

255. Shill, *supra* note 2, at 502.

256. Shill, *supra* note 2, at 529 (explaining how the auto industry "seized upon 'jaywalking' as a tenet for a 'propaganda campaign' used to 'stigmatize walkers'").

traffic signals are programmed to benefit driving at the expense of walking.<sup>257</sup> And zoning laws, which often limit density, “have contributed to . . . a greater reliance on driving than obtained in the pre-sprawl built environment.”<sup>258</sup>

In addition to laws on the books, our car-centricity leads to policy and budgeting decisions that benefit drivers at the expense of non-drivers and pedestrians. In the forty years between 1964 and 2004, Congress provided approximately \$50 billion to public transportation.<sup>259</sup> By comparison, in the nearly fifty years between 1956 and 2004, Congress provided in excess of \$205 billion to roadway projects.<sup>260</sup> Between the penumbra of laws creating the paradigm of automobile supremacy and the practical and budgeting decisions that follow, the state has a controlling hand in creating, reinforcing, and implementing ubiquitous automobility.

Not only do state governments contribute to making the car supreme, they also hold the authority to regulate access to cars and driving. States control driver’s licenses and vehicle registrations through a legal scheme and have the authority to restrict licenses and registrations for a large number of reasons, including that the driver owes a debt to the state. By regulating licenses and registrations, the state controls who drives and who does not drive;<sup>261</sup> because cars are a functional necessity in modern living, this is a significant source of power.<sup>262</sup> And because cars are essential for unencumbered travel, states have a strong hand in controlling physical mobility and its downstream consequences by controlling access to driving.

#### IV.

##### DEBT-BASED DRIVING RESTRICTIONS

One way the state controls access to cars—and thus autonomous physical mobility—is through debt policy. State laws restrict driver’s licenses and vehicle registrations for debts owed to the state or pursuant to a state-created system. Through those regulations, state governments have wielded debt policy to control whether and where debtors can move their bodies, families, and

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257. David Levinson, *Signalling Inequity - How Traffic Signals Distribute Time to Favour the Car and Delay the Pedestrian*, TRANSPORTIST (June 12, 2018), <https://transportist.org/2018/06/12/signalling-inequity-how-traffic-signals-distribute-time-to-favour-the-car-and-delay-the-pedestrian> [<https://perma.cc/4TVH-2N4U>].

258. Shill, *supra* note 2, at 544.

259. Robert D. Bullard, *Introduction*, in HIGHWAY ROBBERY: TRANSPORTATION RACISM & NEW ROUTES TO EQUITY 5 (Robert D. Bullard et al. eds., 2004).

260. *Id.*

261. Seo, *supra* note 32, at 211 (detailing how state licensure agencies used their licensing power to meet other policy goals).

262. See Charles A. Reich, *The New Property*, 73 YALE L. J. 733, 746 (1964) (“When government—national, state, or local—hands out something of value, whether a relief check or a television license, government’s power grows forthwith; it automatically gains such power as is necessary and proper to supervise its largess. It obtains new rights to investigate, to regulate, and to punish.”).

possessions.<sup>263</sup> The state has employed this power in a racialized manner, maintaining and entrenching separate and unequal Black and White spaces.<sup>264</sup> This Part details state laws that restrict driver’s licenses and vehicle registrations for debts owed to the state or pursuant to a state-created system, specifically arrearages related to court fines and fees, child support, and taxes. Like the historic examples above, and because of the combination of America’s car-centric culture and the disproportionate negative effect of these driving restrictions on Black drivers, debt-based driving restrictions not only affect physical mobility, but also act as a mechanism of racial control.

Every state and the District of Columbia currently enforce debt collections by restricting or revoking debtors’ driver’s licenses and/or vehicle registrations.<sup>265</sup> Only twelve states and the District of Columbia do not strip driving privileges for failure to pay fines and fees.<sup>266</sup> All fifty states and the District of Columbia restrict driver’s licenses for unpaid child support.<sup>267</sup> Thirty-four states tie unpaid taxes to driving restrictions.<sup>268</sup> States charge up to \$500 as a fee for reinstatement for debt-based restrictions.<sup>269</sup> All states except Idaho and Vermont refuse to renew vehicle registrations for specific debtors.<sup>270</sup> And some states have laws on the books that restrict driving privileges for a variety of other debts.<sup>271</sup> Debt-based driving restrictions generally follow a three-step process. First, a person faces a particular financial obligation, either to the government or

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263. The federal government has also used debt policy to restrict physical mobility (*see infra* notes 344–47 and accompanying text) and federal law has influenced state debt-based driving restriction laws (*see infra* notes 307–14 and accompanying text), but debt-based driving restrictions are primarily creatures of state law.

264. *See* CASHIN, *supra* note 142, at 5 (describing a “residential caste system” that is “about power, politics, and distribution of resources *away* from those who most need public goods *to* people and communities with more than enough”).

265. AM. ASS’N OF MOTOR VEHICLE ADM’RS, REDUCING SUSPENDED DRIVERS AND ALTERNATIVE REINSTATEMENT BEST PRACTICES, ED. 3 6 (May 2021), <http://www.aamva.org/getmedia/b92cc79d-560f-4def-879c-6d6e430e4f4d/Reducing-Suspended-Drivers-and-Alternative-Reinstatement-Best-Practices-Edition-3.pdf> [<https://perma.cc/9LXL-QHWR>] (“Currently, all 50 states, the District of Columbia, and many Canadian provinces have laws that either require or permit a court or other authority to withdraw driving privileges for non-highway safety reasons.”). *See also* Appendix A; Appendix B. There are other mobility restrictions related to LFOs, including criminal justice supervision for people with LFOs. *See* HARRIS, *supra* note 33, at 3 (“Long after they complete their custodial sentence or sentenced community supervision, ‘legal debtors,’ as they are commonly known, are required to report regularly to the court, explain their living and employment circumstances, and give court clerks and judges the details of their budgets.”). The federal government also restricts passports and driver’s licenses for certain debts. *See infra* note 276. Although such policies are briefly referenced herein, the focus is on the ubiquitous practices of state and local governments.

266. *See* Appendix A (detailing driver’s license restrictions by state); Appendix B (detailing vehicle registration restrictions by state).

267. Appendix A.

268. *See id.*; Appendix B.

269. Appendix A.

270. Appendix B.

271. *See, e.g.*, N.H. REV. STAT. ANN. § 206:26-bb(I) (2022) (failing to pay expenses after negligently calling a search and rescue team); OKLA. STAT. ANN. tit. 63, § 1-229.13(F) (1994) (for failure of store employee to pay fine resulting from selling tobacco products to underage persons).

pursuant to a government process. This can be a criminal or civil fine, a criminal justice fee, a child support obligation, a tax obligation, or another financial obligation. Second, the person fails to pay their financial obligation, thus becoming delinquent on their debt. Finally, depending on the language of the state statute and usually pursuant to municipal or state court order,<sup>272</sup> the state agency responsible for driver's licenses and vehicle registrations executes the driving restriction by revoking a license or registration or refusing to renew a license or registration.

It is difficult, if not impossible, to know the goals or intentions of legislators who wrote and voted for the debt-based driving restriction legislation that animates this Part. In tying driving restrictions to debt, legislators may pursue various goals, including public safety, protecting or increasing public funds, ensuring compliance with the underlying law or collection, and imposing punishment. Although some scholars argue that compliance<sup>273</sup> or revenue generation<sup>274</sup> are the primary goals, many others believe that the primary objectives are actually punishment and the expansion of the carceral state.<sup>275</sup> The history of debt-based physical mobility restrictions, and their disparate effects on White and Black Americans,<sup>276</sup> suggest that one goal may actually have been

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272. This Article is about how state action on debt affects physical mobility, with an emphasis on the disparate effects it has on Black Americans and White Americans. For the most part, it looks to state legislatures as the primary state actors associated with debt-based driving restrictions. There are, however, other state actors involved, including police officers, district attorneys, and courts. *See* Brito et al., *supra* note 197, at 1248–49 (arguing that civil courts, particularly state civil courts, are state actors that operationalize racial capitalism).

273. *See, e.g.*, Crozier & Garrett, *supra* note 8, at 1588 (noting that “[p]olicies related to failure to pay traffic fines or appear in court are not designed primarily to promote public safety, but rather to use suspension to induce payment and compliance”); AM. ASS’N OF MOTOR VEHICLE ADM’RS, *supra* note 265, at 3 [<https://perma.cc/9WYF-DJ2N>] (“[W]hat was originally intended as a sanction to address poor driving behavior is now used as a mechanism to gain compliance with non-highway safety obligations.”).

274. FINES & FEES JUSTICE CENTER, *Debt Sentence: How Fines & Fees Hurt Working Families* 3 (May 2023), <https://finesandfeesjusticecenter.org/articles/debt-sentence-how-fines-and-fees-hurt-working-families/> [<https://perma.cc/4JY6-NQMJ>].

275. *See* Ríos, *supra* note 145, at 237 (2019) (“[P]olicing for revenue [ ] relies on age-old tropes of Black deviance and the illegibility of Black suffering” and obtaining conformity.); Akheil Singla, Charlotte Kirschner & Samuel B. Stone, *Race, Representation, and Revenue: Reliance on Fines and Forfeitures in City Governments*, URBAN AFFAIRS REV., Vol. 56(4), 1132–1167, 1134 (2020) (viewing revenues from fines and forfeitures as punishment rather than a broad-based tax); HARRIS, *supra* note 32, at 9, 100 (describing legal financial obligations (LFOs) as part of the “punishment culture” of the criminal justice system, shaped by the “local [municipal- or county-level] culture of punishment”); J. Thomas Oldham & Bruce M. Smyth, *Child Support Compliance in the USA and Australia: To Persuade or Punish?*, 52 FAM. L.Q. 325, 330 (2018) (“In the United States, compliance strategy to date has primarily focused on threatening the obligor with punishment upon noncompliance.”); Ann Cammett, *Deadbeats, Deadbrokees, and Prisoners*, 18 GEORGETOWN J. POV. L & POL’Y 127, 142–46 (2011) (“[A]utomatic child support enforcement creates perverse incentives that alienate parents from the formal economy and drive them underground—and away from their families.”); Lollar, *supra* note 30, at 127 (2018) (describing Texas’s policy to prohibit a child support debtor from renewing his vehicle registration as “punitive”).

276. *See infra* Part II.

limiting mobility and controlling racial segregation. Because we know, for example, that fines and fees are related to the debt-based mobility restrictions that often follow them,<sup>277</sup> it is telling that researchers studying ninety-three municipalities in California found that “reliance on revenue from fines and forfeitures in cities is not associated with budgetary need or public safety provision[s] but is instead associated with larger minority populations and the racial representativeness of law enforcement agencies.”<sup>278</sup>

An in-depth inquiry into the history of these Acts and the motivations driving legislators is beyond the scope of this Article.<sup>279</sup> Because it is well-documented that debt-based driving restrictions have a disproportionately negative effect on communities of color, legislators’ intentions are something of a “red herring.”<sup>280</sup> The legislative goals matter only as a mechanism to push legislatures to divorce debt policy from mobility restrictions, as suggested in Part V of this Article.

### A. Types and Statistics

A range of government-owned debt can lead to statutorily imposed driving restrictions. These restrictions have both individual and cumulative effects. This Subsection defines and describes both the kinds of debt—fines and fees, child support, taxes, and miscellaneous—and the kinds of restrictions that exist throughout the United States.

This Subsection discusses a patchwork of targeted empirical analyses, some of which are dated. How often debt-based driving restrictions are used, whom they are used against, and their repercussions are difficult to determine. Still, there is sufficient data and information to conclude that driving restrictions affect a significant number of drivers. Moreover, low-income drivers and drivers of color disproportionately bear the repercussions and burdens of these restrictions.

#### 1. Fines and Fees

Approximately one in three Americans reported being assessed a court fine or fee in the previous decade.<sup>281</sup> And all fifty states and the District of Columbia have passed laws that tie driving restrictions to debt for criminal and/or civil fines and fees.<sup>282</sup> Fines are monetary penalties associated with a legal violation,

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277. See *infra* Part IV.A.1.

278. Singla et al., *supra* note 275, at 1134. The study found a positive associative correlation between communities with greater Black or Asian residents; it did not show the same correlation for cities with greater Hispanic or Latino residents. *Id.* at 1151.

279. Such an inquiry may be the subject of this Author’s future scholarship.

280. See Atuahene, *supra* note 143, at 172 (“The intentions of public actors can be a red herring. What really matters is that citizens were *actually* adversely impacted, and not whether public officials *intended* this harm.”).

281. *Debt Sentence*, *supra* note 274, at 11 (based on a nationally-represented sample).

282. See Appendix A; Appendix B. Cf. Atuahene, *supra* note 143, at 109 (exploring “predatory cities,” which are “urban areas where public officials systematically take property from residents and

from a minimal fee for a traffic infraction to a large penalty for a felony. Fees are “costs, surcharges, or assessments” that “are imposed to access services or to fund the justice system or other government programs.”<sup>283</sup> Fines and fees are sometimes collectively called “legal financial obligations” or “LFOs.”<sup>284</sup> Thirty-eight states have laws that permit or require the state agency overseeing driver’s licenses and vehicle registrations to suspend or revoke a driving privilege when a driver fails to pay a fine or fee.<sup>285</sup> While the fine may be connected to an underlying infraction, the driving restriction is not; it is instead connected to the failure to pay a debt to the state. Some consider these repercussions collateral consequences or “civil disabilities” like felon disenfranchisement, which are assessed by the state as a downstream consequence of a crime.<sup>286</sup> Although some states have, in the last five years, made changes to these statutes,<sup>287</sup> thirty-eight states continue to punish nonpayment of fines and fees with driving restrictions.<sup>288</sup>

State fines and fees laws and their repercussions vary. The statutory language is often vague and unbounded, leaving state and municipal legislatures and courts to create the scaffolding for implementation. In Connecticut, for example, the statute permits driver’s license suspension for “fail[ure] to pay fines or fees.”<sup>289</sup> Maine’s statute mandates suspension for failure to “pay a fine imposed for a criminal traffic offense,”<sup>290</sup> and Missouri mandates suspension if one, “without good cause, fails to pay any fine or court costs” for moving traffic violations.<sup>291</sup> These examples illustrate how statutes differ yet commonly identify types of debt that can or must lead to driving restrictions.<sup>292</sup> Depending on the jurisdiction, someone can incur debt for violating municipal ordinances

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transfer it to public coffers, intentionally or unintentionally violating domestic laws or basic human rights,” including through fines and fees).

283. Foster, *supra* note 24, at 6. See also Cammett, *supra* note 35, at 378 (explaining the three types of criminal justice-related debt: “(1) fines levied to punish the offender, (2) penalties levied for restitution to victims, and (3) assessments with the goal of public cost-recovery”).

284. Brandon L. Garrett, Sara S. Greene & Marin K. Levy, *Foreword; Fees, Fines, Bail, and the Destitution Pipeline*, 69 DUKE L. J. 1463, 1464 (2020). For a thorough explanation and look at LFOs, see generally HARRIS, *supra* note 32.

285. See Appendix A; Appendix B.

286. See Cammett, *supra* note 35, at 370–72 (arguing that criminal justice debt can serve as an insurmountable obstacle to the resumption of voting rights and broader participation in society for ex-felons).

287. See *infra* 451–58. See also Appendix A.

288. See generally Appendix A; Appendix B. Many people separate registration restrictions from driver’s license restrictions. This Article treats them as part and parcel of the same umbrella—debt-based mobility restrictions. In the appendices, the “failure to pay” column is the primary location of the debt-based driving restrictions stemming from fines and fees. “Failure to appear” is included because it is regularly part of the same conversation in the reform space and is connected to poverty. See *infra* note 302. Failure to appear sanctions, however, are not debt-based.

289. CONN. GEN. STAT. § 14-140(b) (1949).

290. ME. STAT. tit. 29-A, § 2605(1) (2020).

291. MO. REV. STAT. § 302.341(1) (1990).

292. See Appendix A.

as minor as parking law infractions, having mismatched curtains, or painting a residential fence the wrong color.<sup>293</sup> If the violator fails to pay the related fine, they may lose driving privileges.

In 2015 the Department of Justice published a report highlighting problems with fines and fees in Ferguson, Missouri,<sup>294</sup> catalyzing calls for reform. The Fines and Fees Justice Center (“FFJC”), for example, launched a nationwide campaign called “Free to Drive” which sought to “end debt-based license restrictions.”<sup>295</sup> Since 2019, many states and the District of Columbia have passed reforms to limit debt-based driving restrictions.<sup>296</sup> The majority of these reform efforts have focused on limiting or putting procedural guardrails around driving restrictions for “failure-to-pay” fines and fees.<sup>297</sup> For the most part, however, states have retained a connection between debt and driving restrictions.<sup>298</sup>

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293. See U.S. COMM’N ON CIVIL RIGHTS, TARGETED FINES AND FEES AGAINST COMMUNITIES OF COLOR, 1 (Sep. 2017), [https://www.usccr.gov/files/pubs/2017/Statutory\\_Enforcement\\_Report2017.pdf](https://www.usccr.gov/files/pubs/2017/Statutory_Enforcement_Report2017.pdf) [<https://perma.cc/S8YX-KX4P>].

294. See U.S. DEP’T OF JUST., INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT (Mar. 4, 2015), [https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson\\_police\\_department\\_report.pdf](https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf) [<https://perma.cc/WV8M-36PZ>] (stating that based on statistical data and interviews of the Ferguson Police Department, law enforcement is focused on collecting revenue rather than public safety needs and has inflicted unnecessary harm on community members).

295. See generally FINES & FEES JUSTICE CENTER, FREE TO DRIVE: NATIONAL CAMPAIGN TO END DEBT-BASED LICENSE RESTRICTIONS, <https://finesandfeesjusticecenter.org/campaigns/national-drivers-license-suspension-campaign-free-to-drive/> [<https://perma.cc/LM52-JTTS>] (stating that based on statistical data and interviews of the Ferguson Police Department, law enforcement is focused on collecting revenue rather than public safety needs and has inflicted unnecessary harm on community members).

296. See *id.*

297. See “Senator Coons, Wicker introduce bill to reduce debt-based driver’s license suspensions” (July 20, 2023), <https://www.coons.senate.gov/news/press-releases/senators-coons-wicker-introduce-bill-to-reduce-debt-based-drivers-license-suspensions> [<https://perma.cc/B7RP-GKQS>]; see *infra* notes 363–70. See also Appendix A; Melissa Toback Levin, *Driver’s License Suspensions for Nonpayments: A Discriminatory and Counterproductive Policy*, 48 HASTINGS CONST. L.Q. 73, 76 (2020) (explaining how failure to pay statutes work from a guilty adjudication to driver’s license suspension). Reform efforts have been less successful in amending driving restrictions for “failure to appear” to a court hearing. Although failure to appear statutes are not explicitly debt-based, and therefore generally outside the scope of this Article, they are connected to inability to pay. *Id.* at 76 (explaining how failure to appear statutes work as implemented and noting, “When a driver cannot afford a traffic ticket, he or she has little incentive to come to court.”). The federal government has also placed a thumb on the scale, proposing legislation and disseminating official communications to encourage states to reform driver’s license restrictions with respect to fines and fees. See generally Dear Colleague Letter to Courts Regarding Fines and Fees for Youth and Adults, U.S. Dep’t of Just., (Apr. 20, 2023), <https://www.justice.gov/opa/press-release/file/1580546/download> [<https://perma.cc/8TMK-MM3Y>].

298. For an additional description of existing reforms and why they are inadequate, see *infra* Section IV.C.

## 2. Child Support

Although child support is usually paid to private parties (usually custodial parents), the state sets the process, application, and enforcement.<sup>299</sup> All fifty states and the District of Columbia punish child support debtors with driving restrictions.<sup>300</sup> These penalties are among the most punitive and rigid, are generally indefinite, range from suspension to revocation, and in some states, include a significant fee for license reinstatement.<sup>301</sup> These driving restriction laws are largely an understudied phenomenon.<sup>302</sup>

Although state agencies oversee and enforce the child support system, the federal government plays an important role.<sup>303</sup> The Social Services Amendments of 1974 added Title IV-D to the Social Security Act, which created the Federal Office of Child Support Enforcement.<sup>304</sup> Under this program, each state was obligated to create a federally approved plan for child support administration. Fourteen years later, the federal Family Support Act of 1988 (“FSA”)<sup>305</sup> again used federal law to influence state policy.<sup>306</sup> In addition to requiring certain collection processes, the FSA encouraged states to turn to administrative processes for collection, including restricting a parent’s driver’s license for unpaid child support.<sup>307</sup> Less than ten years later, Congress modified the Social Security Act through the Personal Responsibility and Work Opportunity

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299. See Allison Tait, *Debt Governance, Wealth Management, and the Uneven Burdens of Child Support*, 117 NW. U. L. REV. 305, 306 (2022). See generally Tonya L. Brito, *Producing Justice in Poor People’s Courts: Four Models of State Legal Actors*, 24 LEW. & CLARK L. REV. 145 (2020) (categorizing judges and government attorneys in state child support cases as navigators, bureaucrats, zealots, or reformers).

300. Some states also suspend drivers’ licenses for failure to pay spousal support. See, e.g., MONT. CODE ANN. § 40-5-701(3), (12)(a) (1993).

301. See Tait, *supra* note 299, at 314–16. See generally Appendix A (showing the various range of driving penalties for failure to pay child support). Child support hearings can also result in criminal penalties, including jail time. See generally Katz, *supra* note 29 (arguing that child support law is more accurately considered “criminal” rather than “civil” and should come with criminal procedure protections).

302. Although there is a significant amount of literature criticizing aggressive enforcement of punishing child support laws (see Brito, *supra* note 15, at 956–57 (cataloguing available literature)), this Author could find no empirical work specific to driver’s license restrictions.

303. The federal government has its own debt-based travel restrictions. For example, the United States Department of State can reject passport applications where the applicant has unpaid child support obligations exceeding \$2,500 (42 U.S.C. § 652(k)), a legislative provision that has survived constitutional challenge. See *Weinstein v. Albright*, 261 F.3d 127, 138 (2d Cir. 2001).

