



NEUTRAL TESTIMONY RE SB 100 – Prohibiting an application fee for drivers' license reinstatements, removing additional suspension period when convicted of driving while suspended and limiting reinstatement fee to one per case.

Testimony of Kendall Seal, Director of Advocacy, American Civil Liberties Union of Kansas

Senate Committee on Transportation – February 23, 2021

Chairman Peterson and Members of this Committee,

Thank you for the opportunity to present testimony today. My name is Kendall Seal, and I am the Director of Advocacy for the ACLU of Kansas. We are a nonpartisan, non-profit organization that works to preserve and strengthen the constitutional liberties of all Kansans. We are neutral on SB 100 because it addresses some fee issues, but as currently written, it fails to prohibit the collection of fines and fees in order to have a restricted or reinstated driver's license.

This bill is an improvement from the status quo because Kansans will not pay application fees, and reinstatement fees will not be assessed upfront. The total cost of getting a license will be limited to a per case basis.

This bill should be amended to prohibit the collection of fines and fees in order to have a restricted or reinstated driver's license. The suspension of driver's license for failure to pay fines and fees is a pressing issue for Kansas workers. According to investigations by the Kansas Criminal Justice Reform Commission Sub-Committee on Reentry, over 213,000 Kansans have suspended driver's licenses for issues associated with traffic tickets,¹ In fact, the vast majority of these suspensions are for the reason of failure to pay fines and fees, or for a failure to appear in court regarding a traffic citation.² According to the Kansas Department of Revenue, about two-thirds (137,450) of those suspensions were unique suspended driver's licenses for failure to pay as of June 7, 2019.³

The harmful consequences of suspending drivers licenses for failure to pay fines and fees also negatively impacts people coming out of prison because trying to find employment, housing, and obtaining necessary services like health care become an unnecessary barrier to their successful reentry in Kansas life. The Reentry subcommittee further noted, “[b]ecause 50% of those being released from the KDOC have difficulty obtaining a license due to outstanding fines and fees,⁴ the subcommittee concluded it was important to immediately address the issues surrounding driver's licenses.”⁵

¹ The Kansas Criminal Justice Reform Commission Sub-Committee on Reentry investigated this issue and “Pursuant to an Open Records Request of the Kansas Department of Revenue Division of Vehicles, the subcommittee learned that, as of October 10, 2019, there were a total of 213,055 suspended licenses in 2019.” See 2020 Kansas Criminal Justice Reform Commission Report, Appendix p. 122, available at http://www.kslegresearch.org/KLRD-web/Publications/Resources/Documents/Justice-Reform/Report_KCJRC_2021.pdf

² Kansas info available at <https://www.freetodrive.org/maps/#page-content>. This resource contains a collection of maps showing the various state laws, number of driver's license suspensions and exposing the human impact that people have for simply being too poor to pay their fines and fees.

³ Id.

⁴ KDOC presentation to Reentry Subcommittee, Sept 16, 2019.

⁵ supra, Appendix p. 121, available at http://www.kslegresearch.org/KLRD-web/Publications/Resources/Documents/Justice-Reform/Report_KCJRC_2021.pdf

This bill could also be improved by removing criminal penalties, such as the Class A and B misdemeanors found throughout this bill in the original language of K.S.A. 8-262. Penalties for driving with a suspended or revoked license should not result in jail time or arrest, thus amendments to this bill should be added that prohibit jail time and instead allow alternatives to arrest. Arrest and jail will only place people back in a cycle of poverty and incarceration. This assertion is further supported by the Kansas Supreme Court Ad Hoc Committee Report on Bonding Practices, Fines and Fees in Municipal Courts which noted in their extensive September 2018 report that “[driver’s license suspension] is also very effective in trapping indigent defendants in a vicious cycle. It begins with the defendant being indigent and therefore incapable of paying the fine. The defendant’s driver’s license is then suspended for failing to pay the fine. The defendant is unable to travel to work because of the suspended driver’s license and is still incapable of paying the fine.”⁶

Finally, Kansas can achieve significant economic impact by providing residents with the freedom to drive to work and ending the harmful practice of suspending driver’s licenses for failure to pay fines and fees. Impoverished Kansans must either choose to drive illegally, which risks incarceration and more fines in order to get to work; or they choose not to drive, which risks the loss of income, job opportunities, or access to education and other crucial services such as medical care. The urgent need for this level of reform is only underscored by the fact that most Kansans do not have access to adequate public transportation. Reform in this area will place Kansas alongside several other states.⁷ Reforms have drawn broad, bipartisan support because they work to mitigate the harmful economic and racial inequities in our system.

The ACLU of Kansas urges this Committee to amend SB 100 by removing fines and fees and eliminating criminal penalties. Kansans must not be continually punished and unable to work or provide for their families because they don’t have the means to pay off fines and fees and get their licenses back. Doing so is a matter of economic and racial equity, and offers an opportunity to eliminate a two-tiered justice system where rich and poor people with otherwise identical records will receive different punishments solely because of their ability to pay fines and fees. Thank you again for the opportunity to present testimony. I am happy to answer questions from this Committee at the appropriate time.

⁶See page 48, <https://www.kscourts.org/KSCourts/media/KsCourts/court%20administration/AdHocCommitteeMunicipalCourtsReport.pdf>

⁷ Which states are driving towards progress? 2017 – 2019: Montana, Texas, Mississippi, California, Idaho, Maine and D.C. enacted legislative reforms to end debt-based suspension. 2020 — PRESENT Hawaii, Maryland, Oregon, Virginia, West Virginia, New York and Michigan (2021). More info at <https://www.freetodrive.org/about/>.