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Auto-Jubilee: A Case for Massive Automatic Driver's License Restoration for Debtor-Suspendees

Daniel Stainkamp

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Auto-Jubilee: A Case for Massive Automatic Driver’s License Restoration for Debtor-Suspendees*

Over the last few decades, law has quietly eroded people’s ability to drive. Specifically, the regime of debt-based license suspension in North Carolina has amounted to a license-for-payment system that is unfair and unjust. Its scope and impact create conditions like a modern-day debtors’ prison. The law disproportionately deprives people of color and poor people of their mobility and agency. Accordingly, a growing reform movement has made admirable efforts to remedy these deprivations. But these efforts are too scattershot and limited to extirpate the problem. Instead, a massive legal upheaval is required to undo this degrading phenomenon. North Carolina can achieve that upheaval by forgiving debt, expunging debt-based criminal charges, restoring licenses, and repealing bad law. I call this comprehensive proposal Auto-Jubilee. While such a legal overhaul would be radical, there are historical and contemporary precedents, legal and conceptual, which provide coherent and practicable reference points for the implementation of Auto-Jubilee. By ending the regime of debt-based license suspension and the license-for-payment system, citizens’ dignity and their faith in government may be restored.

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*The citations are their batons,
the fines their weapons of financial destruction,
the fees their instruments of deprivation.¹*

INTRODUCTION

The ability to drive confers and affirms individuality, dignity, autonomy, and mobility.² Vehicles are safe havens³ and means of self-expression.⁴ Driving is an imperative utility in modern society, not a “mere privilege or convenience.”⁵ The Supreme Court has recognized that a driver’s license facilitates financial stability⁶ and has called driving “a virtual necessity for most Americans.”⁷ Undoubtedly, a person’s legal interest in a driver’s license is substantial.⁸

1. Theresa Zhen, *(Color)Blind Reform: How Ability-To-Pay Determinations Are Inadequate To Transform a Racialized System of Penal Debt*, 43 N.Y.U. REV. L. & SOC. CHANGE 175, 192 (2019).

2. See COTTEN SEILER, *REPUBLIC OF DRIVERS: A CULTURAL HISTORY OF AUTOMOBILITY IN AMERICA passim* (2008). Automobility can be understood as both (1) the combination of autonomy and mobility, and (2) the ability to move one’s body about the world freely via automobile. See generally *id.* (discussing automobility and the history and philosophical roots of driving).

3. Petula Dvorak, *What Has Your Car Become: Haven? Hiding Place? Rat Condo?*, WASH. POST (May 4, 2020, 5:42 AM), https://www.washingtonpost.com/local/what-has-your-car-become-a-safe-haven-a-hiding-place-a-rat-condo/2020/05/04/fe426e66-8e10-11ea-a9c0-73b93422d691_story.html [<https://perma.cc/YH8U-2CX6> (dark archive)].

4. See Cristian Garcia, *A Vehicle of Expression passim* (Nov. 30, 2015) (B.A. thesis, Claremont McKenna College); Tharwa Dalansi, *Driven by Personality: Exploring the Relationship Between Custom Cars and Self-Expression passim* (May 11, 2023) (M.F.A. thesis, Virginia Commonwealth University).

5. See Paula R. Lopez, *Stuck in the Cycle: Kansas Driver’s License Suspension for Traffic-Related Court Fines and Fees*, KAN. J.L. & PUB. POL’Y, Fall 2022, at 75.

6. See *Bell v. Burson*, 402 U.S. 535, 539 (1971).

7. *Wooley v. Maynard*, 430 U.S. 705, 715 (1977). The Supreme Court has recognized a specific protected property interest in the continued possession of a driver’s license from the moment it is obtained. See *Mackey v. Montrym*, 443 U.S. 1, 10 (1979); *Bell*, 402 U.S. at 539.

8. *Mackey*, 443 U.S. at 11; 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, 1587 (2020).

While driving connects motorists to a world of opportunity, it also exposes them to a world of consequences. Traffic stops are the most common interaction Americans have with police.⁹ These interactions may result in warnings, searches, citations, criminal charges, incarceration, degradation, and/or violence—up to and including death.¹⁰ I focus here on a consequence in the middle: suspension of a driver’s license for *non-driving-related*¹¹ reasons, as a result of failure to appear (“FTA”) in court or failure to comply (“FTC”) with court orders, including orders to pay legal obligations (“LFOs”).¹²

Suspension for these sorts of non-driving-related reasons, particularly debt-based license suspension, is actually quite common.¹³ This phenomenon has created an economic epidemic. Lacking a driver’s license makes it hard to get and keep meaningful work¹⁴ and affordable housing.¹⁵ Driving creates manifold forms of access, agency, and flexibility; without a license, ordinary daily tasks can become tedious ordeals.¹⁶ According to Duke Law’s Driving Injustice report, “[t]he steady increase in license suspensions” creates “a vicious

9. Marsha Mercer, *Police ‘Pretext’ Traffic Stops Need To End, Some Lawmakers Say*, STATELINE (Sept. 3, 2020, 12:00 AM), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/09/03/police-pretext-traffic-stops-need-to-end-some-lawmakers-say> [<https://perma.cc/57A7-AB8Z>].