304. See generally Social Services Amendments of 1974, Pub. L. No. 93-647, 88 Stat. 2337 (codified as amended in scattered sections of 26 & 42 U.S.C.) (citing amendments to the Social Security Act focusing on child support).

305. See generally Family Support Act of 1988, Pub. L. No. 100-485, 102 Stat. 2343 (codified as amended in scattered sections of 5, 26, & 42 U.S.C.) (revising work, child support, and family benefits for families in need).

306. See Mark R. Fondacaro & 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, 362 (1996) (noting that the FSA “marked the most recent major federal initiative in the area of child support enforcement”).

307. *Id.*

Reconciliation Act of 1996 (“PRWORA”),<sup>308</sup> requiring states to implement a process for suspending driver’s licenses for nonpayment of child support or risk losing federal Temporary Assistance to Needy Families (“TANF”) funds.<sup>309</sup> Federal law further affects state policy decisions around child support collections because it prohibits courts from lowering or discharging child support debt once it has accrued.<sup>310</sup>

States have implemented a variety of processes that satisfy the federal mandate on driver’s license suspensions for child support nonpayment.<sup>311</sup> In Wyoming, for example, if the parent debtor has a driver’s license, either the Department of Family Services or the court, *sua sponte*, can “[o]btain a court ordered withholding, suspension or restriction of the license unless the obligor pays the entire arrearage or enters into a payment plan approved by the department.”<sup>312</sup> In Virginia, the Department of Social Services and the Department of Motor Vehicles are permitted to enter into an agreement whereby the Department of Motor Vehicles can suspend or refuse to renew the driver’s license of a driver who is behind on child support for ninety days or in an amount exceeding \$5,000.<sup>313</sup> In the District of Columbia, the law mandates that where the debtor has income, unpaid child support “in an amount equal to at least 60 days of support” results in non-renewal or suspension of the debtor’s vehicle registration or driver’s license.<sup>314</sup> In Alabama, if a child support debtor manages

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308. See generally Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105 (codified as amended in scattered sections of 7, 8, 20, 25, and 42 U.S.C.).

309. 42 U.S.C. § 666(a)(16) (2012) (mandating that states enact laws that require the appropriate state agency to have “procedures under which the state has (and uses in appropriate cases) authority to withhold or suspend, or to restrict the use of driver’s licenses, professional and occupational licenses, and recreational and sporting licenses of individuals owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings”). See also Brandon Garrett, *Spiraling Criminal Debt*, 34 FED. SENT. R. 92, 93 n.33 (2021). These federal laws inhibiting physical mobility directly contradict the argument that federal policy should encourage movement, particularly interstate movement, to allow individuals to move to more productive opportunities. See generally David Schleicher, *Stuck! The Law and Economics of Residential Stagnation*, 127 YALE L.J. 78 (2017).

310. See Cammett, *supra* note 275 at 130.

311. See OFF. OF CHILD SUPPORT ENFORCEMENT, AUTOMATED SYSTEMS OF CHILD SUPPORT ENFORCEMENT: A GUIDE FOR STATES 74–75 (2017), <https://www.acf.hhs.gov/css/training-technical-assistance/automated-systems-child-support-enforcement-guide-states> [<https://perma.cc/2HU4-CHY6>]. See generally Catalina Carbonell, Chase Childress, Kristina Daniels, Pratihtha Date, Madison Garrett, Eleanor Landsbaum, Morgan O’Grady, Khalafalla Osman, Gregory Paal, Trang Pham, Andrea Satchwell, Juan Tamayo, Andrew Winston & Jinyin Zhu, *A New Direction: Alternatives to Driver’s License Suspension for Failure to Pay Child Support* (Apr. 9, 2018), [https://cjc.net/wp-content/uploads/2020/02/Final-Report-A-NEW-DIRECTION\\_-ALTERNATIVES-TO-DRIVER%E2%80%99S-LICENSE-SUSPENSION-FOR-FAILURE-TO-PAY-CHILD-SUPPORT-2.pdf](https://cjc.net/wp-content/uploads/2020/02/Final-Report-A-NEW-DIRECTION_-ALTERNATIVES-TO-DRIVER%E2%80%99S-LICENSE-SUSPENSION-FOR-FAILURE-TO-PAY-CHILD-SUPPORT-2.pdf) [<https://perma.cc/V6ZW-QEBE>] (exploring Illinois’s policies with respect to suspending driver’s licenses for non-custodial parents in arrears with child support and comparing other states’ approaches to the issue).

312. WYO. STAT. ANN. § 20-6-111(a)(ii) (1997).

313. VA. CODE ANN. § 46.2-320.1(A) (2012).

314. D.C. CODE ANN. § 46-225.01(a) (1987).

to pay the arrearage,<sup>315</sup> they are required to pay an additional \$150 for license reinstatement (the standard \$100 service fee plus a \$50 penalty specifically for unpaid child support license suspension).<sup>316</sup>

The total number of parents affected by these policies is unknown, but we know that parents collectively owe in excess of \$30 billion in child support annually and that more than \$100 billion of child support is overdue in the aggregate.<sup>317</sup> We also know that child support debt can balloon to unrealistic levels because of default judgments, imputed incomes, interest accumulation, retroactive support awards, changing economic circumstances, and multiple child support orders.<sup>318</sup> Experts acknowledge that “most of the outstanding child support debt in this country is owed by poor fathers who are unlikely to ever be able to pay what they owe.”<sup>319</sup>

Two empirical studies explored who and how many parents were affected by debt-driven driving restrictions specific to child support arrearages, and they showed that such restrictions disproportionately affect parents residing in urban and low-income areas, as well as parents of color. In 2006, a New Jersey task force found that three percent of the state’s nearly three hundred thousand suspended licenses arose from failure to comply with a child support order.<sup>320</sup> Of those suspended drivers, a disproportionate number lived in urban and low-income areas.<sup>321</sup> And while less than 20% of drivers in New Jersey lived in lower-income areas at the time of the study, they made up half of the drivers suspended for unpaid child support.<sup>322</sup> A small focus group of fourteen Black fathers “struggling with court-ordered child support debt” in Jackson, Mississippi revealed that the great majority (82%) reported facing driver’s license suspensions for an average of two years.<sup>323</sup> Scholars and policymakers would benefit from updated and increased research in this area.

The research that exists, however, suggests that punitive debt collection practices for overdue child support do more harm than good, especially for low-income children of color. This is because the punitive collection tools, like driving restrictions, make it harder for noncustodial parents to see their children,

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315. ALA. CODE § 30-3-171 (1996).

316. ALA. CODE § 32-6-17 (1971).

317. Katz, *supra* note 29, at 1243.

318. See Brito, *supra* note 15, at 963–64.

319. Lollar, *supra* note 30, at 130 (arguing that the criminal sanctions and collateral consequences of child support nonpayment is punishment for “fathers for their reproductive decisions, for having ‘irresponsible sex,’ and for not living up to our societal expectation of fatherhood”). See also Brito, *supra* note 15, at 955 (arguing that child support debt creates a “financial bubble” for poor families that “is artificially inflated, largely uncollectible, and potentially destructive”).

320. MOTOR VEHICLES AFFORDABILITY AND FAIRNESS TASK FORCE: FINAL REPORT 12 (Feb. 2006), [https://www.state.nj.us/mvc/pdf/about/AFTF\\_final\\_02.pdf](https://www.state.nj.us/mvc/pdf/about/AFTF_final_02.pdf) [<https://perma.cc/5LEV-JDCA>].

321. *Id.* at 28–29 (approximately 60 % lived in urban areas and 51 % lived in low-income areas).

322. *Id.*

323. Nino Rodriguez, *If I Had Money: Black Fathers and Children, Child Support Debt, and Economic Security in Mississippi* 6, 9 (Jan. 2016), [https://cffpp.org/wp-content/uploads/If-I-Had-Money\\_Black-Fathers\\_Child-Support-Debt\\_Mississippi.pdf](https://cffpp.org/wp-content/uploads/If-I-Had-Money_Black-Fathers_Child-Support-Debt_Mississippi.pdf) [<https://perma.cc/7QK8-VY4H>].

maintain relationships with them, and provide informal financial support.<sup>324</sup> Even the government has acknowledged that driver’s license suspensions for parents struggling with child support obligations may disproportionately and negatively affect minorities.<sup>325</sup>

### 3. Taxes

Tax debt enforcement, another domain for debt-based driving restrictions, has long been a mechanism of controlling migration and movement.<sup>326</sup> Today, nine states have statutes that impose driver’s license restrictions for unpaid taxes<sup>327</sup> and thirty-four restrict car registrations for the same.<sup>328</sup> Depending on the state statute, driving restrictions may be levied for reasons as limited as failure to pay a registration tax on a vehicle<sup>329</sup> or as broad as failure to file or pay any state tax.<sup>330</sup> These statutes are not easy to track—some are in the transportation section of state code, while others reside in the tax section<sup>331</sup>—nor are they easy to interpret.<sup>332</sup>

Like child support, each state has its own unique statute; some have limitations or boundaries around the driving restriction while others do not. Several states can suspend, revoke, or refuse to renew a driver’s license or vehicle registration for varied forms of unpaid taxes. In Massachusetts, state law imposes driving restrictions when a taxpayer “neglected or refused to file any returns or to pay any tax required,”<sup>333</sup> which includes failure to pay income tax.<sup>334</sup> Maryland can suspend driver’s licenses for failure to pay any taxes or

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324. This Author was unable to identify additional studies. *See* Carbonell et al., *supra* note 311, at 6, 12.

325. *See* CARMEN SOLOMON-FEARS, CONG. RSCH. SERV., CHILD SUPPORT ENFORCEMENT AND DRIVER’S LICENSE SUSPENSION POLICIES, at 16 (Apr. 11, 2011), [https://greenbook-waysandmeans.house.gov/sites/greenbook.waysandmeans.house.gov/files/2011/images/R41762\\_gb.pdf](https://greenbook-waysandmeans.house.gov/sites/greenbook.waysandmeans.house.gov/files/2011/images/R41762_gb.pdf) [<https://perma.cc/SN8C-2CB2>].

326. *See* Sarkar, *supra* note 32, at 2227.

327. Appendix A.

328. Appendix B.

329. *See, e.g.*, ME. STAT. tit. 29-A, § 154-A (1993) (restricting driving for all late fees or use taxes due to the state, including late registration tax payments). To avoid confusion, we did not include such limited statutory references in Appendix A.

330. *See, e.g.*, MASS. GEN. LAWS ch. 62C, § 47B(a) (2008).

331. Compare ALA. R. CRIM. P. 26.11(i)(3) (for failure to pay “a fine and/or restitution imposed as a result of a traffic infraction”) and ALA. ADMIN. CODE. R. 760-X-1-.12 (1982) (for failure to appear for a misdemeanor) and CAL. FAM. CODE § 17520(a), (e) (West 2017) (if obligor is “no more than 30 calendar days” in arrears) and CAL. VEH. CODE § 16370 (West 1959) (if obligor has failed “for a period of 30 days” to satisfy judgment).

332. *See, e.g.*, 625 ILL. COMP. STAT. 5/6-115(e) (2022) (using statutory language suggesting that the Illinois Secretary of State is authorized to refuse to renew a driver’s license when a taxpayer fails to “pa[y] any fee or tax” after “reasonable notice and demand,” but upon closer review, appearing to be either an antiquated section of the code or related only to a narrow and specific violation).

333. MASS. GEN. LAWS ch. 62C, § 47B(a) (2008).

334. *Id.* Some states revoke drivers’ licenses for failure to pay taxes related to commercial use of motor vehicles. *See, e.g.*, VA. CODE ANN. § 46.2-399 (1989). Such restrictions are outside the scope of the Article.

unemployment insurance contributions without entering into an acceptable payment plan.<sup>335</sup> Kentucky law gives the licensing agency or Transportation Cabinet authority to “deny or revoke” any license or refuse to allow the taxpayer to register a motor vehicle when taxes go unpaid.<sup>336</sup> Thereafter, the license is not reissued or renewed until the motor vehicle agency gets “a written tax clearance” from the licensing agency or Transportation Cabinet.<sup>337</sup> In Rhode Island, which was the first state to turn to driver’s license suspensions to collect delinquent taxes,<sup>338</sup> municipalities take the lead. Certain municipalities charge a “car tax” based on the registered vehicle’s value. If the owner fails to pay the car tax, “the Rhode Island Department of Motor Vehicles blocks the renewal of vehicle registration for all cars that [the delinquent taxpayer] owes.”<sup>339</sup> Some states require tax delinquency of a certain amount before the debtor may face driving restrictions. In New York, driver’s licenses can only be suspended when the tax liability exceeds \$10,000.<sup>340</sup> Louisiana only suspends or denies renewal of a debtor’s driver’s license when tax debt exceeds \$1,000.<sup>341</sup>

Although slightly different from the state debt-based driving restrictions discussed herein, it is worth noting that even the federal government has restricted travel because of tax debt. In this case the creditor is the federal government. At the end of 2015, President Obama signed the Fixing America’s Surface Transportation Act (FAST Act),<sup>342</sup> which authorized more than \$300 billion for federal surface transportation.<sup>343</sup> A little-known provision in the law allowed for the revocation or denial of passports for those who owed more than \$50,000 in certain federal tax debt.<sup>344</sup> One study suggested that the threat of

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335. MD. CODE ANN., TRANSP. § 16-115(k)(1) (2023). *See also* COMPROLLER OF MD., *UNPAID TAXES?*, [<http://perma.cc/F7AJ-8WWN>].

336. KY. REV. STAT. ANN. § 131.1817(5)(d) (West 2012).

337. KY. REV. STAT. ANN. § 131.1817(5)(f) (West 2012).

338. Stephen G. Murphy & Allen Rosenberg, *Driver’s License Suspensions for Delinquent Taxes and Bankruptcy*, 32 AM. BANKR. INST. I. 18, 18 n.2 (July 2013).

339. Joshua D. Blank, *Collateral Compliance*, 162 U. PA. L. REV. 719, 741 (2014).

340. N.Y. TAX LAW § 171-v(1) (McKinney 2013). *See also* N.Y. STATE DEP’T OF TAXATION & FIN., *DRIVER LICENSE SUSPENSION*, <http://www.tax.ny.gov/enforcement/collections/driver-license-susp.htm> [<http://perma.cc/8J68-D8EB>].

341. LA. STAT. ANN. § 47:296.2(A)(2) (2019). *See also* LA. DEP’T OF REVENUE, *FREQUENTLY ASKED QUESTIONS: SUSPENSION OF LICENSES*, <http://www.revenue.louisiana.gov/FAQ/QuestionsAndAnswers/51> [<http://perma.cc/A72E-B2GU>].

342. *See generally* Fixing America’s Surface Transportation Act, 23 U.S.C. § 101 note (2015) (citing a federal act expanding funding and infrastructure for surface transportation).

343. Anson Asbury, *Can’t Get There From Here: The IRS Travel Ban on Tax Debtors*, BLOOMBERG BNA: TAX MANAGEMENT MEMORANDUM (2017), <https://asburylawfirm.com/future/wp-content/uploads/2017/09/Cant-Get-There-From-Here-The-IRS-Travel-Ban-on-Tax-Debtors-1.pdf> [<https://perma.cc/9JH6-S56P>].

344. Eric LoPresti, *What’s Wrong with Strict Liability and Nonmonetary Penalties? The Case for Reasonable Fault-Based Civil Tax Penalties and Procedural Protections*, 72 TAX LAW. 589, 617–18 (2019). In 2017, the IRS announced informal guidance and new rules not included in the original legislation. *See generally* Int. REV. SERV., *REVOCAION OR DENIAL OF PASSPORT IN CASES OF CERTAIN UNPAID TAXES*, <https://www.irs.gov/businesses/small-businesses-self-employed/revocation-or-denial-of-passport-in-case-of-certain-unpaid-taxes> [<https://perma.cc/9WBJ-L8P3>] (last visited Jan.

passport revocation for overdue federal taxes showed positive statistically significant effects on taxpayer compliance for the approximately four hundred thousand taxpayers certified as “seriously delinquent” under the FAST Act.<sup>345</sup>

Unlike fines and fees, and to a lesser extent child support delinquency, tax debt-based driving restrictions have faced little criticism. These mobility-restriction sanctions or “collateral tax sanctions” are debt-based travel restrictions, and primarily debt-based driving restrictions.<sup>346</sup> Professor Joshua D. Blank, for example, argues that collateral tax sanctions, including driving restrictions, are a positive incentive to increase tax collection.<sup>347</sup> He claims that these sanctions are salient, create a greater deterrent effect, provoke loss aversion biases that increase compliance, act as a public negative reputational signal, and reinforce the connection between taxes and public services.<sup>348</sup> Eric LoPresti, Senior Attorney Advisor to the National Taxpayer Advocate, takes a more middle-of-the-road approach, recognizing both pros and cons of administrative sanctions like driver’s license restrictions.<sup>349</sup> While acknowledging the same kind of behavioral economics effects raised by Blank,<sup>350</sup> LoPresti cautions against using nonmonetary penalties that may “be viewed as unfair if they infringe basic liberties, such as the right to travel.”<sup>351</sup> And, although taking an “agnostic” approach to its normative effects,<sup>352</sup> Professor Shayak Sarkar highlights the connection between tax enforcement and “spatial freedoms,” detailing how tax compliance authorities—including those imposing driver’s license and passport restrictions—aim for compliance by threatening the freedom of movement.<sup>353</sup>

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26, 2023) (listing what entails seriously delinquent taxes as well as what tax debts are not certified by the State Department). For an explanation of the details and process, *see* Asbury, *supra* note 342. Failure to pay income taxes for noncitizens, including legal permanent residents, can also result in deportation. Sarkar, *supra* note 32, at 2244.

345. Paul R. Organ, Alex Ruda, Joel Slemrod & Alex Turk, *Incentive effects of the IRS’ passport certification and revocation process*, J. OF PUB. ECON. 208 1–2 (Apr. 2022) (“Although empirical analyses of the effectiveness of monetary enforcement policies recently proliferated, little attention has been paid to evaluating the effectiveness of collateral sanctions.”). The analysis did not account for the counterfactual—how much would have been paid down absent the FAST Act passport revocation authority—and therefore does not speak to causality. *Id.* at 2. *See also* Sarkar, *supra* note 32, at 2246–47 (explaining that the IRS estimated that 362,000 would be affected by the FAST Act after enforcement began in 2018).

346. Blank, *supra* note 39, at 723–24 (describing a “collateral tax sanction” as a “sanction applied on top of monetary tax penalties and prison sentences, revok[ing] a privilege provided by the government instead of requiring additional monetary payment, and . . . imposed by an agency other than the taxing agency”).

347. *Id.* at 725–27.

348. *Id.*

349. LoPresti, *supra* note 344, at 589.

350. *Id.* at 607–09.

351. *Id.* at 614.

352. Sarkar, *supra* note 32, at 2256.

353. *Id.* at 2214–15.

Comprehensive data on tax-related driver's license suspensions is almost non-existent.<sup>354</sup> One article asserted that, since the driver's license revocation law went into effect in Massachusetts in 2008, a "significant number" of Chapter 13 bankruptcy petitions were filed by petitioners with suspended licenses.<sup>355</sup> At the same time, the Commonwealth claimed that the license suspension authority "nets \$26 million in back taxes."<sup>356</sup> Additional information and data would be helpful, but it would not change the negative repercussions already felt by those affected.

#### 4. *Miscellaneous*

Fines and fees, child support, and taxes are the three primary debt-based rationales for states to revoke, suspend, or hold driver's licenses and vehicle registrations. Each has significant reach, either in its scope or application. But states also have particular, and sometimes peculiar, statutes that tie other kinds of debt to driving restrictions.

Failure to pay a toll or fines from a tolling agency can lead to driving restrictions in at least twenty-eight states.<sup>357</sup> Alabama continues to permit license suspension for unpaid tolls through 2024,<sup>358</sup> and Delaware allows suspensions for failure to pay tolls exceeding \$1,000.<sup>359</sup> Rhode Island adds a \$75 fine to the unpaid toll and permits temporary license suspension for unpaid tolls.<sup>360</sup>

All states except Maryland, Connecticut, and Vermont can suspend driving privileges or vehicle registration for unpaid debt specifically related to a traffic accident.<sup>361</sup> While this may seem reasonably related to public safety, other debt-related driving restrictions have no bearing on public safety. In 2015, for example, South Dakota created an "obligation recovery center,"<sup>362</sup> which is a "central repository for identification, registration, oversight, and collection of debts owed to any agency or department of the state or to any postsecondary technical institute supported by the state."<sup>363</sup> If a participating agency—numbering twenty-three as of 2021<sup>364</sup>—cannot collect its debt directly, it refers the unpaid debt to the obligation recovery center. At that point, the center

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354. Organ et al., *supra* note 345, at 1 ("Although empirical analyses of the effectiveness of monetary enforcement policies recently proliferated, little attention has been paid to evaluating the effectiveness of collateral sanctions.").

355. Murphy & Rosenberg, *supra* note 338, at 79.

356. *Id.* at 18 n.4 (citing *Commonwealth Conversations: Revenue*: "Issuance of license suspension notices nets \$26 million in back taxes," June 29, 2010, which is no longer available online).

357. Appendix A; Appendix B.

358. ALA. CODE § 23-2-172(c) (2017).

359. DEL. CODE ANN. tit. 21, § 2733(a)(8) (1929).

360. 24 R.I. GEN. LAWS § 24-12-37(d, e) (1954).

361. Appendix A; Appendix B.

362. OBLIGATION RECOVERY CTR., FISCAL YEAR 2021 ANNUAL REPORT 3 (2021), <https://boa.sd.gov/docs/FY2021%20ORC%20Annual%20Report.pdf> [<https://perma.cc/2X3W-7BJN>].

