



TESTIMONY OF

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IN SUPPORT OF HB 2211

KANSAS SENATE COMMITTEE ON JUDICIARY

FEBRUARY 22, 2019

Thank you, Chair Wilborn, and members of the Committee for affording us the opportunity to provide testimony on HB 2211.

The American Civil Liberties Union (ACLU) of Kansas is a non-partisan, non-political membership organization dedicated to preserving and strengthening the constitutional liberties afforded to every resident of Kansas. We work to preserve and strengthen our constitutional rights and freedoms through policy advocacy, litigation, and education. We proudly serve over 40,000 supporters in Kansas and represent more than 1.7 million supporters nationwide.

We urge you to support HB 2211 as it is a sound policy to allow people to petition the court and to give a judge the discretion to remove the fines and fees that will lead to a suspended driver's license for a non-traffic safety related offense simply because of their inability to pay.

Suspending Driver's Licenses for Unpaid Fines and Fees Punishes the Working Poor, is Counterproductive, and Does Not Improve Public Safety

CURRENT LAW

Kan. Stat. Ann. § 8-2110 suspends the driver's licenses of people who fail to pay traffic tickets, citations, and court-ordered fines and fees even if they are too poor to pay.

- A September 2018 report by the Kansas Supreme Court Ad Hoc Committee on Bonding Practices, Fines, and Fees in Municipal Courts recommended looking at changing current practices.¹

THE ISSUE

Kansas has a two-tiered justice system where rich and poor people with otherwise identical records receive different punishments solely because of their ability to pay fines and fees.

- Debt-based driver's license suspensions force the working poor into an impossible position: choose to drive illegally (and risk incarceration and more fines) in order to get to work or meet personal/family needs, **OR** choose not to drive and lose needed income and access to education and other services.

¹ The report noted, "Unfortunately, [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." <http://www.kscourts.org/kansas-courts/municipal-courts/AdHocCommitteeReport.pdf>

- Too often, suspension of a driver's license is not connected to a driving related offense and thus has no public safety justification. Instead, it unnecessarily places hurdles in front of people seeking to support themselves and their family. This only increases costs for the state, whereas evidence suggest that ending driver's license suspensions may save Kansas money.²
- The cycle of poverty and getting entangled with the criminal justice system is vicious and sometimes unescapable: In Kansas, driving with a suspended license can carry a penalty that includes jail time, in addition to more fines and a longer period of suspension.

A valid driver's license is essential for most adults, particularly those who live in rural areas.

- Public transportation in Kansas is spotty and sometimes unreliable. A driver's license is essential for getting to school, work, the doctor, and the grocery store. Kansas makes it harder on people to get or keep a job by taking away their only means of reliable transportation.
- This practice also harms employers, who lose access to a sufficient workforce when their employees cannot get to work.

The current law undermines the fairness and integrity of our legal system. It is also unconstitutional.

- Criminalizing poor people and balancing budgets on the backs of the poor is inherently unfair and it undermines the fairness and legitimacy of our legal system.
- Numerous lawsuits around the country argue that this practice violates the Equal Protection and Due Process rights of the U.S. Constitution.³
- In Kansas, there are implications from the recent ruling from the U.S. Supreme Court in *Timbs v. Indiana*: Policymakers should feel the pressure to make change now, because we know the excessive fines clause applies to states. If states don't change practices quickly, there will be litigation, and it'll be expensive.

THE SOLUTION

The ACLU of Kansas supports HB 2211. We urge this committee to pass this bill because it would provide much needed relief for thousands of Kansans stuck in a vicious cycle because they are simply unable to pay court ordered fines and fees. Access to a valid driver's license is essential to countless Kansans, and drivers' licenses should not be suspended unless the suspension is directly connected to a driving related offense.

² Even taking into account court costs, salaries, of judges, attorneys, clerks, etc., "...[ending driver's license suspension for non-traffic safety related offenses] could save Florida over \$40 million in taxpayer costs annually." See https://www.jamesmadison.org/wp-content/uploads/2018/11/Backgrounder_DriverLicense_9.12.18_v02-1.pdf

³ "In December 2017, the Eastern District Court of Michigan issued an opinion enjoining the state from suspending driver's licenses for failure to pay fines or fees. The Middle District Court of Tennessee made a similar ruling in March of 2018, claiming that revoking driver's licenses for failure to pay fines and fees was unconstitutional." See https://www.jamesmadison.org/wp-content/uploads/2018/11/Backgrounder_DriverLicense_9.12.18_v02-1.pdf