10. See Andrea J. Ritchie, *#SayHerName: Racial Profiling and Police Violence Against Black Women*, 41 HARBINGER 11, 12, 16–17 (2016); Sam McCann, *Low-Level Traffic Stops Are Ineffective—And Sometimes Deadly. Why Are They Still Happening?*, VERA (Mar. 29, 2023), <https://www.vera.org/news/low-level-traffic-stops-are-ineffective-and-sometimes-deadly-why-are-they-still-happening> [<https://perma.cc/85MS-GLA8>].

11. Not paying a fine and/or not appearing in court are unrelated to driving, and therefore say nothing about a suspendee’s driving ability, tendencies, or safeness.

12. There are other non-fines-and-fees debt phenomena that lead to loss of driving privileges, such as unpaid child support, back taxes, and so forth. See, e.g., N.C. GEN. STAT. § 110-142.2 (LEXIS through Sess. Laws 2023-105 of the 2023 Reg. Sess. of the Gen. Assemb.); Michael Leyendecker & Kate Sablosky Elengold, *State Debt-Based Driver’s License Suspension Laws 1* (May 1, 2023) (unpublished manuscript) (on file with the North Carolina Law Review).

13. See, e.g., JON A. CARNEGIE, ALAN M. VOORHEES TRANSP. CTR., *DRIVER’S LICENSE SUSPENSIONS, IMPACTS AND FAIRNESS STUDY 37* (2007) (finding that less than six percent of all suspended drivers in New Jersey are suspended for purely driving-related reasons); Kate Sablosky Elengold, *Debt, Race, and Physical Mobility*, 112 CALIF. L. REV. (forthcoming 2024) (manuscript at 1), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4366039 [<https://perma.cc/7EPW-2SVZ> (staff-uploaded archive)] (“Residents in every state in America 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.”).

14. *Driver’s License Restoration: Restoring Mobility for North Carolinians*, N.C. JUST. CTR., <https://www.ncjustice.org/drivers-license-restoration/> [<https://perma.cc/Y7XQ-JD9G>]; HEATHER HUNT & GENE R. NICHOL, JR., *COURT FINES AND FEES: CRIMINALIZING POVERTY IN NORTH CAROLINA 9* (2017).

15. See William E. Crozier, Brandon L. Garrett & Karima Modjadidi, *Understanding the Impact of Driver’s License Suspension: Lay Opinion in Impacted and Non-Impacted Populations*, 5 JUST. EVALUATION J. 186, 199 (2022).

16. See HUNT & NICHOL, *supra* note 14, at 9.

cycle of court debt and consequences that often last[s] for years.”¹⁷ Moreover, long-term license suspension is a contributing factor to generational impoverishment.¹⁸ It is among the many practices that gouge Black wealth.¹⁹ Exclusion from automobility has been a historic tool of white supremacy.²⁰

Racist traffic stops are one way that Black people have been excluded from automobility.²¹ For example, in Greensboro and Charlotte, white and Black motorists stopped by police are found with contraband at about the same rate, but police departments in those cities search Black motorists more than twice as often as they do white motorists.²² Nationwide, Black people account for a disproportionate share of traffic-stop deaths.²³ Far more common than death, though, are citations.²⁴ These citations can initiate and perpetuate the cycle of debt that leads to license suspension.²⁵

17. WILSON CTR. FOR SCI. & JUST., DUKE L., DRIVING INJUSTICE: CONSEQUENCES AND DISPARITIES IN NORTH CAROLINA CRIMINAL LEGAL AND TRAFFIC DEBT 15 (2021) [hereinafter DRIVING INJUSTICE], <https://wcsj.law.duke.edu/wp-content/uploads/2021/09/Driving-Injustice-Report.pdf> [<https://perma.cc/VR4W-EVZY>].

18. See HUNT & NICHOL, *supra* note 14, at 12. Hunt and Nichol discuss how the cumulative impact of incarceration can produce intergenerational and community-wide poverty, debt, trauma, and loss of opportunity. *Id.* Poverty and debt can make paying traffic fees impossible, which can lead to license suspension. Debtor-suspendees often drive, see *infra* Section I.B, exposing themselves to criminal consequences, including incarceration. So, license suspension is the source of at least some of the incarceration they discuss, and therefore functions as a contributing factor to the generational impoverishment it produces. For more on the twin cycles of debt and poverty, see *infra* Sections I.C, I.D and note 383.