363. S.D. CODIFIED LAWS § 1-55-2 (2015).

364. OBLIGATION RECOVERY CTR., *supra* note 362, at 3.

automatically adds a 20 % cost recovery fee to the principal debt, increasing the debtor's obligation.<sup>365</sup> The statute then mandates that the center block a debtor from renewing, obtaining, or maintaining a car, motorcycle or boat registration and driver's license.<sup>366</sup> This means that a South Dakota resident who owes money to any one of twenty-three state agencies, any court, the Board of Regents, or a state-supported technical college can lose their driver's license for money owed.<sup>367</sup> In 2021, student debt collections were second only to court collections in money collected for debts owed to the University of South Dakota, South Dakota State University, Southeast Technical Institute, Black Hills State University, Dakota State University, and Western Dakota Technical Institute.<sup>368</sup>

In Oklahoma, where a state statute created a fine-based scheme for implementing its Alcoholic Beverage Laws Enforcement (ABLE) Commission laws, failure to pay an administrative fee to ABLE can result in driving restrictions.<sup>369</sup> If, for example, an employee sells a nicotine or vapor product to someone under the age of twenty-one, the employee will be fined by ABLE no more than \$100 for a first offense.<sup>370</sup> If that employee does not pay the fine within ninety days, however, the statute mandates that their driver's license be suspended.<sup>371</sup> In New Hampshire, when a person negligently seeks assistance from a government search and rescue team and fails to reimburse the state for the costs, the executive director of the Fish and Game Department can seek to have the Department of Motor Vehicles suspend the debtor's driver's license.<sup>372</sup>

These debt-based driving restrictions negatively affect the lives of individuals caught in their webs. States restrict the mobility of certain people who owe debt to the state, with significant consequences for the individual, the community, society, and our notions of who determines a person's freedom of movement. The next Subsection addresses these repercussions.

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365. S.D. CODIFIED LAWS § 1-55-4 (2015). *See also* OBLIGATION RECOVERY CTR., DEBT COLLECTION PROCESS, <https://boa.sd.gov/obligation-recovery/docs/ORC%20Flow%20Chart%202017.pdf> [https://perma.cc/5NBD-V5GU]. The center itself is managed by a for-profit accounts receivable management company in Columbus, Ohio. OBLIGATION RECOVERY CTR., *supra* note 361, at 7–8.

366. S.D. CODIFIED LAWS § 1-55-11 (2015). In practice, the center attempts to collect for sixty days and then seeks enforcement for debt greater than \$1,000. OBLIGATION RECOVERY CTR., *supra* note 362.

367. *See* S.D. CODIFIED LAWS § 1-55-6 (2015).

368. OBLIGATION RECOVERY CTR., *supra* note 362, at 10.

369. OKLA. STAT. ANN. tit. 63, § 1-229.13(F) (1994). *See also* OKLA. DEP'T OF PUB. SAFETY, NON-PAYMENT OF ADMINISTRATIVE FINE TO THE ABLE COMMISSION, <https://oklahoma.gov/dps/reinstate-driver-license/reinstatement-other/reinstate-non-payment-of-administrative-fine-to-the-able-commission.html> [https://perma.cc/B8BD-2TA9].

370. OKLA. STAT. ANN. tit. 63, § 1-229.13(C)(1)(a)(1994).

371. OKLA. STAT. ANN. tit. 63, § 1-229.13(C)(1)(a), (F) (1994).

372. N.H. REV. STAT. ANN. § 206:26-bb(II) (2022).

### 5. *Perceived Efficacy of Debt-Based Driving Restrictions*

The benefits of debt-based driving restrictions are, at best, unclear. Additional empirical research is needed to clarify the effectiveness of these restrictions. Research that does exist suggests that tying driving restrictions to non-highway safety requirements or laws is ineffective at achieving compliance with those underlying laws.<sup>373</sup> Many civil and criminal fines, however, are completely disconnected from highway safety.<sup>374</sup> The same is true for child support, taxation, and the miscellaneous debt-based restrictions identified above.<sup>375</sup> And while some fines may be connected to highway safety requirements (i.e., fines for driving under the influence), recall that this Article is not about repercussions for an underlying offense, but rather about driving restrictions tied to nonpayment of debt.

For fines and fees, although the research remains underdeveloped,<sup>376</sup> several articles have suggested that tying nonpayment to driving privileges does not increase collection or safeguard public dollars. According to Joni Hirsch and Priya S. Jones, debt-based driving restrictions are “not cost-effective, and in fact divert public resources for law enforcement, courts, and DMVs away from public safety.”<sup>377</sup> A study in Phoenix, Arizona suggests the same: when seven thousand Arizona drivers had their licenses reinstated, researchers estimated that the state’s gross domestic product could increase by almost \$150 million, and the state showed increases in employment and tax revenue.<sup>378</sup>

Some evidence indicates that expanded enforcement tactics, including income withholding and income tax intercepts, have improved child support

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373. AM. ASS’N OF MOTOR VEHICLE ADM’RS, *supra* note 265, at 10 (based on a 2018 survey of AAMVA members across thirty-nine jurisdictions in the United States and Canada).

374. *See id.* (survey findings showed that 66% of those with suspended licenses were suspended for highway safety violations and 34% were suspended because of non-highway safety reasons); TONY MESSENGER, PROFIT AND PUNISHMENT: HOW AMERICA CRIMINALIZES THE POOR IN THE NAME OF JUSTICE 25 (2021) (noting that much of the money that municipalities bring in is from traffic fees, including the fact that in 2015, Ferguson, Missouri “brought in about \$2 million a year in fines and fees, mostly from traffic offenses, about 23 percent of its city revenue”). That debt itself is not a public safety concern suggests that there is something else going on. *Cf.* Henderson & Jefferson-Jones, *supra* note 3, at 883 (challenging public safety as a rationale for policing Black people in public spaces, arguing that “[w]hen sites are racialized via racially exclusionary policies or practices, those sites communicate a cultural norm of racial hierarchy”).

375. By definition, driving restrictions because of debt are *not* because of driving safety. *See infra* Part IV.A.2-4. In FY2009, 67% of child support collections came in through income withholding; 7% from combined federal and state income tax refund offsets; 5% from unemployment refund offsets; 4% from other states. CONG. RSCH. SERV., *supra* note 325, at 5. And 16% was recovered through “other sources,” which includes money received from noncustodial parents under threat of losing a driver’s or professional license, among other sources. *Id.* States do not specifically report on the amount collected related to driver’s license suspensions. *Id.* at 9.

376. *See* Garrett, *supra* note 309, at 95 (noting that the “footprint of criminal legal debt has been largely hidden” and advocating for required reporting from courts and states).

377. Hirsch & Jones, *supra* note 24, at 881. *See also* Garrett, *supra* note 309, at 94 (“[T]he vast bulk of federal criminal debt remains outstanding and likely cannot be paid.”).

378. Levin, *supra* note 297, at 75.

receipts.<sup>379</sup> But while some researchers suggested that driving license restrictions have “proven particularly successful,”<sup>380</sup> others noted that such sanctions may be “counterproductive.”<sup>381</sup> Research suggests only a modest increase in child support compliance between 1993, prior to the federal mandate requiring states to implement policies that tie child support debt to loss of driver’s licenses, and 2015.<sup>382</sup> This is unsurprising considering (1) nearly three in four parents owing large amounts of child support reported incomes less than \$10,000 per year,<sup>383</sup> and (2) of those earning less than \$10,000 per year, the median amount of child support owed exceeded 80% of their incomes.<sup>384</sup> Only 40% of outstanding child support arrears is expected to be paid in the next ten years.<sup>385</sup> There is also a cost to collection; states spend \$1.00 for every \$4.30 in owed support collected, not even accounting for personnel costs.<sup>386</sup>

Fewer states turn to driver’s license restrictions for unpaid tax debt, even though behavioral theory—a favorite of tax scholars—suggests that such restrictions may compel compliance.<sup>387</sup> Perhaps this is because there is no empirical data to directly support the connection,<sup>388</sup> even though at least one scholar has asserted that revoking delinquent taxpayers’ driver’s licenses has allegedly flourished as a policy because states have found it to be effective.<sup>389</sup>

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379. Marcia Cancian, Daniel R. Meyer & Eunhee Han, *Child Support: Responsible Fatherhood and the Quid Pro Quo*, 635 ANNALS AM. ACAD. POL. & SOC. SCI. 140, 149 (2011) (cataloguing empirical studies). See also JESSICA PEARSON, NANCY THOENNES & ESTHER ANN GRISWOLD, EVALUATION OF COLORADO’S DRIVER’S LICENSE SUSPENSION INITIATIVE 10-11 (1998) (finding that payment performance for those facing driver’s license suspensions improves over time, and at a greater rate for those who received notification); Drew A. Swank, *The National Child Non-Support Epidemic*, 2003 MICH. ST. D.C.L. L. REV. 357, 368–72 (2003) (citing three studies that “indicated that driver’s license suspension programs are effective in improving child support compliance, especially in non-public assistance cases.”).

380. Fondacaro & Stolle, *supra* note 306, at 358.

381. Cancian et al., *supra* note 379, at 149 (citing empirical studies).

382. Oldham & Smyth, *supra* note 275, at 329–30 (“In 1995, 42.3% of custodial parents reported full payment of child support; by 2015, this percentage had increased only to 43.5% . . . . Similarly, in 1995, 24.3% reported receiving no support; by 2015, this percentage had increased to 30.7%.”).

383. Lollar, *supra* note 30, at 141.

384. *Id.*

385. *Id.* at 142.

386. Margaret Ryznar, *Two Direct Rights of Action in Child Support Enforcement*, 62 CATH. U. L. REV. 1007, 1015 (2013). See also Lollar, *supra* note 30, at 129 (complaining that the “economics underlying the system are both inefficient and morally troubling”). Cf. MESSENGER, *supra* note 374, at 84 (noting that “[o]ne New Mexico county spends at least \$1.17 to collect every dollar of revenue it raises through fees and fines, meaning that it loses money through this system”).

387. See Blank, *supra* note 339, at 725.

388. LoPresti, *supra* note 344, at 596 (noting that there is no empirical data to support the economic theory that “if we make penalties more severe, we can achieve the same level of deterrence with fewer audits”).

389. Blank, *supra* note 339, at 740.

6. *(Racialized) Effects of Debt-Based Driving Restrictions*

Like the debt-based mobility restrictions that are part of America's past, debt-based driving restrictions wreak havoc on the well-being of those affected, as well as their families and communities. While these restrictions have and continue to devastate individuals and families in communities across the country, they are disproportionately borne by communities of color, and in particular, Black communities. Driving restrictions create significant financial, social, and emotional harms, which have a profound repercussion on physical mobility by reinforcing racial spaces, sustaining segregation, and causing long-term intergenerational consequences.<sup>390</sup>

Debt-based driving restrictions both disproportionately and negatively affect people of color, and in particular, Black people.<sup>391</sup> The data is clearest in the context of debt arising from fines and fees. Although debt-based driving restrictions disproportionately affect low-income individuals, race pervades across demographics as a factor for increased fines and fees. Increased policing leads to increased fines and fees, which lead to increased driving restrictions. The DOJ Ferguson report unsurprisingly evidenced policing tactics, including increased fines and fees and driver's license suspensions, that disproportionately harmed the Black community.<sup>392</sup> It established that municipal law enforcement and court practices "targeted the economically disadvantaged African American residents of Ferguson with numerous and costly court fines and fees."<sup>393</sup> Data from a separate study in St. Louis County showed a worrisome trend: "the higher the percentage of Black residents in a city, the higher the percentage of the municipal budget derived from court fines and fees."<sup>394</sup> St. Louis is not alone in this statistic.<sup>395</sup> When Dan Kopf and his colleagues looked at municipal revenue garnered from fines or fees, they found that "the use of fines as a source of revenue [was] not a socioeconomic problem, but a racial one."<sup>396</sup> The fifty cities

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390. See CASHIN, *supra* note 142, at 110–11 (explaining that geography is central to creation of the American caste system because it "reifies power and opportunity for those in a few rich neighborhoods and contributes to powerlessness and permanence of poverty for descendants"). See also Henderson & Jefferson-Jones, *supra* note 3, at 870 (noting that the "casting of Blackness as a property harm—an interference with existing (white) property entitlements—is a deep-seated phenomenon that has been pervasive throughout U.S. history").

391. April D. Fernandes, Michele Cadigan, Frank Edwards & Alexes Harris, *Monetary Sanctions: A Review of Revenue Generation, Legal Challenges, and Reform*, 15 ANN. REV. L. & SOC. SCI. 397, 401 (2019).

392. U.S. DEP'T OF JUST., INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT, *supra* note 294, at 3.

393. April D. Fernandes et. al., *supra* note 391, at 398.

394. Rios, *supra* note 145, at 276.

395. Dan Kopf, *The Fining of Black America*, PRICENOMICS (June 24, 2016), <https://priceonomics.com/the-fining-of-black-america/> [<https://perma.cc/P5RN-DRJX>] (using the US Census's Survey of Local and State Finances, finding that the size of the city's African American population was related to the amount of fines and fees levied on its residents).

396. *Id.*

with the highest revenue from fines and fees had more than five times the average median African American population.<sup>397</sup>

Data about the use of fines and fees to raise revenue in disproportionately Black municipalities unsurprisingly yields the same conclusions as empirical work on debt-based driver's license restrictions. Dr. William E. Crozier and Professor Brandon Garrett found that of the 1,225,000 active driver's license suspensions in North Carolina related to fines and fees, 47% of those suspended were Black, 11% Latinx, and 37% White.<sup>398</sup> These data represent a significant divergence from North Carolina's driving population, which is 21% Black, 8% Latinx, and 65% White.<sup>399</sup> While the scholars could not pinpoint the cause of the disparities, they opined that "the black population above the poverty line likely d[id] not have the same wealth as the white population above the poverty line, and may thus [have been] hit harder by the financial hardship of needing to pay a fine."<sup>400</sup> In New York City, a search of driver's license suspensions by zip code yielded a significant difference between the ten most heavily-minority zip codes and the ten most heavily White zip codes.<sup>401</sup> Outside of New York City, an even greater disparity was reported.<sup>402</sup>

Disparities based on race also arise in child support cases. In cases where the majority of non-custodial parents make less than \$10,000 per year and owe more than 80% of their income to child support,<sup>403</sup> men of color are disproportionately burdened. There is significant evidence of the "declining economic fortunes of young men, especially men without college degrees or men of color";<sup>404</sup> punitive restrictions therefore disproportionately harm low-income men and men of color. And at least some scholars have argued that "[c]hild support is less about transferring funds to custodial parents than it is about the state seizing pennies from Black fathers as payback for public benefits received by the custodial parent."<sup>405</sup>

The majority of parents facing child support arrearages are Black fathers.<sup>406</sup> Driver's license suspensions only arise from a court order, which requires

397. *Id.* Because the finding is based on the African American population as a percentage of the whole population, the size of the city does not account for the disparities. *Id.*

398. Crozier & Garrett, *supra* note 8, at 1606.

399. *Id.*

400. *Id.* at 1617. Although some have intimated that racially-disparate traffic stops lead to more fines and fees and thus more racially-disparate driver's license suspensions (*see* Foster, *supra* note 24, at 12; Levin, *supra* note 297, at 76), Crozier and Garrett did not find that traffic stops were a significant predictor of the number of suspensions in North Carolina. Crozier & Garrett, *supra* note 8, at 1614.

401. Foster, *supra* note 24, at 22 (the minority-heavy zip codes yielded two and a half times greater number of suspensions).

402. *Id.* ("[T]he suspension rate in the ten zip codes with the highest concentration of people of color is four times higher than in the ten zip codes with the most concentrated White populations.")

403. *See* Lollar, *supra* note 30, at 141–42.

404. Cancian et al., *supra* note 379, at 142.

405. Brito et al., *supra* note 197, at 1251.

406. Tait, *supra* note 299, at 328–29.

families to be involved in the court system for their child support cases.<sup>407</sup> The fact that families enrolled in the public child support system are disproportionately poor and people of color means that these groups are disproportionately susceptible to collection practices following court orders. Over half are Black or Hispanic, two in every three have incomes under 200% of poverty, and three-quarters receive public assistance.<sup>408</sup> As Professor Allison Tait argued, the child support enforcement scheme separates low-income and high-wealth debtors, fining and punishing the low-income debtors while permitting high-wealth debtors to insulate themselves from such consequences through legal mechanisms like asset protection trusts.<sup>409</sup>

Not only does losing access to a car inhibit mobility generally, but it can also cause loss of employment, which can spin out into other downstream consequences.<sup>410</sup> One woman, who got a ticket for a broken taillight, lamented:

I don't want to show up at courts because, who knows, they may ship me over to [another jurisdiction] and throw me in jail when I try to pay a \$50 ticket . . . Or they'll take my driver's license away until I can pay and if I lose my car, I lose both my jobs and then I lose my kids. That's how it works.<sup>411</sup>

A Black father participating in a focus group of fathers in Mississippi similarly noted, “My driver’s license is suspended, so that’s going to be a problem, because this job I just applied for requires a valid driver’s license.”<sup>412</sup>

Even in transit-rich urban areas, our current public transit is not an adequate answer for those without driver’s licenses. While better public transit has been associated with maintaining employment, car access remains associated with

407. Parents who work out an arrangement for custody and child support outside of court are both uncounted and unaffected. Even most poor parents have no formal child support order. Brito, *supra* note 15, at 962 (poor parents do not seek a formal order either because they know the noncustodial parent cannot pay or because the noncustodial parent is already providing informal support). If people work out their child support agreements outside of court, then there is no court order, and no opportunity for a court to tell the DMV to restrict the driving license. *Supra* Section IV (explaining how these laws function).

408. Turetsky & Waller, *supra* note 35, at 122.

409. Tait, *supra* note 299, at 306–09.

410. See Chelsie Coren, Kate Lower & Jesus M. Barajas, *Commuting Carless: A Qualitative Study of Transportation Challenges for Disadvantaged Job Seekers in Chicago, IL*, TRANSP. RSCH. REC. 1–12 (2022) (reporting the results of a qualitative study of job seekers and job coaches in Chicago, Illinois); Blumenberg & Pierce, *supra* note 249 (using longitudinal data from the MTO program to assess the role of transportation, including automobiles and improved access to public transportation, in moving into and sustaining employment); Jeroen Bastiaanssen, Daniel Johnson & Karen Lucas, *Does transport help people to gain employment? A systematic review and meta-analysis of the empirical evidence*, TRANSP. REV. 40:5, 607 (2020), at 621 (finding that “car ownership significantly increases individual employment probabilities”); MOTOR VEHICLES AFFORDABILITY AND FAIRNESS TASK FORCE, *supra* note 320, at xii (“[S]uspension may also have collateral and/or unintended consequences such as job loss, difficulty in finding employment, and reduced income.”).

411. Rios, *supra* note 145, at 269.

412. Rodriguez, *supra* note 323, at 10.

both getting *and* maintaining employment;<sup>413</sup> “[t]he presence of a car raises the probability of finding a job by a factor of two and of being employed . . . by a factor of four.”<sup>414</sup> These barriers were particularly acute for Black respondents in a Chicago study. Black workers spent what amounted to an additional workweek per year commuting when compared to White workers.<sup>415</sup> And in Baltimore, where less than one-third of workers can get to work in under ninety minutes, low-wage workers are regularly dismissed for being just a few minutes late, an effect known as “transit dismissal.”<sup>416</sup> These negative outcomes are not limited to the chronically carless. One study found that more than forty respondents lost their employment when their driver’s licenses were suspended.<sup>417</sup> For households that share cars, more often occurring in households of color,<sup>418</sup> the effects are exacerbated.

Losing access to a car or driving privileges also affects a broad array of social connections. Transportation scholars call this “transportation-related social exclusion,” which “refers to transportation’s role in restricting or facilitating individual and collective access to the activities and social connections necessary to maintain a meaningful life.”<sup>419</sup> For a parent with child support arrearages, driver’s license suspensions and other punishments for unpaid child support “actively discourage[] [parental] contact by . . . punishing the [parent] for having a child he [or she] is unable to financially support.”<sup>420</sup> Transportation-induced social exclusion limits individuals, families, and communities from accessing economic, educational, and social opportunities, exacerbating the economic disadvantage and isolation in their communities.<sup>421</sup> Unsurprisingly, scholars have found a connection between lack of transportation and social unrest.<sup>422</sup> In addition to the general sense of belonging to a larger community and accessing a wide array of opportunities, lack of transportation

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413. Blumenberg & Pierce, *supra* note 249 at 61–62.

414. *Id.* at 60.

415. Coren et al., *supra* note 410, at 675.

416. CASHIN, *supra* note 142, at 23.

417. Crozier & Garrett, *supra* note 8, at 1600. *See also* Foster, *supra* note 24, at 19–20 (arguing that license suspensions can be “catastrophic,” pointing to employment concerns, along with medical, educational, social, spiritual, or criminal justice-related effects).

418. *See* Klein & Smart, *supra* note 13, at 502 fig.3 (2017) (showing that 30% of Hispanics, 18% of non-Hispanic Blacks, and 26% of Non-Hispanic Asians reported less than one car per adult in the household, compared to 12% of non-Hispanic Whites).

419. ALEX KARNER, DANA ROWANGOULD & JONATHAN LONDON, WE CAN GET THERE FROM HERE: NEW PERSPECTIVES ON TRANSPORTATION EQUITY 3 (Sept. 2016).

420. Lollar, *supra* note 30, at 129.

421. KARNER ET AL., *supra* note 420, at 9.

422. Joe Grengs, *The Abandoned Social Goals of Public Transit in the Neoliberal City of the USA*, CITY, 9:1, 51–66, 56 (2004) (pointing to the McCone Commission Report, Governor’s Commission on the Los Angeles Riots, 1965, p. 65).

also affects access to healthy foods,<sup>423</sup> housing opportunities,<sup>424</sup> and individual and public health outcomes.<sup>425</sup>

With so many negative effects of carlessness, most people with suspended licenses—up to 75%—continue to drive.<sup>426</sup> Joni Hirsch and Priya S. Jones explained the impossible choice facing those who have lost their license because of debt: “stop driving and potentially lose employment and access to other essential services, or continue to drive on a suspended license and risk additional fines and fees, criminal charges, or even incarceration.”<sup>427</sup> Because they risk additional fines, arrest, and incarceration every time they drive, they may avoid unnecessary driving, which negatively affects social and community connections that largely rely on automobile transportation.<sup>428</sup> To avoid bad outcomes, drivers will take extreme measures to pay their debt. According to a 2019 survey in Alabama, 44% of individuals with court debt used payday or title loans to pay the debt and nearly 40% admitted to committing one or more crimes to pay their debt.<sup>429</sup> These data and information suggest that driver’s license suspensions succeed in keeping the poor and people of color economically repressed and physically segregated, without the benefit of protecting public safety or the well-being of communities.