19. Briana Hammons, *Monetary Sanctions, Racialized Wealth Extraction, and Momentum for Fines and Fees Reform*, FORGE (June 18, 2020), <https://forgeorganizing.org/article/monetary-sanctions-racialized-wealth-extraction-and-momentum-fines-and-fees-reform> [<https://perma.cc/M3ZM-9MRM>].

20. See Kathleen Franz, *African-Americans Take To the Open Road*, in MAJOR PROBLEMS IN AMERICAN POPULAR CULTURE 240, 240–47 (Kathleen Franz & Susan Smulyan eds., 2012).

21. “The criminal justice system is pervasively racialized.” HUNT & NICHOL, *supra* note 14, at 16; see Mercer, *supra* note 9; see also News Release, N.Y. Univ., Research Shows Black Drivers More Likely To Be Stopped by Police (May 5, 2020), <https://www.nyu.edu/about/news-publications/news/2020/may/black-drivers-more-likely-to-be-stopped-by-police.html> [<https://perma.cc/BY7K-EPEZ>].

22. HUNT & NICHOL, *supra* note 14, at 17.

23. Jamila Jefferson-Jones, “*Driving While Black*” as “*Living While Black*,” 106 IOWA L. REV. 2281, 2297 (2021).

24. More than six hundred people are shot to death by police each year. *U.S. Data on Police Shootings and Violence*, UNIV. ILL. CHI.: L. ENF’T EPIDEMIOLOGY PROJECT, <https://policeepi.uic.edu/u-s-data-on-police-shootings-and-violence/> [<https://perma.cc/5S5S-YUUX>]. More than twenty million Americans are stopped each year for traffic violations. Emma Pierson, Camelia Simoiu, Jan Overgoor, Sam Corbett-Davies, Daniel Jenson, Amy Shoemaker, Vignesh Ramachandran, Phoebe Barghouty, Cheryl Phillips, Ravi Shroff & Sharad Goel, *A Large-Scale Analysis of Racial Disparities in Police Stops Across the United States*, 4 NATURE HUM. BEHAV. 736, 736 (2020).

25. See, e.g., Veryl Pow, *Rebellious Social Movement Lawyering Against Traffic Court Debt*, 64 UCLA L. REV. 1770, 1778 (2017) (“[T]raffic court debt is a statewide system with identifiable steps along a pathway that maintains a cycle of indebtedness and criminalization of low-income people of color.”); Press Release, Fines & Fees Just. Ctr., New NY Driver’s License Reform Takes Effect Tuesday (June

When it comes to the infractions used as policy justifications for license suspension, the binary between “driving-related” and “non-driving-related” breaks down under scrutiny. Certainly, FTA and FTC charges have nothing to do with driving ability. But sometimes even traffic stops have nothing to do with driving. For instance, police in North Carolina are “more likely to stop [B]lack drivers for no discernible reason.”²⁶

Relatedly, police routinely engage in “pretext” stops where officers pull over motorists for minor equipment violations and then use the stop to pursue a more serious charge.²⁷ These stops have been shown to be racially discriminatory.²⁸ Similar (mis)conduct by motorists on the road receives differing criminal consequences depending on the race of the driver and the outward indications of poverty evidenced by the car itself.²⁹ Some police forces have even falsified thousands of tickets to nonexistent white drivers to mask the disproportionate rate at which Black and Latine motorists are ticketed.³⁰

28, 2021), <https://finesandfeesjusticecenter.org/2021/06/28/new-ny-drivers-license-reform-takes-effect-tuesday/> [<https://perma.cc/HJ9E-7V7M>] (“Debt-based driver’s license suspensions are a cruel and counterproductive collection practice that creates a cycle of poverty and punishment few can escape.”).

26. Sharon LaFraniere & Andrew W. Lehren, *The Disproportionate Risks of Driving While Black*, N.Y. TIMES (Oct. 24, 2015), <https://www.nytimes.com/2015/10/25/us/racial-disparity-traffic-stops-driving-black.html> [<https://perma.cc/R2LC-KTQX> (dark archive)].

27. See Mercer, *supra* note 9; Erin Killeen, *Traffic Stops and Discriminatory Policing in the United States*, GEO. J. ON POVERTY L. & POL’Y (Apr. 26, 2018), <https://www.law.georgetown.edu/poverty-journal/blog/traffic-stops-and-discriminatory-policing-in-the-united-states/> [<https://perma.cc/M2G8-TGF5>]. Despite their arbitrariness, classism, and racism, pretextual stops are constitutional. The Supreme Court ruled in *Whren v. United States*, 517 U.S. 806 (1996), that any minor traffic violation is a legitimate justification for a stop, even if the real reason is some other crime-fighting objective. *Id.* at 813. In practice, *Whren* invites police officers to lawfully stop Black motorists for minor traffic infractions, even when the officers’ actions are driven by a racially biased suspicion of criminality. Jefferson-Jones, *supra* note 23, at 2295–97.

28. Killeen, *supra* note 27.

29. See Daniel Dale, *For Black Americans, Police Traffic Stops Far from ‘Routine,’* TORONTO STAR (July 11, 2016), <https://www.thestar.com/news/world/2016/07/11/for-black-americans-police-traffic-stops-far-from-routine.html> [<https://perma.cc/A9AN-KNWD> (staff-uploaded, dark archive)]; David Dayen, *When Your Used Car Makes You a Target for Cops*, VICE (Mar. 1, 2017, 12:35 PM), <https://www.vice.com/en/article/qkm4kb/when-your-used-car-makes-you-a-target-for-cops> [<https://perma.cc/4Q3V-BK5A> (dark archive)].

30. Jaden Edison, *Report: CT State Troopers May Have Falsified at Least 25K Tickets*, HARTFORD COURANT, <https://www.courant.com/2023/06/28/report-ct-state-troopers-may-have-falsified-at-least-25k-tickets/> [<https://perma.cc/9FNK-VKQU> (staff-uploaded, dark archive)] (last updated June 29, 2023, 5:00 PM).

Race interlocks with poverty.³¹ Poverty is criminalized.³² Courts impose exorbitant fees and fines and use predatory collection methods³³ against people who commit minor offenses.³⁴ People who cannot afford to pay are jailed.³⁵ This practice especially impacts low-income people of color and their communities.³⁶

Scholars have identified these connected phenomena variously as “municipal plunder,”³⁷ “criminalizing poverty,”³⁸ and “modern-day debtors’ prisons.”³⁹ The state of the law in North Carolina expands modern-day debtors’ prisons—beyond those physically incarcerated for their driving offenses—to debtors immobilized, confined, and isolated by their inability to drive.⁴⁰

License suspension is more than the revocation of a legal privilege to drive. It is the deprivation of lifestyle,⁴¹ mobility,⁴² means of gainful employment,⁴³ and social connection.⁴⁴ When such a forfeiture comes temporarily, as a punishment for unsafe behavior on the roads, it is appropriate, and comports with the generally understood and accepted police power of a given

31. Black families experience higher rates of poverty, less upward mobility, and more downward mobility. Scott Winship, Christopher Pulliam, Ariel Gelrud Shiro, Richard V. Reeves & Santiago Deambrosi, *Long Shadows: The Black-White Gap in Multigenerational Poverty*, BROOKINGS (June 10, 2021), <https://www.brookings.edu/research/long-shadows-the-black-white-gap-in-multigenerational-poverty/> [<https://perma.cc/3E8F-9FXF>] (“Our headline finding is that three-generation poverty is over 16 times higher among Black adults than white adults (21.3 percent and 1.2 percent, respectively). In other words, one in five Black Americans are experiencing poverty for the third generation in a row, compared to just one in a hundred white Americans.”).

32. See, e.g., Kaaryn Gustafson, *The Criminalization of Poverty*, 99 J. CRIM. L. & CRIMINOLOGY 643, 643 (2009).

33. Ariel Cook & James Millard, *Targeting the Poor: How Debt Collectors Help Perpetuate the Poverty Cycle*, 17 FLA. COASTAL L. REV. 449 *passim* (2016).

34. Peter Edelman, *The Criminalization of Poverty and the People Who Fight Back*, 26 GEO. J. ON POVERTY L. & POL’Y 213, 222–26 (2019).

35. BBC News, *Why Does the U.S. Still Have “Debtors’ Prisons”?*, YOUTUBE (May 7, 2018), https://www.youtube.com/watch?v=Jm_zhRI2tLo [<https://perma.cc/HMQ8-QGZX>].

36. Crozier & Garrett, *supra* note 8, at 1625.

37. JACKIE WANG, *CARCERAL CAPITALISM* 122 (2018).

38. HUNT & NICHOL, *supra* note 14, *passim*.

39. *Ending Modern-Day Debtors’ Prisons*, ACLU, <https://www.aclu.org/issues/smart-justice/sentencing-reform/ending-modern-day-debtors-prisons> [<https://perma.cc/X7VY-REXE>].

40. See Brandi Blessett & Richard C. Box, *Sharecropper Finance: Using the Justice System as a Public Revenue Source*, 18 PUB. INTEGRITY 113, 113–14 (2016); see also Elengold, *supra* note 13 (manuscript at 25–30, 36) (discussing the physical limitations caused by license suspension and contextualizing that immobilization in the history of slavery in America).

41. See Garcia, *supra* note 4, at 7.

42. Elengold, *supra* note 13, *passim*.

43. DANIELLE CONLEY & ARIEL LEVINSON-WALDMAN, *AM. CONST. SOC’Y, DISCRIMINATORY DRIVER’S LICENSE SUSPENSION SCHEMES* 4 (2019), https://www.acslaw.org/issue_brief/briefs-landing/discriminatory-drivers-license-suspension-schemes/ [<https://perma.cc/9J9D-WUT5>].