Although most people with debt-based driving restrictions continue to drive, the restriction itself remains a significant restraint on their personal freedom and physical mobility. Importantly, drivers with license restrictions are driving scared, which significantly hampers the freedom of automobility.<sup>430</sup> Leisa Moseley-Sayles, for example, explained how a \$299 ticket for an expired license plate “haunt[ed] her for . . . several years of her life.”<sup>431</sup> Not only did that initial fine balloon into more than \$5,000 in fines and fees, Moseley-Sayles

423. KARNER ET AL., *supra* note 420, at 11–12 (citing multiple empirical studies).

424. Jennifer M. Lechner & B. Leigh Wicclair, *Driven to Despair: Confronting Racial Inequity in North Carolina’s License Suspension Practices*, 43 CAMPBELL L. REV. 203, 205 (2021). *See also* Garrett, *supra* note 309, at 93 (citing his study with William Crozier, which found that almost 30% of their respondents reported facing eviction as a result of their driver’s licenses being suspended).

425. KARNER ET AL., *supra* note 418, at 14 (citing studies).

426. Crozier & Garrett, *supra* note 8, at 1600; Levin, *supra* note 297, at 74–75; Garrett, *supra* note 309, at 93.

427. Hirsch & Jones, *supra* note 24, at 880–81. And driving with a suspended license increases a driver’s insurance premium by more than 60%. *Id.* at 882. *See also* Thomas v. Haslam, 329 F. Supp. 3d. 475, 484 (M.D. Tenn. 2018) (recognizing the debt spiral that arises from a license suspension and driving on a suspended license).

428. *See* Rios, *supra* note 145, at 285–86 (noting that anxiety over arrest or mounting fines “dramatically affects decisions residents make, such as when and where to drive and whether to use public spaces and amenities”).

429. Foster, *supra* note 24, at 23. *See also* Cammett, *supra* note 35, at 378.

430. *Cf. infra* notes 433–39 (explaining how Black motorists regularly fear interactions with the police that stem from traffic stops).

431. Marin Cogan, *How Cars Fuel Racial Inequality*, VOX (June 13, 2023), <https://www.vox.com/23735896/racism-car-ownership-driving-violence-traffic-violations> [<https://perma.cc/D9Q5-9UC6>].

temporarily lost her license.<sup>432</sup> Although she explained that she had no choice but to keep driving, she also described the “emotional trauma” she experienced driving under a suspended license.<sup>433</sup> Her trauma was exacerbated because she was a Black woman aware of the harms that have disproportionately befallen Black drivers pulled over for traffic violations.<sup>434</sup> Freida Watson, of North Carolina, also explained the fear that came with driving on a suspended license.<sup>435</sup> Watson explained that when she sought help to get her license reinstated, she did so for “peace of mind.”<sup>436</sup> She further explained the constant stress, explaining that it comes to the front of mind “when you pass cop cars and just drop cortisol and it feels like you’re going belly-up.”<sup>437</sup>

Further, drivers with restricted licenses tend to drive only to necessary places because of the fears related to driving with such licenses.<sup>438</sup> Recent empirical research has similarly found that, with respect to debt arising from court fines and fees, 32% of respondents in a nationally-representative survey noted that court debt affected access to transportation, including because of debt-based driving restrictions.<sup>439</sup> To adapt, “respondents reported reducing time on the road or turning to other modes of transportation, such as relying on other people to take them places, taking public transportation, or limiting their travels to places to which they could walk.”<sup>440</sup>

Debt-based driving restrictions disproportionately harm people of color, particularly Black people. If debt policy only caused disproportionate harm in terms of social and financial mobility, that would be a significant problem. But, as shown throughout this Article, debt policy also affects physical mobility. Debt-based driving restrictions not only limit employment, along with educational, social, and financial opportunities for Black people, but also undermine the physical and emotional freedom associated with automobility.

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432. *Id.*

433. *Id.* Driving scared is not a new phenomenon for either Black drivers or Latino drivers. See KENNETH MEEKS, *DRIVING WHILE BLACK: HIGHWAYS, SHOPPING MALLS, TAXI CABS, SIDEWALKS* 163 (2010). It is exacerbated, however, when the driver is driving on a restricted license. See Pamela Constable, *Alabama law drives out illegal immigrants but also has unexpected consequences*, WASH. POST (June 17, 2012), [https://www.washingtonpost.com/local/alabama-law-drives-out-illegal-immigrants-but-also-has-unexpected-consequences/2012/06/17/gJQA3Rm0jV\\_story.html](https://www.washingtonpost.com/local/alabama-law-drives-out-illegal-immigrants-but-also-has-unexpected-consequences/2012/06/17/gJQA3Rm0jV_story.html) [<https://perma.cc/EJ64-LYPQ>] (quoting a Central American immigrant who had a good job at an Alabama factory, but was “afraid to drive his car because his license had expired and he was not legally permitted to renew it”).

434. *Id.*

435. Ruthie Kesri, *Feature: Local DEAR Program Helping Residents Restore Licenses* (May 21, 2021), <https://wcsj.law.duke.edu/news/feature-local-dear-program-helping-residents-restore-licenses/> [<https://perma.cc/VY9Z-KAZJ>].

436. *Id.*

437. *Id.*

438. Rios, *supra* note 145, at 285–86 (reporting that “[m]any people described sending their children to the nearby gas station to buy snacks for meals because they did not want to drive several miles for groceries for fear of being pulled over”).

439. *Debt Sentence*, *supra* note 274, at 16.

440. *Id.*

Because automobility is so deeply connected to personal autonomy in today's world, debt-based driving restrictions recreate and reinforce imbalanced and unfair racial power dynamics, including by enforcing segregated spaces of "racial territoriality."<sup>441</sup> And because unlimited physical mobility is a mechanism of freedom and limited physical mobility is a mechanism of control, the racial harms are exponentially increased.

## V.

### A DIRECTION FOR CHANGE

There may be potential avenues to challenge debt-based driving restriction laws through litigation, but this Article argues that the best way to break the link between debt and physical mobility is through legislative action. It proposes that legislatures should first revoke any law—federal or state—that punishes debtors with driving restrictions, and then add driving restrictions as a direct sanction only for violations that are both related to driving *and* connected to public safety.<sup>442</sup>

Although courts have deemed a driver's license an "important interest[ ]" entitled to procedural due process,<sup>443</sup> the Supreme Court has also stated that "[a]utomobiles, unlike homes, are subjected to pervasive and continuing governmental regulation and controls, including periodic inspection and licensing requirements."<sup>444</sup> Courts have regularly held that a driver's license is a privilege, not a right.<sup>445</sup> And the current Supreme Court has restricted, rather than expanded, substantive due process rights.<sup>446</sup> Even so, some have made a constitutional case against travel restrictions and debt-based driving restrictions.<sup>447</sup> But because legislative action created the problematic

441. See Boddie, *supra* note 93, at 406 (defining "racial territoriality" as occurring "when the state excludes people of color from—or marginalizes them within—racialized white spaces that have a racially exclusive history, practice, and/or reputation").

442. The most obvious example that would fall under the public safety umbrella would be a DUI, but it could also include reckless driving and a driving violation causing injury or death. See 2020 Mich. Pub. Acts 346 (Act 376) Sec 303 (2)(a). See also *Guide to Michigan's 2020 Jail Reforms: Michigan Joint Task Force on Jail and Pretrial Incarceration* at 21, <https://www.courts.michigan.gov/49316c/siteassets/committees,-boards-special-initiatves/jails/guide-to-michigans-2020-jail-reforms.pdf> [<https://perma.cc/Y5FL-YADN>].

443. Bell v. Burson, 402 U.S. 535, 539 (1971).

444. South Dakota v. Opperman, 428 U.S. 364, 368 (1976).

445. Fondacaro & Stolle, *supra* note 306, at 379 n.163 (1996) (identifying an exemplar case).

446. See Dobbs v. Jackson Women's Health Org., 142 S. Ct. 2228 (2022), 2284–85 (pulling back on substantive due process rights with respect to abortion).

447. See Parham v. DC, No. 22-2481 (D.D.C. Dec. 27, 2022), vacated Dkt. 25 (D.D.C. May 15, 2023) (issuing a preliminary injunction enjoining the District from denying someone a driver's license renewal because of debt due to the District in part because Plaintiffs had shown a likelihood of success on the merits). For a discussion of constitutional law challenges—including the intersection of equal protection and due process or "equal process"—raised by these laws, see Brandon Garrett, *Wealth, Equal Process, and Due Process*, 61 WILLIAM & MARY L. REV. 397 (2019); Crozier & Garrett, *supra* note 8. For a look at the doctrinal history of a constitutional right to interstate travel, see Jeffrey D. Kahn, *International Travel and the Constitution*, 56 UCLA L. REV. 271, 287–301 (2008).

relationship between debt policy and physical mobility restrictions, this Article contends that it is also the best mechanism to break the connection.

Thirty states and the District of Columbia have already made progress toward change.<sup>448</sup> The changes, however, fail to completely break the link between debt and physical mobility. For example, several states maintain their failure to pay statutes, but provide a variety of mechanisms to make them less punitive. Iowa provides expanded opportunity for installment plans,<sup>449</sup> Nebraska and Oklahoma have added ability to pay hearings,<sup>450</sup> and Tennessee gives judges discretion to allow for limited driving privileges during suspension.<sup>451</sup> Other states, like Maine<sup>452</sup> and Indiana,<sup>453</sup> have retained their failure to pay statutes, but restricted them to driving-related offenses.<sup>454</sup> Several states have repealed their failure to pay statutes for fines and fees, but retained other debt-based driving restrictions, such as failure to pay judgment or child support suspensions.<sup>455</sup> No state has eliminated all debt-based driving restrictions.

These reforms are positive but insufficient because they fail to effectively disrupt the problematic link between debt policy and physical mobility restrictions. Putting procedural safeguards in place is welcomed but relies on discretionary implementation of courts. Any discretionary action opens the door to biased enforcement.<sup>456</sup> Limiting failure to pay statutes to underlying driving offenses both retains the use of debt policy to affect physical mobility and falls short of fittingly connecting driving restrictions to public safety. First, it neglects to protect the public against traffic violators who can afford to pay their fines and fees, leaving them licensed and registered. Second, it limits driving restrictions to debt related to public safety in fines and fees; it does nothing to deal with debt-

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448. See Appendix A.

449. 2016 Iowa Acts 300 (Ch. 1119) (making it easier to qualify for installment plans for court debt).

450. 2017 Neb. Laws 523 (LB 259) (allowed judges to consider ability to pay and installment payments); 2022 Okla. Sess. Laws (Ch. 350) (revamping fines and fees payment to make installment plans and reduction of payment obligations easier, eff. July 1, 2023).

451. 2022 Tenn. Pub. Acts (Ch. 788).

452. 2017 Me. Laws 116 (Ch. 462) (temporarily abolished license suspension for fines from non-traffic related criminal offenses); 2019 Me. Laws 1675 (Ch. 603) (making permanent previous reforms).

453. 2021 Ind. Acts 878 (Act 1199).

454. Some states have done the opposite, retaining their failure to pay statutes but exempting certain kinds of offenses. See 2020 Md. Laws 1055 (Ch. 150); 2019 Iowa Acts 28 (Ch. 13) (removing license suspensions for failure to pay student loan debt). And, absent reform, some states already limited failure to pay driving restrictions to underlying driving offenses. See, e.g., ALA. R. CRIM. P. 26.11(i)(3) (limiting driving restrictions to failure to pay “a fine and/or restitution imposed as a result of a traffic infraction”); GA. CODE ANN. § 40-6-189(c) (2009) (limiting failure to pay statute only to failure to pay \$200 “super speeder” tickets).

455. See Appendix A.

456. See Anna Roberts, *(Re)forming the Jury: Detection and Disinfection of Implicit Juror Bias*, 44 CONN. L. REV. 827, 841 (2012) (noting that the Batson doctrine’s heavy reliance on the judge’s discretion risks “the influence of implicit judicial bias”); Zachary L. Weaver, *Florida’s “Stand Your Ground” Law: The Actual Effects and the Need for Clarification*, 63 U. MIAMI L. REV. 395, 410 (2008) (arguing that police discretion in handling self-defense cases, including which incidents to investigate, “opens the door for personal bias, such as racial or gender animus”).

based driving restrictions for those in debt for child support, taxes, or poll violations.

Michigan has come the closest to implementing the kind of reform I propose in this Article. In 2020, in reaction to the Michigan Joint Task Force on Jail and Pretrial Incarceration's recommendations, the state legislature passed a bipartisan slate of twenty bills referred to as the "2020 jail reforms."<sup>457</sup> Seven bills amended code provisions related to driver's license suspensions. Together, they eliminated license suspensions for vehicle code violations unrelated to driving safety, for selling alcohol to minors, for minors purchasing alcohol, for controlled substance offenses, and for failure to appear on a civil infraction.<sup>458</sup> They also added an ability-to-pay mechanism assessment when suspending a driver's license for nonpayment of child support and notice requirements for the specific offenses that continue to lead to license suspensions.<sup>459</sup> The laws left intact driving suspensions for certain violations that affect public safety, including driving while intoxicated, reckless driving, and driving violation causing injury or death.<sup>460</sup> For those infractions, failure to appear or to comply with judgment can also lead to driver's license suspensions.<sup>461</sup>

In North Carolina, legislation aimed at broad fixes has been proposed, but this legislation has, as of today, stalled. A bill introduced in the House of Representatives would affirmatively prohibit the revocation of driver's licenses for failure to appear at trial and failure to pay a fine, penalty, or court cost ordered by a court.<sup>462</sup> In an effort to streamline relief for drivers, the proposed legislation requires the DMV to terminate all relevant suspensions and reinstate licenses without requiring any affirmative action from the driver.<sup>463</sup> Finally, it proposed to amend prior law by forgiving unpaid fines and fees previously assessed for driving on a suspended license if the only underlying justification for the license revocation is now prohibited under the new legislation.<sup>464</sup> The enacted Michigan reform and the proposed North Carolina law offer an exciting start, but they still do not go far enough. Michigan's legislation retains debt-based license suspensions for failure to pay on certain driving-related offenses,<sup>465</sup> which fails

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457. 2020 Mich. Pub. Acts 346 (Act 376). *See also Guide to Michigan's 2020 Jail Reforms: Michigan Joint Task Force on Jail and Pretrial Incarceration* at 4, <https://www.courts.michigan.gov/49316c/siteassets/committees,-boards-special-initiatves/jails/guide-to-michigans-2020-jail-reforms.pdf> [<https://perma.cc/JL4V-SUS8>].

458. *Id.* at 20.

459. *Id.* at 20–21.

460. *Id.* at 21.

461. *Id.*

462. Remove Barriers to Employment from Court Debt, H.D. 888, Gen. Assemb., 2023 Sess. (N.C. 2023), <https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H888v1.pdf> [<https://perma.cc/98HM-R2VV>].

463. *Id.*

464. *Id.*

465. MICH. COMP. LAWS § 257.321a(1) (2021) (requires an ability-to-pay assessment); General Assembly of North Carolina, House Bill 888, Remove Barriers to Employment from Court Debt,

to completely divorce child support arrearages from driving restrictions.<sup>466</sup> The Michigan law also retains debt-based vehicle registration holds for failure to pay certain taxes<sup>467</sup> and for failure to pay a judgment.<sup>468</sup> The North Carolina bill is currently stalled in the House of Representatives and, even if it passes, is limited to fines and fees, leaving child support debt unaddressed.<sup>469</sup>

I argue that legislators should fully make the break between debt and driving restrictions with a two-step process of repeal and amendment. First, state and federal legislators should repeal all debt-based driving restrictions. A model state law stripping debt-based driving restrictions would be a welcome and efficient,<sup>470</sup> although not necessary, approach. Once debt-based driving restrictions are removed from the code, a legislature could then determine whether to attach a driving restriction as a sanction for specific criminal or civil violations. For example, if a state legislature believes that one convicted of driving under the influence should lose their driver's license because the bad conduct is driving-related and affects public safety, legislators can amend the criminal code to include a driving restriction as a sanction for the specific violation of driving under the influence. This two-step process will both divorce debt from mobility restrictions and retain driving restrictions as a potential sanction for specific illegal conduct. The federal government could also force such changes at the state level, by amending the statutes that have encouraged states to tie debt to driving restrictions<sup>471</sup> or tying funding streams (i.e., Department of Transportation funds) to state reform of debt-based driving restrictions.<sup>472</sup>

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Session 2023, <https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H888v1.pdf> [https://perma.cc/63XM-BYNB].

466. MICH. COMP. LAWS § 552.628(1) (2021).

467. MICH. COMP. LAWS § 257.801C(3) (2013) (registration hold for failure to pay registration tax on vehicle); MICH. COMP. LAWS § 257.801j(1) (2014) (registration hold for failure to pay registration tax of regional transit authority, if in that public transit region).

468. MICH. COMP. LAWS § 257.512 (1949).

469. N.C. Gen. Assembly, House Bill 888, <https://www.ncleg.gov/BillLookUp/2023/h888> [https://perma.cc/FBB7-8KAW].

470. Model legislation, if adopted by a state, would repeal any and all state and local laws that included driving restrictions as a sanction for state-owed debt or debt owed pursuant to state processes, like child support debt. By striking specific language, such an approach would be efficient and effective. *Cf.* William Peter Maurides, *The Use of Preemption to Limit Social Progress in South Carolina: The Road to the Bathroom Bill*, 69 S.C. L. REV. 977, 990 (2018) (discussing a piece of model legislation known as the “Living Wage Mandate Preemption Act,” which would repeal “any local ‘living wage’ mandates, ordinances or laws enacted by political subdivisions of the state”); *cf.* William Quigley, *Catholic Social Thought and the Amoralism of Large Corporations: Time to Abolish Corporate Personhood*, 5 LOY. J. PUB. INT. L 109, 130 (2004) (discussing model city ordinances that would “rescind corporate personhood” and state model legislation that would “change the definitions of the persons protected by the law and restrict that protection to ‘natural persons’”).

471. *See supra* notes 307–313 and accompanying text.

472. This would be the inverse of the way that PRWORA tied TANF funds to state action to connect debt to driving restrictions. *See supra* note 310. The Biden Administration, through its Justice Department, has pushed on local judges and courts, noting its position that imposing fines and fees without accounting for ability to pay is unconstitutional. Glenn Thrush, *Justice Dept. Presses Local*

One may argue that, in the absence of the lever of driving restrictions, states will turn to incarceration to collect their debts, exacerbating the problems associated with mass incarceration. I do not believe that this would be the trade-off. First, debtors' prisons are decidedly illegal. They were banned under federal law in 1833, and in 1983, the Supreme Court ruled debtors' prisons unconstitutional under the Fourteenth Amendment's Equal Protection guarantee.<sup>473</sup> Second, although debt can certainly lead to incarceration,<sup>474</sup> revoking driving suspensions may actually lead to a *reduced* prison population. As noted above, 75% of people with suspended licenses continue to drive, putting them at greater risk of incarceration.<sup>475</sup> In Michigan, for example, driving without a license was the third most common reason for admission to a county jail.<sup>476</sup> And data from Marion County, Indiana's Prosecutor's office shows that driving on a suspended license is the most common charge filed in Indiana.<sup>477</sup> When those barriers are lifted, so too will be the resulting incarceration and related downstream consequences.

One may also argue that requiring legislators to address civil and criminal code violations one by one for a driving sanction is too onerous. This, however, is a feature of the proposal, not a bug. For too long, debt-based mobility restrictions have applied to a broad swath of the population, disproportionately Black people, with significant negative effects and insufficient consideration of the cost-benefit analysis. By revoking all failure-to-pay statutes and forcing legislatures to consider whether a driving restriction is an appropriate sanction for a particular violation, policymakers will no longer be able to use debt policy to affect physical mobility and racialize space. Rather, they will be forced to apply a public safety approach to driving restrictions and consider the costs and benefits of instituting such a sanction for each kind of violation.

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*Courts to Reduce Fines*, N.Y. TIMES (Apr. 20, 2023), <https://www.nytimes.com/2023/04/20/us/politics/justice-dept-courts-fines.html?searchResultPosition=1> [<https://perma.cc/RE6N-2YQ3>]. This is a welcome reminder from the federal government, but it neither has any credible levers to enforce such requirements nor does it do anything to break the relationship between debt and driving restrictions.

473. *Bearden v. Georgia*, 461 U.S. 660 (1983) (requiring judges to distinguish between debtors who could not afford their debts and those who can pay but have willfully refused to pay). The Supreme Court had previously made similar findings, in *Williams v. Illinois*, 399 U.S. 235 (1970), and *Tate v. Short*, 401 U.S. 395 (1971).

474. MESSENGER, *supra* note 374.

475. *See supra* note 443.

476. *Guide to Michigan's 2020 Jail Reforms: Michigan Joint Task Force on Jail and Pretrial Incarceration*, *supra* note 456, at 4.

477. Nazish Dholakia, *Driver's License Suspensions for Unpaid Debt; Punishing Poverty*, VERA INST. FOR JUST. (July 19, 2022), <https://www.vera.org/news/drivers-license-suspensions-for-unpaid-debt> [<https://perma.cc/RFQ8-MC9V>].

## CONCLUSION

Physical mobility represents personal autonomy, freedom, and personhood. When the state acts to expand or limit that mobility, it reveals a lot about what kind of freedom—and for whom—exists in the United States.

Throughout American history, the state has turned to debt policy to affect and control physical mobility. By encouraging the physical mobility of White Americans and constraining the physical mobility of Black Americans, debt policy in the United States has reinforced racially segregated spaces. These effects contribute to the historical and ongoing racial power imbalance in the United States.

Today, through licensing and registration authority, the state controls not only access to personal vehicles and driver's licenses, but personal autonomy and freedom. Like debt-based policies underlying Black Codes and convict leasing, New Deal housing programs, and property liens, debt-based driving restrictions allow the state to use debt policy to control where people go and what they do.