44. SANDRA GUSTITUS, MELODY SIMMONS & MARGY WALLER, *THE MOBILITY AGENDA, ACCESS TO DRIVING AND LICENSE SUSPENSION POLICIES FOR THE TWENTY-FIRST CENTURY ECONOMY* 6 (2008); CARNEGIE, *supra* note 13, at 3, 58.

jurisdiction.⁴⁵ But when it comes indefinitely, as a punishment for poverty, it bears no relationship to the gravity of the offense it is designed to punish, and it is therefore illegitimate.⁴⁶

Indeed, the Constitution prohibits “punishing a person for his poverty.”⁴⁷ To guard against such abuse, state and local courts have a duty to “inquire, through a hearing, into a person’s ability to pay prior to imposing incarceration for nonpayment.”⁴⁸ But courts in North Carolina regularly ignore this duty.⁴⁹ Moreover, even when this duty is abided by, it does not adequately protect indigent defendants, especially debtor-suspendees.⁵⁰ Accordingly, more holistic efforts are needed to remedy the effects of this systemic deprivation of rights.⁵¹

To that end, many stakeholders have recognized the injustice being worked on poor drivers by North Carolina’s suspension laws. Several cities have initiated progressive remedial and restorative measures to address the problems caused by our overbroad policy of license suspension.⁵² Some nongovernmental organizations have taken up the mantle of protecting the rights of poor drivers.⁵³ And recently, a coalition of civil rights and social justice groups sued the North Carolina Department of Motor Vehicles (“DMV”),⁵⁴ an effort that ended in a settlement requiring the DMV to provide notice to drivers of their eligibility to have ability-to-pay hearings.⁵⁵

As admirable as these efforts are, they do not go far enough. Auto-Jubilee—massive, automatic debt cancellation, license restoration, expunction of debt-based criminal violations, and repeal of the laws that permit and require debt-based license suspension—does go far enough. Following the cadence of the ancient Hebrew law of jubilee, I propose that this four-part process be repeated every seven years. The recurrence is intended to recover any progress rolled back pursuant to shifts in the political makeup of the branches of North Carolina government, and to prevent progress achieved in law and policy from reverting to its current retrograde state.

45. See, e.g., *Police Powers*, LEGAL INFO. INST., https://www.law.cornell.edu/wex/police_powers [<https://perma.cc/B7X7-2Y42>] (last updated Dec. 2020) (“[P]ublic safety, public health, morality, peace and quiet, law and order . . . are some of the more conspicuous examples of the traditional application of the police power . . .” (alteration in original) (quoting *Berman v. Parker*, 348 U.S. 26, 32 (1954))).

46. Cf. *United States v. Bajakajian*, 524 U.S. 321, 334 (1998) (explaining proportionality test).

47. *Bearden v. Georgia*, 461 U.S. 660, 671 (1983).

48. HUNT & NICHOL, *supra* note 14, at 14.

49. See *id.* at 14–15.

50. See Zhen, *supra* note 1, at 201–12.

51. Crozier & Garrett, *supra* note 8, at 1590.

52. See *infra* Section II.B.

53. See *infra* Section II.B.

54. See *Johnson v. Goodwin*, No. 18-cv-00467, 2022 WL 1632940, at *1 (M.D.N.C. Mar. 7, 2022). The American Civil Liberties Union (“ACLU”), the ACLU of North Carolina, the Southern Poverty Law Center, and the Southern Coalition for Social Justice all sued in *Johnson. Id.*

55. *Id.* at *4–5.

To justify Auto-Jubilee, this Comment proceeds in three parts. Part I identifies the problem, describing the license suspension process, outlining the consequences for debtor-suspendees, and connecting those consequences to a broader structure of inequality and injustice. Part II surveys the existing discourse around reform and critiques the approaches currently underway, identifying their merits and limitations. Part III proposes, for the first time, a critical legal theory of Auto-Jubilee, drawing philosophically from Critical Race Theory (“CRT”), conceptually from historical traditions of manumission and legal forgiveness, and practically from modern debt-cancellation practices. This Comment concludes that the government must bear the onus of undoing the sweeping, illegitimate practice of debt-based license suspension. Auto-Jubilee is the only remedy commensurate with the violations North Carolinians have suffered. And it is the only remedy that extirpates the root of the problem rather than merely treating its symptoms.

I. FTA & FTC LICENSE SUSPENSION: LAW, PROCESS, AND CONSEQUENCES

In North Carolina, a driver’s license can be suspended or revoked for a variety of reasons, including speeding, reckless driving, driving while impaired, hit-and-run, and a host of other forms of dangerous driving.⁵⁶ A driver’s license may be suspended for an accumulation of “points,” which are assessed on drivers’ records as a consequence of conviction of certain motor vehicle violations.⁵⁷ This kind of license suspension is an appropriate punishment for drivers who pose a risk to public safety.

Driver’s license suspension is valid when used as a tool to protect motorists on the road.⁵⁸ But a cruel irony has crept into license suspension law. Suspension is increasingly used as a punishment for behaviors that have nothing to do with driving.⁵⁹ Licenses are regularly suspended for missing court and not paying

56. N.C. GEN. STAT. § 20-16 (LEXIS through Sess. Laws 2023-105 of the 2023 Reg. Sess. of the Gen. Assemb.); *License Suspension*, N.C. DEP’T TRANSP., <https://www.ncdot.gov/dmv/license-id/license-suspension/Pages/default.aspx> [https://perma.cc/L6CB-QC33] (last updated Mar. 28, 2022).

57. *Driver License Points*, N.C. DEP’T TRANSP., <https://www.ncdot.gov/dmv/license-id/license-suspension/Pages/points.aspx> [https://perma.cc/5RA2-DDNL] (last updated July 20, 2019). An individual’s license may be suspended if they accumulate twelve points within a three-year period. *Id.*

58. See, e.g., Joshua Aiken, *Reinstating Common Sense: How Driver’s License Suspensions for Drug Offenses Unrelated to Driving are Falling out of Favor*, PRISON POL’Y INITIATIVE (Dec. 12, 2016), <https://www.prisonpolicy.org/driving/national.html> [https://perma.cc/7D4J-HUK6] (“Possessing a valid driver’s license should reflect responsible driving; license suspensions are a logical tool for curbing bad driving-related behaviors.”).

59. See Joni Hirsch & Priya Sarathy Jones, *Driver’s License Suspension for Unpaid Fines and Fees: The Movement for Reform*, 54 U. MICH. J.L. REFORM 875, 877–78 (2021).

finer.⁶⁰ License suspension, it turns out, *often* does not correspond to driving—40% of all driver’s license suspensions are for drug offenses unrelated to driving, unpaid traffic tickets, or unpaid child support.⁶¹ The state seems to view the poor as unfit to drive. Deprived of their legal right to drive, debtor-suspendees face direct and collateral consequences. This works an outsize injustice on poor people and people of color—an injustice typical of a larger system of structural inequality.

A. *The Law and Process of Debt-Based License Suspension in North Carolina*

North Carolina’s license suspension statute⁶² requires *indefinite* driver’s license suspension for nonappearance or unpaid court debt.⁶³ A license must be suspended *before* the suspendee even “has an opportunity to present information concerning their ability to pay.”⁶⁴ Like in most jurisdictions,⁶⁵ North Carolina “court systems now electronically transmit records of nonpayment or nonappearance to the DMV.”⁶⁶ This process systematizes rapid, automated, large-scale suspension of driver’s licenses.⁶⁷

In cases where a person is charged with a motor-vehicle offense, *mandatory indefinite* license suspension results in two ways: failure to appear for a court date, or failure to comply.⁶⁸ A license can also be suspended for both FTA and FTC.⁶⁹

60. See *id.*; Annie Han, *National Harm from Suspending Licenses in Response to Unpaid, Unaffordable Court Fines and Fees*, DUKE L.: WILSON CTR. FOR SCI. & JUST. (Oct. 7, 2021), <https://wcsj.law.duke.edu/news/national-harm-from-suspending-licenses-in-response-to-unpaid-unaffordable-court-fines-and-fees/> [<https://perma.cc/YK6A-Z8PW>] (“Perhaps surprisingly, suspensions are *usually* a result of non-driving-related offenses, namely failures to comply (FTCs) and failures to appear (FTAs) in court. FTCs refer to the failure to obey official court orders, including unpaid fines and fees.” (emphasis added)).

61. See Hirsch & Jones, *supra* note 59, at 877. “Given the severe, harmful impacts on individuals, as well as the chilling economic effects, driver’s license suspensions should only be used in cases of dangerous driving.” *Id.* at 882.

62. N.C. GEN. STAT. § 20-24 (LEXIS through Sess. Laws 2023-105 of the 2023 Reg. Sess. of the Gen. Assemb.).

63. See MARIO SALAS & ANGELA CIOLFI, LEGAL AID JUST. CTR., *DRIVEN BY DOLLARS: A STATE-BY-STATE ANALYSIS OF DRIVER’S LICENSE SUSPENSION LAWS FOR FAILURE TO PAY COURT DEBT* 9 (2017), <https://flccoc.org/wp-content/uploads/2019/08/Driven-by-Dollars.pdf> [<https://perma.cc/Q6B2-E49E>].

64. Crozier & Garrett, *supra* note 8, at 1596; N.C. GEN. STAT. § 20-24.1(a) to -24.1(b).

65. SALAS & CIOLFI, *supra* note 63, at 7.

66. Crozier & Garrett, *supra* note 8, at 1596 (citing SALAS & CIOLFI, *supra* note 63, at 7); N.C. GEN. STAT. § 20-24.2(a)(1).