It is time to rethink the connection between debt policy and physical mobility. State and federal legislatures should completely break the connection by repealing all debt-based driving restrictions. Only after divorcing driving restrictions from physical mobility can they then accurately and effectively consider whether driving restrictions should be applied to specific civil and criminal codes to sanction specific conduct. This step would not only break the link between debt and driving privileges, but it would break the larger chain of debt policy and physical mobility that has, time and again across American history, benefitted White Americans and constrained Black Americans.



APPENDIX A - STATE DEBT-BASED DRIVER'S LICENSE SUSPENSION LAWS

Michael Leyendecker\* & Kate Sablosky Elengold\*\*

In the United States, every state and the District of Columbia have enacted laws allowing or mandating the suspension or revocation of a driver's license where the driver fails to pay a debt to the state or arising from a state-controlled system. Depending on the state statute(s), one can lose their driver's license for any unpaid amount arising from criminal fines or fees, civil fines or fees, child support, taxes, tolls, or a variety of other unpaid debts. According to limited research on the issue, at least eleven million people across the United States are under a debt-based license restriction because of debt.<sup>478</sup> That estimate is necessarily low because it does not account for suspensions arising from any debt other than fines and fees.<sup>479</sup>

This compilation of state statutes is original research and represents what we believe to be the most comprehensive compilation publicly available. It builds on important work in this area that has come before, and we acknowledge and thank those publications that have greatly benefitted this project.<sup>480</sup> Our hope for this document is that it will provide a comprehensive and wide-reaching catalog of debt-based driver's license suspension laws, useful to scholars, policymakers, and advocates. This research can be read in tandem with our related research, titled State Debt-Based Car Registration Suspension Laws.

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478. Lisa Foster, *The Price of Justice: Fines, Fees and the Criminalization of Poverty in the United States*, 11 U. MIAMI RACE & SOC. JUST. L. REV. 1, 19 (2020); Joni Hirsch & Priya S. Jones, *Driver's License Suspension for Unpaid Fines and Fees: The Movement for Reform*, 54 U. MICH. J. L. REFORM 875, 876 (2021).

479. *Id.*

480. See FREE TO DRIVE, <https://www.freetodrive.org/maps/#page-content> (last visited Jan. 31, 2023); Annie Han, *National Harm from Suspending Licenses in Response to Unpaid, Unaffordable Court Fines and Fees*, WILSON CENTER FOR SCIENCE AND JUSTICE AT DUKE LAW, <https://wcsj.law.duke.edu/?s=Annie+Han#12208> (last visited Jan. 31, 2023); *License Restrictions for Failure to Pay Child Support*, NATIONAL CONFERENCE OF STATE LEGISLATURES, <https://www.ncsl.org/human-services/license-restrictions-for-failure-to-pay-child-support> (last visited Jan. 31, 2023); *Suspension of Drivers' Licenses in All 50 States*, MATTHIESEN, WICKERT, & LEHRER, S.C., <https://www.mwl-law.com/wp-content/uploads/2018/02/SUSPENSION-OF-DRIVERS-LICENSE-CHART.pdf> (2022).

The citations herein generally follow Bluebook citation standards, with some modifications designed to provide additional detail to the reader. For example, years cited reference the date of statutory enactment. We have also added chapter numbers to session laws, since states' online databases of session laws frequently lack page numbers, making it difficult or impossible to find the correct session laws without a chapter number. Because these statutes vary so much, additional information on the suspension is included in a parenthetical for each statute. While the document aims to be as authentic to the statutory language as possible, some state codes are ambiguous; where there is ambiguity, we have noted it with an asterisk.

| State   | Failure to Pay   | Failure to Appear | Taxes            | Child Support    | Failure to Pay Judgment | Tolls & Other    | Reinstatement Fee (Debt-Related) | Reform Enacted   |
|---------|------------------|-------------------|------------------|------------------|-------------------------|------------------|----------------------------------|------------------|
| Alabama | ✓ <sup>481</sup> | ✓ <sup>482</sup>  | ✓ <sup>483</sup> | ✓ <sup>484</sup> | ✓ <sup>485</sup>        | ✓ <sup>486</sup> | \$100-150 <sup>487</sup>         | ✓ <sup>488</sup> |
| Alaska  | ✓ <sup>489</sup> | ✓ <sup>490</sup>  |                  | ✓ <sup>491</sup> | ✓ <sup>492</sup>        |                  | \$100 <sup>493</sup>             |                  |
| Arizona | ✓ <sup>494</sup> | ✓ <sup>495</sup>  |                  | ✓ <sup>496</sup> | ✓ <sup>497</sup>        |                  | \$10-20 <sup>498</sup>           | ✓ <sup>499</sup> |

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481. ALA. R. CRIM. P. 26.11(i)(3) (for failure to pay “a fine and/or restitution imposed as a result of a traffic infraction”)

482. ALA. ADMIN. CODE R. 760-X-1-.12 (1982) (for failure to appear for a misdemeanor)

483. ALA. CODE § 40-12-253(a)(3) (1935) (license hold for failure to pay yearly ad valorem tax on vehicle)

484. ALA. CODE § 30-3-171 (1996) (for failure to pay child support); Ala. Code § 30-3-170(2) (1996) (if amount is “equal to or greater than six months support payments”)

485. ALA. CODE § 32-7-14(a) (1951) (for failure to satisfy judgment); Ala. Stat. § 32-7-13 (1951) (“within 60 days”)

486. ALA. CODE § 23-2-172(c) (2017) (for failure to pay tolls, effective until Jan. 1, 2024)

487. ALA. CODE § 32-6-17 (1971) (imposing extra \$50 fine on top of base \$100 reinstatement if license not voluntarily surrendered within 30 days of suspension)

488. 2018 Ala. Laws (Act 289) (added hardship licenses)

489. ALASKA STAT. § 28.15.181(g) (1978) (for unpaid fines); ALASKA STAT. § 28.15.161(a)(7) (1978) (cancellation for “\$1000 or more in unpaid fines for offenses involving a motor vehicle”)

490. ALASKA STAT. § 28.15.181(g) (1978) (for “an offense involving a motor vehicle”)

491. ALASKA STAT. § 25.27.246(q)(5) (1996) (for failure to pay child support in arrears for more than four times the monthly obligation)

492. ALASKA STAT. § 28.20.270 (1959); ALASKA STAT. § 28.20.280 (1959) (for failure to satisfy judgment “within 30 days”)

493. ALASKA STAT. § 28.15.271(b)(3) (1978)

494. ARIZ. REV. STAT. § 28-3308 (1995) (failure to pay “fines, surcharges or assessments” only if one first fails to appear)

495. ARIZ. REV. STAT. § 28-3308 (1995) (failure to appear after service of a criminal complaint)

496. ARIZ. REV. STAT. § 25-517(A)(1) (1995) (at least 6 months in arrears)

497. ARIZ. REV. STAT. § 28-4072(A) (1995) (for failure to satisfy judgment); ARIZ. REV. STAT. § 28-4071(A) (1995) (within sixty days)

498. ARIZ. REV. STAT. § 28-3002(A)(9) (1995) (\$10 for offenses deemed suspension, \$20 for offenses deemed revocation)

499. 2021 Ariz. Sess. Laws (Ch. 335) (removing suspension of license as failure to pay civil penalty)

|             |                  |                  |                  |                  |                  |                  |                      |                  |
|-------------|------------------|------------------|------------------|------------------|------------------|------------------|----------------------|------------------|
| Arkansas    | ✓ <sup>500</sup> | ✓ <sup>501</sup> |                  | ✓ <sup>502</sup> | ✓ <sup>503</sup> |                  | \$100 <sup>504</sup> |                  |
| California  |                  | ✓ <sup>505</sup> | ✓ <sup>506</sup> | ✓ <sup>507</sup> | ✓ <sup>508</sup> |                  | \$55 <sup>509</sup>  | ✓ <sup>510</sup> |
| Colorado    |                  |                  |                  | ✓ <sup>511</sup> | ✓ <sup>512</sup> |                  | \$95 <sup>513</sup>  | ✓ <sup>514</sup> |
| Connecticut | ✓ <sup>515</sup> | ✓ <sup>516</sup> |                  | ✓ <sup>517</sup> |                  |                  | \$175 <sup>518</sup> |                  |
| Delaware    | ✓ <sup>519</sup> | ✓ <sup>520</sup> |                  | ✓ <sup>521</sup> | ✓ <sup>522</sup> | ✓ <sup>523</sup> | \$50 <sup>524</sup>  |                  |

500. ARK. CODE ANN. § 16-13-708(A) (1995) (for failure to pay “court-ordered fine,” but only if person fails to appear at hearing to discuss non-payment of fine first)

501. ARK. CODE ANN. § 16-17-131(b) (2001) (for failure to appear for “any criminal offense, traffic violation, or misdemeanor charge”)

502. ARK. CODE ANN. § 9-14-239(b) (1995) (if amount is equal to “three (3) months’ obligation or more”)

503. ARK. CODE ANN. § 27-19-707(a) (1953) (for failure to satisfy judgment); ARK. CODE ANN. § 27-19-706(a) (1953) within 30 days, in excess of \$1000)

504. ARK. CODE ANN. § 27-16-808(a)(2)(A) (1995) (\$100 for each offense leading to suspension)

505. CAL. VEH. CODE § 13365(a) (1963)

506. CAL. BUS. & PROF. CODE § 494.5(a) (2011) (suspending license if person appears on list of 500 largest delinquent taxpayers in California)

507. CAL. FAM. CODE § 17520(a), (e) (2017) (if obligor is “no more than 30 calendar days” in arrears)

508. CAL. VEH. CODE § 16370 (1959) (if obligor has failed “for a period of 30 days” to satisfy judgment)

509. CAL. CODE REGS. tit. 13 § 140.00(a), (b) (1997) (\$42 driver license reinstatement fee and \$13 notice of sanction fee)

510. 2017 Cal. Stat. 944 (Ch. 17) (removing failure to pay license suspensions); 2022 Cal. Stat. (Ch. 800) (A.B. 2746, repealing failure to appear suspensions, phasing them out by 2027)

511. COLO. REV. STAT. § 26-13-123(5)(a) (1995) (“Noncompliance” threshold for driver’s license suspension not defined, but suspensions for occupational licenses require an amount more than six months’ gross dollar amount and are paying less than fifty percent of their current monthly obligations [COLO. REV. STAT. § 26-13-126(1) (1997)])

512. COLO. REV. STAT. § 42-7-401(1) (1994) (if obligor has failed “for a period of 30 days” to satisfy judgment)

513. COLO. REV. STAT. § 42-2-132(4)(a)(I) (1994)

514. 2021 Colo. Sess. Laws 3092 (Ch. 460) (repealing failure to pay and failure to appear suspensions)

515. CONN. GEN. STAT. § 14-140(b) (1949) (for a “fine and any additional fee” related to motor vehicle violations)

516. CONN. GEN. STAT. § 14-140(b) (1949) (for “any scheduled court appearance”)

517. CONN. GEN. STAT. § 46b-220(a), (e) (1995) (if amount exceeds “ninety days of periodic payments”)

518. CONN. GEN. STAT. § 14-50b(a) (1976)

519. DEL. CODE ANN. tit. 21, § 808(b) (1929) (for a “fine, costs or both”)

520. DEL. CODE ANN. tit. 21, § 808(b)(3) (2005) (for failure to appear on civil traffic offenses, immediate suspension); DEL. CODE ANN. tit. 21, § 709(j) (1929) (license renewal hold for failure to appear on charge on which a voluntary assessment was permitted)

521. DEL. CODE ANN. tit. 13, § 2216(c) (2022) (if obligor owes \$1000 or more and is 30 days or more delinquent)

522. DEL. CODE ANN. tit. 21, § 2942(a) (1951) (for failure to satisfy judgment); DEL. CODE ANN. tit. 21, § 2941(a) (1951) (within 60 days)

523. DEL. CODE ANN. tit. 21, § 2733(a)(8) (1929) (for failure to pay tolls)

524. DEL. CODE ANN. tit. 21, § 2737 (1969)

|         |                  |                  |  |                  |                  |     |                         |                  |
|---------|------------------|------------------|--|------------------|------------------|-----|-------------------------|------------------|
| D.C.    |                  |                  |  | √ <sup>525</sup> | √ <sup>526</sup> |     | \$98 <sup>527</sup>     | √ <sup>528</sup> |
| Florida | √ <sup>529</sup> | √ <sup>530</sup> |  | √ <sup>531</sup> | √ <sup>532</sup> | 533 | \$45 <sup>534</sup>     |                  |
| Georgia | √ <sup>535</sup> | √ <sup>536</sup> |  | √ <sup>537</sup> | √ <sup>538</sup> |     | \$25-100 <sup>539</sup> |                  |
| Hawaii  | √ <sup>540</sup> | √ <sup>541</sup> |  | √ <sup>542</sup> | √ <sup>543</sup> |     | \$20-500 <sup>544</sup> | √ <sup>545</sup> |
| Idaho   |                  |                  |  | √ <sup>546</sup> | √ <sup>547</sup> |     | \$25 <sup>548</sup>     | √ <sup>549</sup> |

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525. D.C. CODE ANN. § 46-225.01(a) (1987) (if obligor is “at least 60 days” in arrears)
526. D.C. CODE ANN. § 50-1301.41 (1954) (for failure to satisfy judgment within 30 days)
527. D.C. CODE ANN. § 50-1301.03(a) (1954)
528. 65 D.C. Reg. 9546 (Oct. 30, 2018) (eliminating suspension of driver’s licenses for failure to pay traffic fines or failure to appear); 69 D.C. Reg. 9906 (Sept. 21, 2022) (eliminating license renewal holds for unpaid traffic fines)
529. FLA. STAT. § 318.15(1)(a) (1974) (for failure to pay “civil penalties” and “court-related fines, fees, services charges, and court costs”); FLA. STAT. § 322.245(1) (1984) (for failure to pay “fines, fees, service charges, and court costs” for criminal offenses)
530. FLA. STAT. § 318.15(1)(a) (1959)
531. FLA. STAT. § 61.13016(1) (1995) (if obligor is 15 days in arrears)
532. FLA. STAT. § 324.121(1) (1955) (for failure to satisfy judgment); FLA. STAT. § 324.111 (1955) (within 30 days)
533. FLA. STAT. § 626.692 (1998) (for the failure to pay restitution to insurers, insured, beneficiaries, or others if an offender unlawfully withholds money and there are other grounds to deny a license)
534. FLA. STAT. § 322.21(8) (1939)
535. GA. CODE ANN. § 40-6-189(c) (2009) (for failure to pay \$200 “super speeder” ticket only)
536. GA. CODE ANN. § 40-5-56(a) (1978) (for failure to appear for a traffic violation other than a parking ticket)
537. GA. CODE ANN. § 19-6-28.1(b) (1996) (if obligor is 60 days or more in arrears)
538. GA. CODE ANN. § 40-9-61(a) (1956) (for failure to satisfy judgment); GA. CODE ANN. § 40-9-61(a) (1956) (“within 30 days”)
539. GA. CODE ANN. § 40-6-189(c) (2009) (\$50 for super speeder fee suspensions); GA. CODE ANN. § 40-5-56(b) (1978) (\$100 for failure to appear suspensions); GA. CODE ANN. § 40-5-54.1(c) (1996) (\$25-35 for failure to pay child support); GA. CODE ANN. § 40-9-9 (1963) (\$25 for failure to satisfy judgment)
540. HAW. REV. STAT. § 290-13(b) (2022) (for failure to pay county fines and fees related to abandoned vehicles)
541. HAW. REV. STAT. § 286-109(c) (1967) (for failure to appear after an arrest for the violation of any traffic violations)
542. HAW. REV. STAT. § 576D-13(a) (1997) (for failure to pay child support); HAW. REV. STAT. § 576D-1 (1986) (“equal to or greater than . . . a three-month period” in arrears)
543. HAW. REV. STAT. § 287-16 (1949) (for failure to satisfy judgment); HAW. REV. STAT. § 287-15 (1949) (within sixty days)
544. Fees vary by county. Kaua’i County, Haw., Code § 17-1.1 (\$60) (1968); Hawai’i County, Haw., § 24-20 (\$50) (1983); Maui County, Haw., Code § 10.80.030 (1981) (\$500); Honolulu County, Haw., Code § 15A-2.2 (\$20) (1983).
545. 2020 Haw. Sess. Laws 405 (Act 59) (repealing driver’s license and registration holds for failure to pay fines or fees)
546. IDAHO CODE § 7-1403 (1996) (for failure to pay child support); IDAHO CODE § 7-1402(3) (1996) (if obligor is in arrears for “an amount equal to or greater than the total support owing for at least 90 days, or \$2000, whichever is less”)
547. IDAHO CODE § 49-1204(1) (1988) (for failure to satisfy judgment); IDAHO CODE § 49-1203(1) (1988) (within 60 days)
548. IDAHO CODE § 49-328(2) (1988)
549. 2018 Idaho Sess. Laws 703 (Ch. 298) (repealed failure to pay license suspensions, decriminalized driving on a suspended license)

|          |                  |                  |                  |                  |                  |  |                       |                  |
|----------|------------------|------------------|------------------|------------------|------------------|--|-----------------------|------------------|
| Illinois |                  |                  |                  | √ <sup>550</sup> | √ <sup>551</sup> |  | \$70 <sup>552</sup>   | √ <sup>553</sup> |
| Indiana  | √ <sup>554</sup> | √ <sup>555</sup> |                  | √ <sup>556</sup> | √ <sup>557</sup> |  | \$250* <sup>558</sup> | √ <sup>559</sup> |
| Iowa     | √ <sup>560</sup> |                  |                  | √ <sup>561</sup> | √ <sup>562</sup> |  | \$20 <sup>563</sup>   | √ <sup>564</sup> |
| Kansas   | √ <sup>565</sup> | √ <sup>566</sup> |                  | * <sup>567</sup> | √ <sup>568</sup> |  | \$100 <sup>569</sup>  | √ <sup>570</sup> |
| Kentucky |                  | √ <sup>571</sup> | √ <sup>572</sup> | √ <sup>573</sup> | √ <sup>574</sup> |  | \$40 <sup>575</sup>   |                  |

550. 625 ILL. COMP. STAT. 5/7-702(a) (1996) (if obligor is “90 days or more delinquent” on support orders)

551. 625 ILL. COMP. STAT. 5/7-303(a) (1970) (for failure to satisfy judgment within 30 days)

552. 625 ILL. COMP. STAT. 5/6-118 (1982)

553. 2020 Ill. Laws 2476 (P.A. 101-0652) (removing license suspensions for failure to pay fines and fees)

554. IND. CODE § 9-30-3-8(c) (1991) (for judgments resulting from moving traffic offenses and traffic infractions)

555. IND. CODE § 9-30-3-8(a) (1991) (for failure to appear for traffic-related misdemeanors or felonies)

556. IND. CODE § 31-25-4-32(a) (2006) (for failure to pay child support); IND. CODE § 31-25-4-2 (2006) (if obligor owes at least \$2000 or is at least 3 months in arrears)

557. IND. CODE § 9-25-6-4(c) (1991) (for failure to satisfy judgment within 90 days)

558. IND. CODE § 9-25-6-15(b) (1991) (first reinstatement \$250, second \$500, third \$1000 for failure to pay fines and fees, appear, and judgment); IND. CODE § 9-30-3-8.5(b) (2021) (waives reinstatement fees for failure to pay fines and fees if proof of future financial responsibility is provided); IND. CODE § 31-25-4-33.5(a) (2021) (reinstatement for failure to pay child support requires eight weeks of child support or the full amount of arrearage);

559. 2021 Ind. Acts 878 (Act 1199) (restricts failure to pay suspensions to moving violations only, adds child support reinstatement fee statute, adds option to waive reinstatement fees if proof of future responsibility is provided)

560. IOWA CODE § 321.210A(1) (1985) (for failure to pay “the criminal fine or penalty, surcharge, or court costs” for a law regulating the operation of a motor vehicle)

561. IOWA CODE § 252J.2(2) (1995) (if obligor is three months in arrears)

562. IOWA CODE § 321A.13(1) (1947) (for failure to satisfy judgment); IOWA CODE ANN. § 321A.12(1) (1947) (within sixty days)

563. IOWA CODE § 321.191(8) (\$20 reinstatement fee)

564. 2019 Iowa Acts 28 (Ch. 13) (removing license suspensions for failure to pay student loan debt); 2016 Iowa Acts 300 (Ch. 1119) (making it easier to qualify for installment plans for court debt)

565. KAN. STAT. ANN. § 8-2110(a) (1974) (for failure to pay “all fines, court costs and any penalties” for a traffic citation except for illegal parking, standing, or stopping)

566. KAN. STAT. ANN. § 8-2110(a) (1974) (for failure to appear in response to a traffic citation)

567. The court seems to be able to restrict, but not revoke, a Kansas license for unpaid child support. *See* KAN. STAT. ANN. § 23-3119(c) (1997); KAN. STAT. ANN. § 20-1204a(g) (1978); KAN. STAT. ANN. § 23-3120(b) (2009) (if obligor owes “greater than or equal to three months’ child support”).