67. See Crozier & Garrett, *supra* note 8, at 1596.

68. N.C. GEN. STAT. §§ 20-24.1 to -24.2; see SALAS & CIOLFI, *supra* note 63, at 15.

69. Crozier & Garrett, *supra* note 8, at 1603.

FTAs and FTCs occur because traffic violations are expensive. A single ticket for a minor speeding violation typically ranges between \$188 and \$250.⁷⁰ Drivers who simply “pay off the ticket” are pleading guilty to the charge.⁷¹ A guilty plea to a moving violation increases a driver’s insurance premiums by 30% to 80% for the next three years.⁷² Drivers may opt to hire an attorney, and if successful in reducing the charge to a nonmoving violation, they can avoid the insurance cost increase.⁷³ But attorney costs start at about \$99 for common offenses,⁷⁴ and court costs—even for reduced charges—range from about \$200 to \$400,⁷⁵ so drivers are still saddled with a substantial payment.

For many poor North Carolinians, coming up with this money is not an option. Accordingly, many defendants conduct a practical calculus of extralegal options—many choose to skip court,⁷⁶ to default on fines, and/or to continue driving—to meet immediate obligations and afford bare necessities.⁷⁷ As charges accumulate, incarceration enters the mix of potential punishments, creating a further disincentive to pay or appear in court.⁷⁸ This is the material reality behind FTAs and FTCs.

An FTA is a failure to appear in court upon receipt of a notice for a hearing or trial for a motor-vehicle offense.⁷⁹ Crozier and Garrett outline the process:

If a person does not appear on the date scheduled, the case is marked as “called and failed.” After twenty days, the court issues a “Failure to Appear,” which results in an additional FTA fee. After twenty additional

70. *True Cost of a Speeding Ticket in North Carolina*, ITICKET.LAW, <https://www.iticket.law/nc/true-cost-north-carolina-speeding-ticket/> [<https://perma.cc/Q28Q-76QP>].

71. *Id.*

72. *Id.*

73. *Id.*

74. *See, e.g., Case Types: Traffic*, ITICKET.LAW, <https://www.iticket.law/case-types/traffic/> [<https://perma.cc/93QD-FGFA>] (prices start at \$99 per ticket); *Traffic Violations*, JARVIS LAW PLLC, <https://jarvislawnc.com/traffic-law> [<https://perma.cc/LW2D-QWVA>] (prices start at \$89).

75. *See* N.C. GEN. STAT. § 7A-304 (LEXIS through Sess. Laws 2023-105 of the 2023 Reg. Sess. of the Gen. Assemb.); *see also* GEN. CT. OF JUST., JUD. BRANCH OF N.C., COURT COSTS AND FEES CHART 2, 6 (2023), <https://www.nccourts.gov/assets/documents/publications/Criminal-Costs-Chart-July-2022-update-1-Jan-2023.pdf> [<https://perma.cc/ZL7M-U9HR>].

76. Michael Gordon, *Settlement Could Restore Driver’s Licenses for Thousands in NC*, CHARLOTTE OBSERVER, <https://www.charlotteobserver.com/news/politics-government/article258639938.html> [<https://perma.cc/H2V9-ESMY> (staff-uploaded, dark archive)] (last updated Mar. 6, 2022, 1:47 PM); Hirsch & Jones, *supra* note 59, at 878.

77. *About the Campaign*, FREE TO DRIVE, <https://www.freetodrive.org/about> [<https://perma.cc/K3HZ-92GY>].

78. *See id.*

79. N.C. GEN. STAT. § 20-24.1(a)(1).

days pass, the court notifies the DMV of the FTA through the Automated Criminal and Infraction System.⁸⁰

The “DMV is *statutorily required* to revoke the defendant’s driver’s license upon receipt of the notice” of FTA, and their license will remain revoked until the case is disposed.⁸¹

Pursuant to an FTA, a “judge may revoke the defendant’s pretrial release order and issue a new order for the defendant’s arrest.”⁸² If the defendant’s failure to appear is “willful,” they may be held in contempt.⁸³ Alternatively, the State may choose to criminally charge the defendant with FTA.⁸⁴ The State can argue that the FTA is a “continuing offense” that remains ongoing until the defendant appears in court, in which case no relief via statute of limitations is available.⁸⁵ After twenty days, as mentioned above, it is possible for an FTA to lead to an FTC.⁸⁶

An FTC is a failure to pay a fee, fine, penalty, or court cost ordered in a motor-vehicle offense⁸⁷ (including underlying fines imposed for the traffic offense itself).⁸⁸ Drivers whose licenses are suspended for FTC and for no other reason are eligible to apply for a limited driving privilege for up to one year.⁸⁹

As with FTAs, the “DMV is *statutorily required* to revoke the defendant’s driver’s license upon receipt of the notice” of FTC.⁹⁰ The revocation remains until the suspendee takes one of two actions: (1) pay or (2) demonstrate to a court that their failure to pay was not “willful” and that they are making a good

80. Crozier & Garrett, *supra* note 8, at 1594–95 (internal citations omitted); see N.C. GEN. STAT. § 20-24.2(a)(1) (requiring courts to report FTAs to the DMV); see also WAYNE SMOAK, OVERVIEW OF ACIS 6, 16–17 (2004), <https://connect.ncdot.gov/groups/NCTRCC/Documents/Administrative%20Office%20of%20Courts.pdf> [<https://perma.cc/ETC6-232X>].