568. KAN. STAT. ANN. § 40-3104(k) (1974) (for failure to fulfil judgment within 60 days)

569. KAN. STAT. ANN. § 8-2110(c) (1974) (for failure to pay fines or appear, unable to find other reinstatement fees)

570. 2021 Kan. Sess. Laws 884 (Ch. 89) (enabled court to waive some or all fees upon showing of hardship, removed multiple reinstatement fees for multiple violations, removed \$25 restricted license fee)

571. KY. REV. STAT. ANN. § 186.570(1)(i) (1942)

572. KY. REV. STAT. ANN. § 131.1817(4) (2012) (license suspensions for taxpayers with overdue state tax liabilities)

573. KY. REV. STAT. ANN. § 186.570(2) (1942) (if obligor is six months or more in arrears)

574. KY. REV. STAT. ANN. § 187.410(1) (1946) (for failure to fulfil judgment); KY. REV. STAT. ANN. § 187.400(1) (1946) (within 60 days)

575. KY. REV. STAT. ANN. § 186.531(9)(a) (1958)

|               |                  |                  |                  |                  |                  |                  |                      |                  |
|---------------|------------------|------------------|------------------|------------------|------------------|------------------|----------------------|------------------|
| Louisiana     | ✓ <sup>576</sup> | ✓ <sup>577</sup> | ✓ <sup>578</sup> | ✓ <sup>579</sup> | ✓ <sup>580</sup> |                  | \$60 <sup>581</sup>  |                  |
| Maine         | ✓ <sup>582</sup> | ✓ <sup>583</sup> |                  | ✓ <sup>584</sup> | ✓ <sup>585</sup> |                  | \$50 <sup>586</sup>  | ✓ <sup>587</sup> |
| Maryland      | ✓ <sup>588</sup> | ✓ <sup>589</sup> | ✓ <sup>590</sup> | ✓ <sup>591</sup> |                  |                  | \$45 <sup>592</sup>  | ✓ <sup>593</sup> |
| Massachusetts | ✓ <sup>594</sup> | ✓ <sup>595</sup> | ✓ <sup>596</sup> | ✓ <sup>597</sup> | ✓ <sup>598</sup> | ✓ <sup>599</sup> | \$100 <sup>600</sup> |                  |

576. LA. CODE CRIM. PROC. ANN. art. 885.1(B) (2003) (for failure to pay a “fine and any additional administrative cost, fee or penalty” for any criminal offense related to the operation of a vehicle)

577. LA. STAT. ANN. § 32:57.1(A) (1978)

578. LA. STAT. ANN. § 32:414(R) (1950) (for “failure to pay the delinquent tax, interest, penalty, and all costs”); LA. STAT. ANN. § 47:296.2(A)(2) (2003) (if the amount of the final judgment is greater than one thousand dollars before penalty, interests, or other charges)

579. LA. STAT. ANN. § 9:315.32(A) (1995) (for unpaid child support); LA. STAT. ANN. § 9:315.31 (1995) (if obligor is more than ninety days in arrears)

580. LA. STAT. ANN. § 32:892(A) (1952) (for failure to fulfil judgment); LA. STAT. ANN. § 32:891 (1952) (within 60 days)

581. LA. STAT. ANN. § 32:414(H) (1950)

582. ME. STATE tit. 29-A, § 2605(1) (1993) (for failure to pay a “fine imposed for a criminal traffic offense”)

583. ME. STATE tit. 29-A, § 2605(1) (1993) (for failure to appear for civil or criminal traffic violations)

584. ME. STAT. tit. 19-A, § 2603-A (1997) (for unpaid child support); ME. STAT. tit. 19-A, § 2101(2) (1995) (if obligor is more than 60 days in arrears)

585. ME. STAT. tit. 29-A § 1603(7) (1993) (immediate suspension upon receipt of a judgment)

586. ME. STAT. tit. 29-A § 2486 (1993)

587. 2017 Me. Laws 116 (462) (temporarily abolished license suspension for fines from non-traffic related criminal offenses); 2019 Me. Laws 1675 (Ch. 603) (making permanent previous reforms)

588. MD. CODE ANN., TRANSP. § 26-204(d) (1977) (for failure to pay a traffic citation)

589. MD. CODE ANN., TRANSP. § 26-204(d) (1977) (for failure to appear for a traffic citation)

590. MD. CODE ANN., TRANSP. § 16-115(k)(1) (1977) (license renewal hold if “undisputed taxes and unemployment insurance contributions payable to the comptroller or the Secretary of Labor” are not paid)

591. MD. CODE ANN., TRANSP. § 16-203(b) (1995) (if obligor is 60 days or more in arrears)

592. MD. CODE REGS. 11.11.05.03(F) (2017)

593. 2020 Md. Laws 1055 (Ch. 150) (removing license suspensions for unpaid criminal fines or fees unrelated to traffic violations and unpaid judgments)

594. MASS. GEN. LAWS ch. 90C, § 3(A) (1982) (for failure to pay “civil motor vehicle infractions”); MASS. GEN. LAWS ch. 90, § 20A (1934) (license may not be renewed for one parking violation and will not be renewed for failure to pay for two or more parking violations)

595. MASS. GEN. LAWS ch. 90C, § 3(6) (1982); MASS. GEN. LAWS ch. 90, § 20A (1934) (license will not be renewed for failure to appear for two or more parking violations)

596. MASS. GEN. LAWS ch. 62C, § 47B(a) (2008) (failure to pay state taxes, including state income tax)

597. MASS. GEN. LAWS ch. 119A, § 16 (1993) (for failure to pay child support, time or amount in arrears not specified in statute but outside sources say 8 weeks or 1 month in arrears). *See* License Suspensions for Unpaid Child Support, BARACH LAW GROUP LLC, <https://www.barachfamilylaw.com/blog/2019/05/license-suspensions-for-past-due-child-support-in-massachusetts/> (last visited Feb. 2, 2023) (saying 8 weeks), *but see* Child Support Enforcement and Driver’s License Policies, EVERYCRS REPORT.COM, <https://www.everycrsreport.com/reports/R41762.html> (last visited Feb. 2, 2023) (saying 1 month)

598. MASS. GEN. LAWS ch. 90, § 22A (1932) (for failure to fulfil judgment, court will suspend license within 60 days after finding of unpaid debt and willful nonpayment by debtor)

599. 700 MASS. CODE REGS. 7.05 (2016) (license renewal hold for failure to pay tolls)

600. MASS. GEN. LAWS ch. 90, § 33(36) (1932)

|             |                  |                  |  |                  |                  |  |                         |                  |
|-------------|------------------|------------------|--|------------------|------------------|--|-------------------------|------------------|
| Michigan    | ✓ <sup>601</sup> | ✓ <sup>602</sup> |  | ✓ <sup>603</sup> | ✓ <sup>604</sup> |  | \$125 <sup>605</sup>    | ✓ <sup>606</sup> |
| Minnesota   |                  | ✓ <sup>607</sup> |  | ✓ <sup>608</sup> | ✓ <sup>609</sup> |  | \$20 <sup>610</sup>     | ✓ <sup>611</sup> |
| Mississippi |                  |                  |  | ✓ <sup>612</sup> | ✓ <sup>613</sup> |  | \$25-100 <sup>614</sup> | ✓ <sup>615</sup> |
| Missouri    | ✓ <sup>616</sup> | ✓ <sup>617</sup> |  | ✓ <sup>618</sup> | ✓ <sup>619</sup> |  | \$20 <sup>620</sup>     |                  |
| Montana     |                  | ✓ <sup>621</sup> |  | ✓ <sup>622</sup> | ✓ <sup>623</sup> |  | \$100 <sup>624</sup>    | ✓ <sup>625</sup> |

601. MICH. COMP. LAWS § 257.321a(1) (1980) (for failure to pay “including, but not limited to . . . fines, costs, fees, and assessments” for offenses which license suspension is allowed, limited to driving-related offenses)

602. MICH. COMP. LAWS § 257.321a(1) (1980) (for failure appear for offenses which license suspension is allowed, limited to driving-related offenses)

603. MICH. COMP. LAWS § 552.628(1) (1982) (for failure to pay child support if more than 2 months in arrears, the obligor has financial ability to pay, and no other sanction would be effective to compel him or her to comply with the payments)

604. MICH. COMP. LAWS § 500.3177(1) (1984) (for failure to fulfil judgment within 30 days of entry)

605. MICH. COMP. LAWS § 257.320e(1) (1949)

606. 2020 Mich. Pub. Acts 346 (Act 376) (eliminates license suspensions for unpaid fines and fees or failure to appear unless specifically allowed by statute and eliminates license suspensions for unpaid parking tickets); 2020 Mich. Pub. Acts 334 (Act 379) (making it more difficult to revoke a driver’s license for unpaid child support); 2020 Mich. Pub. Acts 336 (Act 387) (eliminating failure to appear for civil infractions)

607. MINN. STAT. § 171.16(3)(a) (1969) (only applicable if not a petty misdemeanor or the crime of driving on a suspended license)

608. MINN. STAT. § 518A.65(a) (2014) (if obligor is in arrears for 3 months of payments or more)

609. MINN. STAT. § 171.182(3) (1982) (for failure to satisfy judgment within 30 days)

610. MINN. STAT. § 171.20(4)(a) (1961)

611. 2021 Minn. Laws 1135 (Ch. 5) (removes suspensions for failure to appear due to petty misdemeanor and prevents reinstatement fees from stacking in most circumstances)

612. MISS. CODE ANN. § 93-11-157(1) (1996) (for failure to pay child support); MISS. CODE ANN. § 93-11-153(a) (1996) (if obligor is in arrears for 30 days of payments or more)

613. MISS. CODE ANN. § 63-15-27(1) (1952) (for failure to satisfy judgment); MISS. CODE ANN. § 63-15-25(1) (1952) (for failure to satisfy judgment within 60 days)

614. MISS. CODE ANN. § 63-1-46(1), (3) (1980) (\$100 default fee, \$25 fee for failure to pay child support)

615. 2019 Miss. Laws 1410 (Ch. 466) (removed license suspensions for unpaid fines or failure to appear)

616. MO. REV. STAT. § 302.341 (1990) (for “any fine or court costs” for moving traffic violations, not including minor traffic violations)

617. MO. REV. STAT. § 302.341 (1990) (does not apply to minor traffic violations)

618. MO. REV. STAT. § 454.1003(1) (1997) (if obligor is in arrears for 3 months of payments or \$2500, whichever is less)

619. MO. REV. STAT. § 303.100(1) (1953) (for failure to satisfy judgment); MO. REV. STAT. § 303.090(1) (1953) (“within sixty days”)

620. MO. REV. STAT. § 302.304(12) (1961) (reinstatement fee lifted and license automatically reinstated after two years)

621. MONT. CODE ANN. § 61-5-214(1) (1987) (failure to appear for misdemeanor violation)

622. MONT. CODE ANN. § 40-5-703(5) (1993) (if obligor is in arrears); MONT. CODE ANN. § 40-5-701(3) (1993) (greater than 6 months of payments)

623. MONT. CODE ANN. § 61-6-122(1) (1951) (for failure to satisfy judgment); MONT. CODE ANN. § 61-6-121(1) (1951) (“within 60 days”)

624. MONT. CODE ANN. § 61-5-218(1) (2003)

625. 2019 Mont. Laws 348 (Chap 348) (repealing license suspensions for fines and fees); 2015 Mont. Laws 913 (Chap 227) (repealing license suspensions for unpaid student loans)

|               |                  |                  |                  |                  |                  |                  |                      |                  |
|---------------|------------------|------------------|------------------|------------------|------------------|------------------|----------------------|------------------|
| Nebraska      | ✓ <sup>626</sup> | ✓ <sup>627</sup> |                  | ✓ <sup>628</sup> | ✓ <sup>629</sup> |                  | \$50 <sup>630</sup>  | ✓ <sup>631</sup> |
| Nevada        |                  | ✓ <sup>632</sup> |                  | ✓ <sup>633</sup> | ✓ <sup>634</sup> |                  | \$75 <sup>635</sup>  | ✓ <sup>636</sup> |
| New Hampshire | ✓ <sup>637</sup> | ✓ <sup>638</sup> | ✓ <sup>639</sup> | ✓ <sup>640</sup> | ✓ <sup>641</sup> | ✓ <sup>642</sup> | \$100 <sup>643</sup> |                  |
| New Jersey    | ✓ <sup>644</sup> | ✓ <sup>645</sup> |                  | ✓ <sup>646</sup> | ✓ <sup>647</sup> | ✓ <sup>648</sup> | \$100 <sup>649</sup> | ✓ <sup>650</sup> |
| New Mexico    |                  |                  |                  | ✓ <sup>651</sup> | ✓ <sup>652</sup> |                  | \$25 <sup>653</sup>  | ✓ <sup>654</sup> |

626. NEB. REV. STAT. § 60-4,100 (1937) (if financially able to pay traffic citation but refuses to)
627. NEB. REV. STAT. § 60-4,100 (1937) (failure to comply with a traffic citation); NEB. REV. STAT. § A1-119(b)(3) (1981) (defining compliance as including appearing in court)
628. NEB. REV. STAT. § 43-3318(3)(a) (1997), NEB. REV. STAT. § 43-3314(1) (1997) (if obligor is in arrears for more than three months)
629. NEB. REV. STAT. § 60-507(1)(a) (1949) (for failure to satisfy judgment within 90 days)
630. NEB. REV. STAT. § 60-4,100.01 (2001)
631. 2017 Neb. Laws 523 (LB 259) (allowed judges to consider ability to pay and installment payments)
632. NEV. REV. STAT. § 483.465(1) (1981)
633. NEV. REV. STAT. § 425.510(6) (1995) (if obligor is in arrears); NEV. REV. STAT. § 425.560(1)(a) (1997) (for more than \$1000 and more than two months)
634. NEV. REV. STAT. § 485.302(1) (1957) (for failure to satisfy judgment); NEV. REV. STAT. § 485.301(1) (1957) (within 60 days)
635. NEV. REV. STAT. § 483.410(1) (1941)
636. 2021 Nev. Stat. (Ch. 505) (ending failure to pay license suspensions); 2021 Nev. Stat. (Ch. 506) (decriminalizing traffic tickets. Also adds a section [NEV. REV. STAT. § 484A.7047 (2021)] adding license suspensions for the decriminalized traffic tickets, eff. Jan 1, 2023, but not clear how this interacts with Ch. 505 ending existing failure to pay suspensions. No sources indicate that Ch. 506 has resulted or will result in failure to pay suspensions being reinstated.)
637. N.H. REV. STAT. ANN. § 263:56-a(I) (1983) (for “fine or other penalty” for any offense)
638. N.H. REV. STAT. ANN. § 263:56-a(I)(a) (1983) (for any offense)
639. N.H. REV. STAT. ANN. § 261:71 (1933) (failure to pay state taxes)
640. N.H. REV. STAT. ANN. § 161-B:11(I) (1995); N.H. REV. STAT. ANN. § 161-B:2(III) (1977) (over 60 days in arrears)
641. N.H. REV. STAT. ANN. § 264:3(I) (1937) (no period for failing to satisfy judgment mentioned)
642. N.H. REV. STAT. ANN. § 206:26-bb(I) (2008) (failing to pay expenses after negligently calling a search and rescue team)
643. N.H. REV. STAT. ANN. § 263:56-a(III) (1983)
644. N.J. STAT. ANN. § 39:4-139.10(b) (1985) (“parking fines or penalties”); N.J. STAT. ANN. § 2C:46-2(a) (1985) (variety of criminal fines, probation fees, or other court-imposed financial obligations)
645. N.J. STAT. ANN. § 39:4-139.10(a) (1985) (for parking violations); N.J. MUN. CT. R. 7:8-9 (1997) (for non-parking violations)
646. N.J. STAT. ANN. § 2A:17-56.41 (1996) (“equals or exceeds” 6 months in arrears)
647. N.J. STAT. ANN. § 39:6-35 (1952) (for failing to satisfy judgment within 60 days)
648. N.J. STAT. ANN. § 27:25A-21(o) (1991) (for failure to pay tolls)
649. N.J. STAT. ANN. § 39:3-10a (1975)
650. 2019 N.J. Sess. Law Serv. 1964 (Ch. 276) (removed various minor license suspensions, made suspensions for failure to pay fines and fees discretionary with the court)
651. N.M. STAT. ANN. § 40-5A-6 (1995) (for failure to pay child support); N.M. STAT. ANN. § 40-5A-3 (1995) (“no more than thirty days in arrears”)
652. N.M. STAT. ANN. § 66-5-236(A)(1) (1983) (for failure to satisfy judgment); N.M. STAT. ANN. § 66-5-211 (1978) (“within 30 days”)
653. N.M. STAT. ANN. § 66-5-33.1(A) (1985)
654. 2023 N.M. Laws (Ch. 8) (removing license suspensions for unpaid fines, fees, and failure to appear)

|                |                  |                  |                  |                  |                  |  |                      |                  |
|----------------|------------------|------------------|------------------|------------------|------------------|--|----------------------|------------------|
| New York       |                  | ✓ <sup>655</sup> | ✓ <sup>656</sup> | ✓ <sup>657</sup> | ✓ <sup>658</sup> |  | \$100 <sup>659</sup> | ✓ <sup>660</sup> |
| North Carolina | ✓ <sup>661</sup> | ✓ <sup>662</sup> |                  | ✓ <sup>663</sup> | ✓ <sup>664</sup> |  | \$70 <sup>665</sup>  | ✓ <sup>666</sup> |
| North Dakota   | ✓ <sup>667</sup> | ✓ <sup>668</sup> |                  | ✓ <sup>669</sup> | ✓ <sup>670</sup> |  | \$50 <sup>671</sup>  |                  |
| Ohio           | ✓ <sup>672</sup> | ✓ <sup>673</sup> |                  | ✓ <sup>674</sup> | ✓ <sup>675</sup> |  | \$50 <sup>676</sup>  | ✓ <sup>677</sup> |

655. N.Y. VEH. & TRAF. LAW § 226(3)(a) (McKinney 1969) (for traffic offenses); N.Y. VEH. & TRAF. LAW § 510(4)(a) (McKinney 1959) (for traffic offenses)

656. N.Y. TAX LAW § 171-v(1) (McKinney 2013) (for “past-due tax liabilities equal to or in excess of ten thousand dollars”)

657. N.Y. DOM. REL. LAW § 244-b(a) (McKinney 1995) (if obligor is in arrears for equal to or more than four months)

658. N.Y. VEH. & TRAF. LAW § 332(a) (McKinney 1959) (if judgment unsatisfied for fifteen or more days)

659. N.Y. VEH. & TRAF. LAW § 503(2)(h) (McKinney 1972)

660. 2020 N.Y. Laws 1206 (Ch. 382) (removing suspensions for failure to pay fines and fees)

661. N.C. GEN. STAT. § 20-24.1(a)(2) (1985) (for “fine[s], penal[ies], or court costs”)

662. N.C. GEN. STAT. § 20-24.1(a)(1) (1985) (for failure to appear because of a motor vehicle offense)

663. Statutes conflict on the days in arrears, unclear which controls. N.C. GEN. STAT. § 110-142.2(a) (1995) (no more than ninety days in arrears); N.C. GEN. STAT. § 50-13.12 (1995) (no more than one month in arrears)

664. N.C. GEN. STAT. § 20-279.13(a) (1953) (if judgment unsatisfied for sixty or more days)

665. N.C. GEN. STAT. § 20-7(i1) (1943)

666. 2020 N.C. Sess. Laws 430 (S.L. 2020-77) (adding application for limited driving privileges if license suspended for failure to pay fines or fees)

667. N.D. CENT. CODE § 39-06-32(2) (1955) (for “fine[s] or any other sentence” for a criminal traffic offense)

668. N.D. CENT. CODE § 39-06-32(3) (1955)

669. N.D. CENT. CODE § 14-08.1-07 (1995) (if in arrears for “greater than three times the monthly child support obligation”)

670. N.D. CENT. CODE § 39-16.1-04(1) (1967) (for failure to satisfy judgment); N.D. CENT. CODE § 39-16.1-03 (1967) (“within 90 days”)

671. N.D. CENT. CODE § 39-06-49(2)(i) (1955)

672. OHIO REV. CODE ANN. § 4510.22(A) (2017) (for “fine[s]” for various driving-related offenses)

673. OHIO REV. CODE ANN. § 4510.22(A) (2017) (for various driving-related offenses)

674. OHIO REV. CODE ANN. § 3123.54 (2000) (for failure to pay child support); OHIO REV. CODE ANN. § 3123.01(B) (2002) (greater than or equal to one month in arrears)

675. OHIO REV. CODE ANN. § 4509.37(A) (2002) (for failure to satisfy judgment); OHIO REV. CODE ANN. § 4509.35 (2002) (within 30 days)

676. OHIO REV. CODE ANN. § 4507.45 (2017)

677. 2020 Ohio Laws (S.B. 285) (creating a reinstatement fee amnesty and debt reduction program)

|              |                  |                  |  |                  |                  |                  |                      |                  |
|--------------|------------------|------------------|--|------------------|------------------|------------------|----------------------|------------------|
| Oklahoma     | ✓ <sup>678</sup> | ✓ <sup>679</sup> |  | ✓ <sup>680</sup> | ✓ <sup>681</sup> | ✓ <sup>682</sup> | \$50 <sup>683</sup>  | ✓ <sup>684</sup> |
| Oregon       |                  | ✓ <sup>685</sup> |  | ✓ <sup>686</sup> | ✓ <sup>687</sup> |                  | \$75 <sup>688</sup>  | ✓ <sup>689</sup> |
| Pennsylvania | ✓ <sup>690</sup> | ✓ <sup>691</sup> |  | ✓ <sup>692</sup> | ✓ <sup>693</sup> |                  | \$70 <sup>694</sup>  |                  |
| Rhode Island | ✓ <sup>695</sup> | ✓ <sup>696</sup> |  | ✓ <sup>697</sup> | ✓ <sup>698</sup> | ✓ <sup>699</sup> | \$150 <sup>700</sup> |                  |

678. OKLA. STAT. ANN. tit. 22, § 983(C) (2017) (for “fine[s], cost[s], fee[s], or assessment[s]” for any offense)

679. OKLA. STAT. ANN. tit. 22, §§ 1115.1-1115.1A (2009) (for misdemeanor traffic violations)

680. OKLA. STAT. ANN. tit. 43, § 139.1 (1995) (amount equal to at least 90 days in arrears); OKLA. STAT. ANN. tit. 56, § 240.15(3) (1995)

681. OKLA. STAT. ANN. tit. 47, § 7-308 (1961) (for failure to satisfy judgment within 30 days)

682. OKLA. STAT. ANN. tit. 63, § 1-229.13(F) (1994) (for failure of store employee to pay fine resulting from selling tobacco products to underage persons)

683. OKLA. STAT. ANN. tit. 47, § 6-212(C) (1982) (\$25 processing fee for these offenses and \$25 reinstatement fee)

684. 2021 Okla. Sess. Laws 3904 (Ch. 487) (lessens license suspension penalties for certain offenses and repeat offenders, allows hardship licenses, and makes payment plans more lenient); 2022 Okla. Sess. Laws (Ch. 350) (revamping fines and fees payment to make installment plans and reduction of payment obligations easier, eff. July 1, 2023)

685. OR. REV. STAT. § 809.220(1) (1983) (for traffic offenses or underage liquor or marijuana purchase)

686. OR. REV. STAT. § 25.750(1) (1993) (for amount equal to greater of three months of support or \$2500)

687. OR. REV. STAT. § 809.415(1)(a) (2003) (for failure to satisfy judgment within 60 days)

688. OR. REV. STAT. § 807.370(10) (1983)

689. 2020 Or. Laws Spec. Sess. 2395 (Ch. 10) (repealing license suspensions for failure to pay fines and fees); 2021 Or. Laws (Ch. 226) (allowing retroactive waiving of reinstatement fees if license was previously suspended for failure to pay fines and fees)

690. 75 PA. CONS. STAT. § 1533(a) (1976) (for failure to pay any “fine, costs or restitution” for a vehicle-related offense other than parking)

691. 75 PA. CONS. STAT. § 1533(a) (1976) (for failure to appear for a vehicle-related offense other than parking)

692. 23 PA. CONS. STAT. § 4355(a) (1993) (for amount greater than or equal to three months of monthly obligation)

693. 75 PA. CONS. STAT. § 1772(a) (1984) (for failure to satisfy judgment); 75 PA. CONS. STAT. § 1771(a) (1984) (for 60 days)

694. 75 PA. CONS. STAT. § 1960 (1980)

695. 12 R.I. GEN. LAWS § 12-21-33 (1992) (for “costs, fines, fees, restitution or assessments” for any violation); 31 R.I. GEN. LAWS § 31-11-25(a) (1982) (for failure to pay “fines or costs” related to motor vehicle violations)

696. 31 R.I. GEN. LAWS § 31-41.1-5(a) (1999) (for failure to appear after failing to pay traffic offense)

697. 15 R.I. GEN. LAWS § 15-11.1-7(a) (1995) (for child support); 15 R.I. GEN. LAWS § 15-11.1-2(3) (1995) (90 or more days in arrears)

698. 31 R.I. GEN. LAWS § 31-32-10 (1952) (for failure to pay judgment); 31 R.I. GEN. LAWS § 31-32-8 (1952) (within sixty days)

699. 24 R.I. GEN. LAWS § 24-12-37(e, f) (1954) (for failure to pay tolls, toll evaders [someone who “deliberately circumvents” gates or other toll barriers] face up to 6-month license suspension and toll violators [“any person who uses any project and fails to pay or prepay the required toll”] face a license renewal hold)

700. 31 R.I. GEN. LAWS § 31-11-10(a) (1962)

|                |                  |                  |                  |                  |                  |                  |                         |                  |
|----------------|------------------|------------------|------------------|------------------|------------------|------------------|-------------------------|------------------|
| South Carolina | ✓ <sup>701</sup> |                  | ✓ <sup>702</sup> | ✓ <sup>703</sup> | ✓ <sup>704</sup> |                  | \$100 <sup>705</sup>    |                  |
| South Dakota   | ✓ <sup>706</sup> |                  |                  | ✓ <sup>707</sup> | ✓ <sup>708</sup> | ✓ <sup>709</sup> | \$50-200 <sup>710</sup> |                  |
| Tennessee      | ✓ <sup>711</sup> | ✓ <sup>712</sup> |                  | ✓ <sup>713</sup> | ✓ <sup>714</sup> |                  | \$35-65 <sup>715</sup>  | ✓ <sup>716</sup> |

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701. S.C. CODE ANN. § 56-1-285 (1996) (for failure to pay “taxes and fees” for traffic violations)

702. S.C. CODE ANN. § 12-37-2740(A) (2001) (for failure to pay property tax on a vehicle); S.C. CODE ANN. § 56-2-2740(A) (1996) (license renewal hold if unpaid personal property taxes on low-speed vehicles)

703. S.C. CODE ANN. § 63-17-1060(A) (2008) (for failure to pay child support); S.C. CODE ANN. § 63-17-1020(2) (2008) (two months or over \$500 in arrears)

704. S.C. CODE ANN. § 56-9-430(A) (1962) (for nonpayment of judgment); S.C. CODE ANN. § 56-9-410 (1962) (within sixty days)

705. S.C. CODE ANN. § 56-1-390(1) (1962) (\$100 for most license suspensions); S.C. CODE ANN. § 12-37-2740(D) (2001) (\$50 for failure to pay property tax on a vehicle)

706. S.D. CODIFIED LAWS § 32-12-49(6, 7) (1959) (for “fine[s]” or terms of citation)

707. S.D. CODIFIED LAWS § 25-7A-56.1 (1997) (for failure to pay child support); S.D. CODIFIED LAWS § 25-7A-56 (1993) (if \$1000 or more in arrears)

708. S.D. CODIFIED LAWS § 32-35-52 (1957) (for nonpayment of judgment); S.D. CODIFIED LAWS § 32-35-50 (1957) (within 30 days)

709. S.D. CODIFIED LAWS § 1-55-11 (2015) (for nonpayment of state loan debt); S.D. CODIFIED LAWS § 1-55-1 (2015) (including any debt due to a state agency or state and technical college student loan debt)

710. S.D. CODIFIED LAWS § 32-12-47.1 (1985) (\$50 for general license reinstatements); S.D. CODIFIED LAWS § 32-35-47.1 (1982) (\$50 for judgments or unpaid fines)

711. TENN. CODE ANN. § 40-24-104(b) (1972) (for fines resulting from traffic violations); TENN. CODE ANN. § 40-24-105(b)(3)(C) (1972) (for “litigation taxes, court costs, and fines” resulting from criminal violations)

712. TENN. CODE ANN. § 55-50-502(a)(1)(I) (1937) (for failure to appear for traffic citation)

713. TENN. CODE ANN. § 36-5-702(b)(6) (1996) (for failure to pay child support); TENN. CODE ANN. § 36-5-701(7) (1996) (five hundred dollars or more or ninety days or more in arrears)

714. TENN. CODE ANN. § 55-12-118(a) (1977) (for failure to satisfy judgment within 60 days)

715. TENN. CODE ANN. § 55-12-129(b, d) (2020) (\$65 if for general violations, \$35 for nonmoving violations); TENN. CODE ANN. § 55-12-118(c) (1977) (\$100 if for failure to satisfy a judgment and additional \$50 safety fee)

716. 2019 Tenn. Pub. Acts (Ch. 438) (introducing installment plans to pay fines and fees); 2022 Tenn. Pub. Acts (Ch. 788) (removing prohibition on entering into future installment plans if person defaults on current one)

|          |                  |                  |  |                  |                  |  |                          |                  |
|----------|------------------|------------------|--|------------------|------------------|--|--------------------------|------------------|
| Texas    | √ <sup>717</sup> | √ <sup>718</sup> |  | √ <sup>719</sup> | √ <sup>720</sup> |  | \$125-135 <sup>721</sup> | √ <sup>722</sup> |
| Utah     |                  | √ <sup>723</sup> |  | √ <sup>724</sup> | √ <sup>725</sup> |  | \$40 <sup>726</sup>      | √ <sup>727</sup> |
| Vermont  | √ <sup>728</sup> | * <sup>729</sup> |  | √ <sup>730</sup> |                  |  | \$80 <sup>731</sup>      | √ <sup>732</sup> |
| Virginia |                  | √ <sup>733</sup> |  | √ <sup>734</sup> | √ <sup>735</sup> |  | \$145-220 <sup>736</sup> | √ <sup>737</sup> |

717. TEX. TRANSP. CODE ANN. § 706.002(a) (1997) (license renewal hold for “fine[s] and cost[s]” for any offense if a political subdivision has contracted with Texas Department of Transportation- known as the Omnibase program); TEX. TRANSP. CODE ANN. § 521.294(2) (1999) (for a failure to comply with a traffic violation citation from any participating state in the Nonresident Violator Compact of 1977)

718. TEX. TRANSP. CODE ANN. § 706.002(a) (1997) (license renewal hold for any failure to appear if a political subdivision has contracted with Texas Department of Transportation- known as the Omnibase program)

719. TEX. FAM. CODE ANN. § 232.003(a) (1995) (if equal to or greater than three months in arrears)

720. TEX. TRANSP. CODE ANN. § 601.332(a) (1995) (for failure to satisfy judgment); TEX. TRANSP. CODE ANN. § 601.331(a) (1995) (within 60 days)

721. TEX. TRANSP. CODE ANN. § 524.051 (1995); TEX. TRANSP. CODE ANN. § 706.006(a) (1997) (additional \$10 fee required if suspended under § 706.002(a) unless indigent)

722. 2019 Tex. Gen. Laws (Ch. 1094) (repealing Driver Responsibility Program, which tacked extensive fees onto unpaid traffic tickets and suspended a license for nonpayment of fees within 105 days)

723. UTAH CODE ANN. § 53-3-218(3) (1933) (for failure to appear for a moving traffic violation or select other violations)

724. UTAH CODE ANN. § 62A-11-603(1) (2007) (for child support); UTAH CODE ANN. § 62A-11-602(2) (2007) (no payment for 60 days)

725. UTAH CODE ANN. § 41-12a-511 (1985) (for failure to satisfy judgment within 60 days)

726. UTAH CODE ANN. § 53-3-105(26)(a) (1987)

727. 2021 Utah Laws (Ch. 120) (removing suspension for failure to pay fines and fees)

728. VT. CODE ANN. tit. 4, § 1109(b)(2)(A) (2007) (for “a judgment on a traffic violation,” maximum suspension of 30 days)

729. Unable to find statute. 2016 Vt. Acts & Resolves 369 (Act 147) terminates failure to appear offenses charged before 1990, but I was unable to find any statute correlating to failure to appear statutes today, or any secondary sources suggesting failure to appear suspensions are still enforced.

730. VT. CODE ANN. tit. 15, § 798(c) (1995) (for failure to pay child support equal to one quarter of the annual support obligation)

731. VT. CODE ANN. tit. 23, § 675(a) (1979)

732. 2016 Vt. Acts & Resolves 369 (Act 147) (creates amnesty and fee reduction programs for old failure to appear and failure to pay offenses, limits suspensions for failure to pay driving related offenses to 30 days, repeals suspensions for failure to pay for offenses unrelated to driving, offers payment plans)

733. VA. CODE ANN. § 46.2-938 (1989) (for failure to appear); VA. CODE ANN. § 46.2-936 (1989) (for a misdemeanor); VA. CODE ANN. § 19.2-258.1 (1977) (excluding traffic infractions)

734. VA. CODE ANN. § 46.2-320.1(A) (2012) (for failure to pay child support for 90 days or more or \$5000 or more)

735. VA. CODE ANN. § 46.2-417(A) (1989) (for failure to satisfy judgment within 30 days)

736. This fee comes from several different statutes. *See* VA. CODE ANN. § 46.2-411(C), (F) (1989) (\$30); VA. CODE ANN. § 46.2-333.1 (\$15); H.B. 30, 2022 Gen. Assemb., Spec. Sess., (Va. 2022) (Item 3-6.03) (\$100). The \$100 amount appears to be added each year to the budget bill and has no correlating statute.

737. 2020 Va. Acts 1824 (Chap 964) (retroactively repealing license suspensions for failure to pay fines and fees and failure to appear for traffic infractions)

|               |                  |                  |  |                  |                  |  |                       |                  |
|---------------|------------------|------------------|--|------------------|------------------|--|-----------------------|------------------|
| Washington    |                  | √ <sup>738</sup> |  | √ <sup>739</sup> | √ <sup>740</sup> |  | \$75 <sup>741</sup>   | √ <sup>742</sup> |
| West Virginia |                  | √ <sup>743</sup> |  | √ <sup>744</sup> | √ <sup>745</sup> |  | \$25 <sup>746</sup>   | √ <sup>747</sup> |
| Wisconsin     | √ <sup>748</sup> |                  |  | √ <sup>749</sup> | √ <sup>750</sup> |  | \$60 <sup>751</sup>   |                  |
| Wyoming       |                  | √ <sup>752</sup> |  | √ <sup>753</sup> | √ <sup>754</sup> |  | \$5-50 <sup>755</sup> |                  |

738. WASH. REV. CODE § 46.20.289(1) (1993) (for failure to appear or respond to notices of a traffic infraction for a moving violation)

739. WASH. REV. CODE § 74.20A.320(i) (1997) (for child support); WASH. REV. CODE § 74.20A.020(18) (1990) (no payment for more than six months)

740. WASH. REV. CODE § 46.29.330 (1990) (for failure to pay judgment); WASH. REV. CODE § 46.29.310 (2010) (within 30 days)

741. WASH. REV. CODE § 46.20.311(2)(b)(i) (1988)

742. 2021 Wash. Sess. Laws 1881 (Ch. 240) (allowing licenses previously suspended for failure to pay license suspensions to be reinstated, but keeping in place suspensions for traffic infractions if the person fails to respond to notice of the infraction within 30 days or fails to appear at a hearing related to fines or fees)

743. W. VA. CODE ANN. § 8-10-2b(h) (1993) (for motor vehicle violations or criminal offenses); W. VA. CODE ANN. § 17B-3-3a(b) (1992) (excluding parking violations)

744. W. VA. CODE § 48-15-202 (2001) (for failure to pay child support if arrears equals or exceeds six months)

745. W. VA. CODE § 17D-4-5(a) (1951) (for failure to pay judgment); W. VA. CODE § 17D-4-4 (1951) (within 30 days)

746. W. VA. CODE § 8-10-2b(g)(1) (1993) (\$25 if suspended after July 1, 2016 but before July 1, 2020 for failure to pay fines/fees); W. VA. CODE § 17B-3-9 (1951) (\$50 for any other suspensions)

747. W. Va. Acts 1712 (Ch. 227) (repealing failure to pay license suspensions and authorizing payment plans and fee reductions)

748. WIS. STAT. § 800.095 (1987) (for a “monetary judgment,” suspension not to exceed one year)

749. WIS. STAT. § 343.345 (1997) (for failure to pay child support); WIS. ADMIN. CODE DCF § 152-10(1) (1999) (for 300% of monthly amount owed)

750. WIS. STAT. § 344.25 (1957) (for failure to satisfy judgment); WIS. STAT. § 344.05 (1977) (within 30 days)

751. WIS. STAT. § 343.21(j), (n) (1957) (\$50 reinstatement fee and \$10 license issuance fee)

752. WYO. STAT. ANN. § 31-7-129(a)(iv) (1973) (for failure to appear, maximum of one year suspension)

753. WYO. STAT. ANN. § 20-6-111(a) (1997) (failure to pay child support for at least 90 days or more than \$2500 in arrears)

754. WYO. STAT. ANN. § 31-9-302(a) (1947) (failure to satisfy judgment); Wyo. Stat. Ann. § 31-9-301(a) (1947) (within 30 days)

755. WYO. STAT. ANN. § 31-7-113(e) (1973) (\$5 if reinstatement for failure to pay child support, \$50 for any other reinstatement)

## APPENDIX B - STATE DEBT-BASED VEHICLE REGISTRATION SUSPENSION LAWS

Michael Leyendecker<sup>†</sup> & Kate Sablosky Elengold<sup>††</sup>

In the United States, every state and the District of Columbia have enacted laws allowing or mandating that a car registration be cancelled, held, or not renewed where the registration holder fails to pay a debt to the state or arising from a state-controlled system. Depending on the state statute(s), one can lose their car registration for any unpaid amount arising from criminal fines or fees, civil fines or fees, taxes, judgments, tolls, or a variety of other unpaid debts. There is no comprehensive research on the nationwide effects of debt-based car registration restrictions.

This compilation of state statutes is original research and represents what we believe to be the most (and only) comprehensive compilation publicly available. It builds on important work in this area that has come before specific to debt-based driver's license restrictions, and we acknowledge and thank those publications that have greatly benefitted this project. Our hope for this document is that it will provide a comprehensive and wide-reaching catalog of debt-based car registration suspension laws, useful to scholars, policymakers, and advocates. This research can be read in tandem with our related research, titled *State Debt-Based Driver's License Suspension Laws*.

The citations herein generally follow Bluebook citation standards, with some modifications designed to provide additional detail to the reader. For example, years cited reference the date of statutory enactment. Because these statutes vary so much, additional information on the suspension is included in a parenthetical for each statute. While the document aims to be as authentic to the statutory language as possible, some state codes are ambiguous. Debt-related vehicle registration suspensions are difficult to classify in part because there is not a clear line between suspensions for vehicle registration fees and suspensions for more classic debt.

Every state requires vehicle owners to pay a registration fee before their vehicle can be registered.<sup>756</sup> Because these fees are akin to paying for the service, we do not consider suspensions for non-payment of registration fees to be debt-related suspensions. Therefore, they are not included in the data below.

The line between a debt-related suspension and a registration fee, however, is difficult to parse. A statute might require suspension for failure to pay "any

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<sup>756</sup>. See, e.g., OR. REV. STAT. § 803.420 (1983) (listing reinstatement fees for different kinds of vehicles); OR. REV. STAT. § 803.455 (1983) (requiring fee payment to renew registration).

required fees,” without separating registration fees.<sup>757</sup> And the line between taxes and fees is frequently blurred. A Wisconsin “wheel tax” required for vehicle registration, for example, is discussed as both a tax and a fee on the DMV website.<sup>758</sup> Statutes conflate registration fees and registration taxes, especially where the taxes are fixed sums required to renew one’s registration.<sup>759</sup> Thus, taxes that resemble registration fees are excluded from the data below for the same reason that the registration fees are excluded. Specific kinds of taxes excluded include wheel or road use taxes, which are fixed fees,<sup>760</sup> and sales and use taxes, which are one-time payments connected to a vehicle sale.<sup>761</sup> The kinds of taxes reported below are class debt-related taxes like income tax<sup>762</sup> and vehicle taxes that are required each year and scale with the value of the car.<sup>763</sup> The line between a relevant tax and an irrelevant fee is not always clear, however, and any ambiguity is noted with an asterisk and explained in the citation.

Motor vehicle registration suspensions for failure to pay child support in particular can also be ambiguous. Many statutes include registrations under the definition of a “license,” but “registration” can have multiple meanings.<sup>764</sup> Any ambiguity is noted with an asterisk and explained in the citation.

| States  | Failure to Pay | Failure to Appear | Taxes            | Child Support | Judgment         | Tolls            | Other |
|---------|----------------|-------------------|------------------|---------------|------------------|------------------|-------|
| Alabama |                |                   | √ <sup>765</sup> |               | √ <sup>766</sup> | √ <sup>767</sup> |       |
| Alaska  |                |                   |                  |               | √ <sup>768</sup> |                  |       |

757. *E.g.*, 625 ILL. COMP. STAT. 5/3-704 (1970).

758. Municipal or County Vehicle Registration Fee (Wheel Tax), STATE OF WIS. DEP’T OF TRANSP., <https://wisconsin.gov/pages/dmv/vehicles/title-plates/wheeltax.aspx> (last visited Feb. 2, 2023).

759. *See* NEB. REV. STAT. § 60-3,186(2)(a) (2005) (“motor vehicle tax, motor vehicle fee, registration fee, sales tax, and any other applicable taxes or fees”); LA. STAT. ANN. § 47:515(3) (1938) (registration hold when “tax and fees required therefor by law have not been paid”).

760. *See* LA. STAT. ANN. § 47:515(3) (1938) (registration hold); LA. STAT. ANN. § 47:463.1 (1988) (when road use tax of ten dollars per automobile is not paid).

761. *See* CAL. VEH. CODE § 4750.5(a) (West 1963).

762. MASS. GEN. LAWS ch. 62C, § 47B(a) (2008) (failure to pay state taxes, including state income tax)

763. MINN. STAT. § 168.013(1a) (1949) (registration hold for failure to pay vehicle registration tax, tax correlated to value of car when purchased).

764. *See, e.g.*, MO. REV. STAT. § 454.1000(7) (1997); 15 R.I. GEN. LAWS ANN. § 15-11.1-2(7) (1995); LA. STAT. ANN. § 9:315.31 (1995).

765. ALA. CODE § 40-12-253(a) (1935) (registration hold for failure to pay ad valorem taxes on vehicle)

766. ALA. CODE § 32-7-14(a) (1951) (for failure to satisfy judgement); Ala. Stat. § 32-7-2(11) (1951) (including vehicle registration)

767. ALA. CODE § 23-2-172(c) (2017) (registration hold for failure to pay tolls, effective until Jan. 1, 2024)

768. ALASKA STAT. § 28.20.330(a) (1959) (registration hold if judgment not satisfied)

|             |      |      |      |      |      |      |  |
|-------------|------|------|------|------|------|------|--|
| Arizona     | ✓769 | ✓770 | ✓771 |      | ✓772 | ✓773 |  |
| Arkansas    | ✓774 |      | ✓775 |      | ✓776 |      |  |
| California  | ✓777 |      | *778 |      |      |      |  |
| Colorado    | ✓779 |      |      |      |      | ✓780 |  |
| Connecticut | ✓781 |      | ✓782 |      |      |      |  |
| Delaware    | ✓783 | ✓784 |      |      |      | ✓785 |  |
| D.C.        |      |      |      | ✓786 | *787 |      |  |
| Florida     | ✓788 | ✓789 |      | ✓790 | ✓791 | ✓792 |  |

769. ARIZ. REV. STAT. ANN. § 28-1632(A) (1995) (registration hold for failure to pay a civil or criminal penalty for a traffic violation); ARIZ. REV. STAT. ANN. § 28-2161(A) (1995) (registration hold if failure to pay any motor vehicle fee, tax, or other assessment)

770. ARIZ. REV. STAT. ANN. § 28-1632(A) (1995) (registration hold for failure to appear in criminal traffic case)

771. ARIZ. REV. STAT. ANN. § 28-5801(A), (B) (1995) (registration hold for failure to pay vehicle license tax)

772. ARIZ. REV. STAT. ANN. § 28-4072 (1995) (for failure to satisfy a judgment)

773. ARIZ. REV. STAT. ANN. § 28-7762 (2012) (a registration hold for toll evasion)

774. ARK. CODE ANN. § 16-13-708(a)(1) (1995) (for failure to pay a court-ordered fine)

775. ARK. CODE ANN. § 27-14-1015(b) (1967) (registration hold for failure to pay personal property vehicle tax)

776. ARK. CODE ANN. § 27-19-707(a) (1953) (for failure to satisfy a judgment)

777. CAL. VEH. CODE § 4751(f) (West 1959) (registration hold if a lien exists on a vehicle); CAL. VEH. CODE § 9800(a) (West 1982) (lien caused by failure to pay registration fees, transfer fees, license fees, parking penalties, or court-imposed fines or penalty assessments)

778. CAL. REV. & TAX. CODE § 10856(a) (West 1941) (registration hold if vehicle license fee is not paid); CAL. REV. & TAX. CODE § 10753(a) (West 1941) (computing vehicle license fee on market value of vehicle)

779. COLO. REV. STAT. § 40-7-113(5)(a) (1989) (for failure to pay civil penalties)

780. COLO. REV. STAT. § 43-3-302 (2006) (registration hold for failure to pay tolls)

781. CONN. GEN. STAT. § 14-33(c), (f) (1949) (registration hold for failure to pay parking violations)

782. CONN. GEN. STAT. § 14-33 (West 1949) (registration hold for failure to pay property tax on vehicle)

783. DEL. CODE ANN. tit. 21, § 810 (2005) (registration hold for failure to pay a civil penalty)

784. DEL. CODE ANN. tit. 21, § 810 (2005) (registration hold for failure to appear for a civil penalty)

785. DEL. CODE ANN. tit. 21, § 4129(a) (1997) (civil penalty for failure to pay tolls); DEL. CODE ANN. tit. 21, § 810 (2005) (registration hold for failure to pay a civil penalty)

786. D.C. CODE § 46-225.01(a) (1987)

787. D.C. CODE ANN. § 50-1301.41 (1954) (unclear if statute revokes registration or just license)

788. FLA. STAT. § 320.03(8) (1917) (registration hold); FLA. STAT. § 316.1967(6) (1977) (for failure to pay three or more parking tickets); FLA. STAT. § 318.15(3) (1974) (for failure to pay civil penalties); FLA. STAT. § 713.78(13) (1976) (for failure to pay towing and storage costs for an abandoned vehicle)

789. FLA. STAT. § 320.03(8) (1917) (registration hold); FLA. STAT. § 318.15(3) (1975) (for failure to appear)

790. FLA. STAT. § 61.13016(1) (1995)

791. FLA. STAT. § 324.121(1) (1955)

792. FLA. STAT. § 320.03(8) (1917) (registration hold); FLA. STAT. § 316.1001(4) (1985) (for failure to pay tolls)

|           |                  |  |                  |                  |                  |                  |  |
|-----------|------------------|--|------------------|------------------|------------------|------------------|--|
| Georgia   |                  |  | √ <sup>793</sup> | √ <sup>794</sup> |                  | √ <sup>795</sup> |  |
| Hawaii    | √ <sup>796</sup> |  | √ <sup>797</sup> | * <sup>798</sup> |                  |                  |  |
| Idaho     |                  |  |                  |                  |                  |                  |  |
| Illinois  |                  |  | √ <sup>799</sup> |                  | √ <sup>800</sup> | √ <sup>801</sup> |  |
| Indiana   | √ <sup>802</sup> |  |                  |                  |                  | √ <sup>803</sup> |  |
| Iowa      | √ <sup>804</sup> |  | √ <sup>805</sup> | √ <sup>806</sup> | √ <sup>807</sup> |                  |  |
| Kansas    |                  |  | √ <sup>808</sup> |                  | √ <sup>809</sup> | √ <sup>810</sup> |  |
| Kentucky  |                  |  | √ <sup>811</sup> |                  | √ <sup>812</sup> | √ <sup>813</sup> |  |
| Louisiana |                  |  | √ <sup>814</sup> | √ <sup>815</sup> | √ <sup>816</sup> |                  |  |

793. GA. CODE ANN. § 48-5-473(a) (1966) (registration hold for failure to pay vehicle ad valorem tax)

794. GA. CODE ANN. § 19-6-28.1(b) (1996)

795. GA. CODE ANN. § 40-2-135.1 (2006)

796. HAW. REV. STAT. ANN. 286-51(a) (1929) (registration hold for unpaid parking tickets and towing costs of an abandoned vehicle)

797. HAW. REV. STAT. ANN. 286-46(b) (1949) (registration hold for unpaid state and federal taxes)

798. Statute ambiguous. HAW. REV. STAT. ANN. § 576D-13(a) (1997) (unclear if registration suspension includes vehicle registration, an attempted reform effort in 2019 makes specific reference to vehicle registration suspensions. *See* S.B. 1344, 30th Leg. [Haw. 2019])

799. 625 ILL. COMP. STAT. 5/3-704.1(B) (1992) (failure to pay municipal vehicle tax)

800. 625 ILL. COMP. STAT. 5/7-303(a) (1970)

801. 625 ILL. COMP. STAT. ANN. 5/3-704.2 to 5/3-704.3 (2000) (for failure to pay toll roads and bridges)

802. IND. CODE § 9-30-11-3 (1991) (for three or more parking violations)

803. IND. CODE § 9-18.1-3-7 (2016) (registration hold for failure to pay toll violation)

804. IOWA CODE § 321.40 (1939) (registration hold for failure to pay criminal restitution, parking tickets, delinquent court debt, and other minor types of debt to the state)

805. IOWA CODE § 321.40(5), (6) (1953) (registration hold for vehicle taxes and any other taxes owed to state)

806. IOWA CODE § 252J.2 (1995) (unclear if statute suspends vehicle registration). *See* What are the Penalties for Paying my Court Debt?, IOWA JUDICIAL BRANCH, <https://www.iowacourts.gov/for-the-public/pay-a-fine/what-are-the-penalties-for-not-paying-my-court-debt/> (last visited Feb. 2, 2023) (indicating it includes vehicle registration suspension).

807. IOWA CODE ANN. § 321.A13 (West 1947)

808. KAN. STAT. ANN. § 8-173(b) (1957) (registration hold for personal property taxes, including vehicle taxes)

809. KAN. STAT. ANN. § 40-3104(k) (1974)

810. KAN. STAT. ANN. § 8-173(e) (1957) (registration hold for unpaid tolls)

811. KY. REV. STAT. ANN. § 131.1817(4) (West 2012) (license suspensions for taxpayers with overdue state tax liabilities)

812. KY. REV. STAT. ANN. § 187.410(1) (West 1946)

813. KY. REV. STAT. ANN. § 175B.040 (West 2009)

814. La. Stat. Ann. § 47:515(3) (1938) (registration hold for unpaid vehicle tax); La. Stat. Ann. § 47:463(A) (1954) (vehicle license tax)

815. La. Stat. Ann. § 9:315.41(A) (1995) (allows a non-obligor spouse to continue using the vehicle despite the registration suspension)

816. La. Stat. Ann. § 32:892(A) (1952)

|               |                  |  |                  |                  |                  |                  |  |
|---------------|------------------|--|------------------|------------------|------------------|------------------|--|
| Maine         |                  |  | √ <sup>817</sup> |                  | √ <sup>818</sup> | √ <sup>819</sup> |  |
| Maryland      | √ <sup>820</sup> |  | √ <sup>821</sup> |                  |                  | √ <sup>822</sup> |  |
| Massachusetts |                  |  | √ <sup>823</sup> | √ <sup>824</sup> |                  | √ <sup>825</sup> |  |
| Michigan      |                  |  | √ <sup>826</sup> |                  | √ <sup>827</sup> |                  |  |
| Minnesota     |                  |  | √ <sup>828</sup> |                  |                  |                  |  |
| Mississippi   |                  |  | *829             | *830             | √ <sup>831</sup> |                  |  |
| Missouri      |                  |  | √ <sup>832</sup> |                  | √ <sup>833</sup> |                  |  |
| Montana       |                  |  | √ <sup>834</sup> | *835             |                  |                  |  |
| Nebraska      |                  |  | √ <sup>836</sup> |                  | √ <sup>837</sup> |                  |  |
| Nevada        |                  |  |                  |                  | √ <sup>838</sup> |                  |  |

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817. ME. REV. STAT. ANN. tit. 36, § 1486 (1954) (registration hold for failure to pay excise tax on vehicle)

818. ME. REV. STAT. ANN. tit. 29-A, § 1603(7) (1993)

819. ME. REV. STAT. ANN. tit. 29-A, § 154(6) (1993) (for unpaid turnpike tolls)

820. MD. CODE ANN., TRANSP. § 13-705(a)(1)(ii) (West 1977) (for any required fee); MD. CODE REGS. 11.15.21.01 (2020) (registration hold failure to satisfy parking violations)

821. MD. CODE ANN., TRANSP. § 13-406.2(a) (West 2011) (hold on registration if state taxes or unemployment insurance contributions are not paid)

822. MD. CODE ANN., TRANSP. § 21-1414(i)(1) (West 1996)

823. MASS. GEN. LAWS ch. 62C, § 47B(a) (2008) (failure to pay state taxes, including state income tax); MASS. GEN. LAWS ch. 60A, § 1 (1936) (for failure to pay annual excise tax on vehicle)

824. MASS. GEN. LAWS ch. 119A, § 16 (1993)

825. 700 MASS. CODE REGS. 7.05(6)(d) (2016) (registration hold for failure to pay tolls)

826. MICH. COMP. LAWS § 257.801(3) (1980) (registration hold for failure to pay vehicle registration tax); MICH. COMP. LAWS § 257.801j(1) (2013) (registration hold for failure to pay registration tax of regional transit authority, if in that public transit region)

827. MICH. COMP. LAWS § 257.512 (1949)

828. MINN. STAT. § 168.013(1a) (1949) (registration hold for failure to pay vehicle registration tax)

829. MISS. CODE ANN. § 27-51-7 (1958) (for failure to pay vehicle ad valorem tax, seems to be required for registration but unable to find supporting documentation)

830. Statute Ambiguous. MISS. CODE ANN. § 93-11-153(b) (1996) (defines license as including “registration[s]” but unclear if that includes motor vehicle registrations. Unable to find a secondary source suggesting the state suspends motor vehicle registrations for unpaid child support)

831. MISS. CODE ANN. § 63-15-27(1) (1952)

832. MO. REV. STAT. § 301.025(4) (1951) (registration hold for failure to pay personal property tax on vehicle)

833. MO. REV. STAT. § 303.100(1) (1953)

834. MONT. CODE ANN. § 61-3-501(1) (1975) (registration hold for failure to pay local option vehicle tax); MONT. CODE ANN. § 61-3-537 (1987) (county choice whether to impose tax or not)

835. Statute ambiguous. MONT. CODE ANN. § 40-5-701(5) (1993) defines license as including “registration[s]” but unclear if that includes motor vehicle registrations. Unable to find a secondary source suggesting the state suspends motor vehicle registrations for unpaid child support.

836. NEB. REV. STAT. § 60-388 (2005) (registration hold for failure to pay vehicle and personal property taxes)

837. NEB. REV. STAT. § 60-517 (1949)

838. NEV. REV. STAT. § 485-302(1) (1957)

|                |                  |                  |                  |                  |                  |                  |                  |
|----------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|
| New Hampshire  | √ <sup>839</sup> | √ <sup>840</sup> | √ <sup>841</sup> |                  | √ <sup>842</sup> | √ <sup>843</sup> |                  |
| New Jersey     | √ <sup>844</sup> | √ <sup>845</sup> |                  |                  | √ <sup>846</sup> | √ <sup>847</sup> |                  |
| New Mexico     |                  |                  | √ <sup>848</sup> |                  | √ <sup>849</sup> |                  |                  |
| New York       |                  |                  |                  |                  | √ <sup>850</sup> | √ <sup>851</sup> |                  |
| North Carolina | √ <sup>852</sup> |                  | √ <sup>853</sup> | √ <sup>854</sup> |                  | √ <sup>855</sup> |                  |
| North Dakota   |                  |                  | √ <sup>856</sup> | √ <sup>857</sup> | √ <sup>858</sup> |                  | √ <sup>859</sup> |
| Ohio           | √ <sup>860</sup> | √ <sup>861</sup> |                  |                  | √ <sup>862</sup> |                  |                  |

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839. N.H. REV. STAT. ANN. § 263:56-a(I) (1983) (for “fine or other penalty” for any offense)
840. N.H. REV. STAT. ANN. § 263:56-a(I) (1983) (for any offense)
841. N.H. REV. STAT. ANN. § 261:71 (1933) (failure to pay state taxes)
842. N.H. REV. STAT. ANN. § 264:3(I) (1937)
843. N.H. REV. STAT. ANN. § 263:56-f(I) (2004)
844. N.J. STAT. ANN. § 39:4-139.10(b)(1) (West 1985) (for “parking fines or penalties”)
845. N.J. STAT. ANN. § 39:4-139.10 (West 1985) (for parking violations); N.J. MUN. CT. R. 7:8-9 (1997) (for non-parking violations)
846. N.J. STAT. ANN. § 39:6-35 (West 1952)
847. N.J. STAT. ANN. § 27:25A-21(o) (West 1991)
848. N.M. STAT. ANN. § 66-3-7(G) (1978) (for motor vehicle excise tax)
849. N.M. STAT. ANN. § 66-5-236(A)(1) (1983)
850. N.Y. VEH. & TRAF. LAW § 332(a) (McKinney 1959)
851. N.Y. COMP. CODES R. & REGS. tit. 15, § 127.14 (2016) (for failure to pay three or more tolls within five years)
852. N.C. GEN. STAT. § 20-54(11), (13) (1993) (for failure to pay fines related to passing stopped school buses; for failure to pay penalty from a lapse in financial responsibility)
853. N.C. GEN. STAT. § 20-50.4(a) (1991) (registration hold for failure to pay county and municipal property taxes on a vehicle)
854. N.C. GEN. STAT. § 110-142.2(a)(3) (1995) (registration hold only)
855. N.C. GEN. STAT. § 20-54(10) (1993) (registration hold)
856. N.D. CENT. CODE § 57-40.3-07 (1967) (registration hold for failure to pay excise tax)
857. N.D. CENT. CODE § 14-08.1-06 (1995) (unclear if registration includes vehicle registration). *But see* Suspend Licenses and Vehicle Registration, N.D. CHILD SUPPORT, <https://www.childsupport.dhs.nd.gov/services/enforcement/suspend-licenses-and-vehicle-registration> (last visited Feb. 2, 2023) (saying vehicle registration can be suspended).
858. Statutes ambiguous. N.D. CENT. CODE § 39-16.1-04(1) (1967) does not mention registrations. However, N.D. CENT. CODE § 26.1-23-12 (1983) talks about vehicle registration suspensions in the context of failure to pay judgments. No secondary sources confirm or deny the use of vehicle registration suspension in failure to pay judgment situations.
859. N.D. CENT. CODE § 26.1-23-12 (1983) (if a driver’s registration has been suspended by the state and the state has paid any amount towards the satisfaction of a judgment against the driver, the registration cannot be reinstated until the driver has repaid the state in full plus six percent interest per year.)
860. OHIO REV. CODE ANN. § 4510.22(B) (West 2017) (registration hold for failure to pay fines for various driving-related offenses)
861. OHIO REV. CODE ANN. § 4510.22(B) (West 2017) (registration hold for failure to appear for various driving-related offenses)
862. OHIO REV. CODE ANN. § 4509.33 (West 2002)

|                |      |      |      |      |      |      |      |
|----------------|------|------|------|------|------|------|------|
| Oklahoma       |      |      | *863 | √864 |      | √865 |      |
| Oregon         |      |      |      |      |      | √866 |      |
| Pennsylvania   | √867 |      |      |      |      | √868 |      |
| Rhode Island   |      |      | √869 | √870 | √871 | √872 |      |
| South Carolina |      |      | √873 |      | √874 | √875 |      |
| South Dakota   |      |      |      |      | √876 |      | √877 |
| Tennessee      |      |      |      | *878 | √879 |      |      |
| Texas          | √880 | √881 | √882 | √883 | √884 | √885 |      |

863. OKLA. STAT. tit. 47, § 1132(A) (1941) (registration hold for failure to pay flat registration fee, correlated to the age of vehicle. The flat registration fee does not resemble a tax but the age of the vehicle correlates to its value, making the flat fee resemble some of the other taxes on this list.)

864. OKLA. STAT. tit. 43, § 139.1(4) (1995)

865. OKLA. STAT. tit. 47, § 11-1401.2(7)(c) (1997) (registration hold for failure to pay tolls)

866. OR. REV. STAT. § 383.035(4) (2007) (hold on registration for failure to pay tolls)

867. 75 PA. CONS. STAT. § 1379(a) (2005) (for registration suspension upon sixth unpaid parking ticket)

868. 75 PA. CONS. STAT. § 1380(a) (for four or more invoices or a minimum of \$250 regardless of number of invoices)

869. 31 R.I. GEN. LAWS § 31-3-6.1.1(c) (2014) (registration hold until all state taxes, interest and attendant penalties have been paid)

870. 15 R.I. GEN. LAWS ANN. § 15-11.1-2(7) (1995) (defining license to include motor vehicle registrations)

871. 31 R.I. GEN. LAWS ANN. § 31-32-10 (1952)

872. 24 R.I. GEN. LAWS ANN. § 24-12-37(f) (1954) (registration hold for failure to pay tolls)

873. S.C. CODE ANN. § 12-37-2740(A) (2001) (for failure to pay property tax on a vehicle); S.C. CODE ANN. § 56-2-2740(A) (1996) (registration hold for failure to pay personal property taxes on low speed vehicles); S.C. CODE ANN. § 56-3-250 (1962) (failure to pay county and municipal taxes on vehicle)

874. S.C. CODE ANN. § 56-9-430(A) (1962)

875. S.C. CODE ANN. § 56-3-1335 (2006)

876. S.D. CODIFIED LAWS § 32-35-52 (1957)

877. S.D. CODIFIED LAWS § 1-55-11 (2015) (for nonpayment of state loan debt); S.D. CODIFIED LAWS § 1-55-1 (2015) (including any debt due to a state agency or state and technical college student loan debt)

878. Statute ambiguous. TENN. CODE ANN. § 36-5-701(4) (1996) defines license as including "registration[s]" but unclear if that includes motor vehicle registrations. Unable to find a secondary source suggesting the state suspends motor vehicle registrations for unpaid child support.

879. TENN. CODE ANN. § 55-12-118(a) (1977)

880. TEX. TRANSP. CODE ANN. § 502.010(a)(1) (1997) (registration hold for failure to pay fines/fees to a county)

881. TEX. TRANSP. CODE ANN. § 502.010(a)(2) (1997) (registration hold for failure to appear in a court in a county in which a criminal proceeding is pending against the vehicle owner)

882. TEX. TRANSP. CODE ANN. § 502.010(a)(1) (1997) (registration hold for failure to pay a tax to a county)

883. TEX. FAM. CODE ANN. § 232.0022(a) (West 2007)

884. TEX. TRANSP. CODE ANN. § 601.332(a) (West 1995)

885. TEX. TRANSP. CODE ANN. § 502.011(a) (West 2013) (registration hold for habitual violators)

|               |                  |                  |                  |  |                  |                  |  |
|---------------|------------------|------------------|------------------|--|------------------|------------------|--|
| Utah          |                  |                  | √ <sup>886</sup> |  | √ <sup>887</sup> | √ <sup>888</sup> |  |
| Vermont       |                  |                  |                  |  |                  |                  |  |
| Virginia      | √ <sup>889</sup> |                  | √ <sup>890</sup> |  | √ <sup>891</sup> | √ <sup>892</sup> |  |
| Washington    | √ <sup>893</sup> |                  | √ <sup>894</sup> |  | √ <sup>895</sup> | √ <sup>896</sup> |  |
| West Virginia |                  |                  | √ <sup>897</sup> |  | √ <sup>898</sup> | √ <sup>899</sup> |  |
| Wisconsin     | √ <sup>900</sup> | √ <sup>901</sup> |                  |  | √ <sup>902</sup> |                  |  |
| Wyoming       |                  |                  | * <sup>903</sup> |  | √ <sup>904</sup> |                  |  |

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886. UTAH CODE ANN. § 41-1a-203(2) (West 1992) (registration hold for failure to pay property tax on vehicle)

887. UTAH CODE ANN. § 41-12a-511(2) (West 1985)

888. UTAH CODE ANN. § 72-6-118(2)(f) (West 1997)

889. VA. CODE ANN. § 46.2-752(J) (1989) (registration hold for failure to pay parking citations)

890. VA. CODE ANN. § 46.2-752(J) (1989) (registration hold for failure to pay county or municipal personal property taxes)

891. VA. CODE ANN. § 46.2-417(A) (1989)

892. VA. CODE ANN. § 46.2-819.3(K) (registration hold for three or more unpaid tolls); VA. CODE ANN. § 46.2-819.10 (registration hold for Virginia residents violating out-of-state tolls)

893. WASH. REV. CODE § 46.16A.120(4) (1984) (registration hold for unpaid standing, stopping, and parking violations)

894. WASH. REV. CODE § 81.104.160 (2003) (excise tax on vehicle for high population counties to fund high-capacity transportation services)

895. WASH. REV. CODE § 46.29.605(1) (1981) (if the person driving at the time of the accident was also the registered owner of the vehicle)

896. WASH. REV. CODE § 46.16A.120(4) (1984) (registration hold for specific civil penalties); WASH. REV. CODE § 46.63.160(1) (2004) (defining that civil penalty as toll nonpayment)

897. W. VA. CODE § 17A-3-3a(a) (1957) (registration hold for failure to pay property tax on vehicle)

898. W. VA. CODE § 17D-4-5(a) (1951)

899. W. VA. CODE § 17-16D-11(a) (2014) (registration hold)

900. WIS. STAT. § 345.28(4)(a)(2) (1971) (suspension or registration hold for failure to pay nonmoving violations)

901. WIS. STAT. § 345.28(4)(a)(2) (1971) (suspension or registration hold for failure to appear for nonmoving violations)

902. WIS. STAT. § 344.25 (1957)

903. WYO. STAT. ANN. § 31-3-101(a) (1984) (registration hold for failure to pay a county registration fee, tied to the sales price and age of the vehicle)

904. WYO. STAT. ANN. § 31-9-302(a) (1947)