81. *Failure To Appear*, N.C. PROSECUTORS’ RES. ONLINE, <https://ncpro.sog.unc.edu/manual/121-1> [<https://perma.cc/972N-9D23>] (emphasis added) (last updated Jan. 4, 2023); see Crozier & Garrett, *supra* note 8, at 1595 (discussing the consequences of an FTA in North Carolina); N.C. GEN. STAT. § 20-24.1(a)(1) to -24.1(b)(1). The DMV then sends a notice of revocation; these notices are sent by mail to the address on a person’s license. *Id.*

82. *Failure To Appear*, *supra* note 81; see N.C. GEN. STAT. §§ 15A-302(f), -303(e)(2), -305(b)(3), -534(f).

83. See, e.g., N.C. GEN. STAT. §§ 5A-11(a)(3), 5A-11(a)(7), 15A-303(e)(3); *Cox v. Cox*, 92 N.C. App. 702, 707, 376 S.E.2d 13, 17 (1989) (concluding that failure to appear in court is indirect criminal contempt).

84. See N.C. GEN. STAT. § 15A-543 (articulating penalties for failure to appear); § 20-28(a3) (articulating penalties for failure to appear for implied consent offenses).

85. *Failure To Appear*, *supra* note 81.

86. Crozier & Garrett, *supra* note 8, at 1595.

87. N.C. GEN. STAT. § 20-24.1(a)(2) (listing “failed to pay a fine, penalty, or court costs ordered by the court” as the second reason for a mandatory license revocation).

88. N.C. ADMIN. OFF. OF THE CTS., TRAFFIC OFFENSES FOR WHICH COURT APPEARANCE MAY BE WAIVED 1–2 (2022), <https://www.nccourts.gov/assets/documents/publications/traffic-waiver-070122.pdf> [<https://perma.cc/EGA3-8WN6>].

89. N.C. GEN. STAT. § 20-24.1(f); see *infra* note 100 and accompanying text.

90. *Failure To Appear*, *supra* note 81 (emphasis added); N.C. GEN. STAT. § 20-24.1(a)(2).

faith effort to pay, or costs should be remitted.⁹¹ If there was an FTA, an indefinite suspension persists until the suspendee “disposes of the charge,” and otherwise, the suspendee must demonstrate that they were “not the person charged with the offense.”⁹² Crozier and Garrett note that “no showing of willful failure to pay is required before a court revokes a driver’s license for failure to comply.”⁹³

A driver whose license is revoked can apply for restoration at a driver’s license office.⁹⁴ Applicants must meet the same requirements as for initially obtaining a driver’s license.⁹⁵ Many suspensions and revocations require (or can be shortened by) an administrative hearing with the DMV, where DMV officers hear drivers’ petitions for license restoration.⁹⁶ Drivers may present witnesses to speak to their good character, and may submit evidence of compliance with any court-ordered tasks connected to the suspension.⁹⁷ The administrative fee for a DMV hearing ranges from \$100 to \$450; the fee is waived for applicants who meet household income criteria and have submitted an affidavit of indigence with their written hearing request.⁹⁸

If a restoration condition is met before the effective date of the revocation order, the license is restored; but if that date has expired, then the person must pay the restoration fee and satisfy DMV requirements to receive a new license.⁹⁹ Judges may supply a limited driving privilege so a suspendee can drive to and from essential functions while a revocation remains in place.¹⁰⁰ Absent a limited driving privilege, the act of knowingly driving while a license is revoked is a criminal offense.¹⁰¹

91. Crozier & Garrett, *supra* note 8, at 1595 (citing N.C. GEN. STAT. § 20-24.1(b)(3) to -24.1(b)(4)).

92. *Id.* (citing N.C. GEN. STAT. § 20-24.1(b)(1) to -24.1(b)(2)).

93. *Id.* (citing N.C. GEN. STAT. § 20-24.1(a)(2)).

94. *License Suspension*, *supra* note 56.

95. *See id.*

96. *Id.*

97. DMV hearings in this context are conducted similarly to hearings for DWI suspensions. *See DMV Hearings*, KURTZ & BLUM, <https://www.kurtzandblum.com/dwi-attorneys/dmv-hearings/> [<https://perma.cc/3KFX-8LBJ>].

98. *Hearing Fees*, N.C. DEP’T TRANSP., <https://www.ncdot.gov/dmv/offices-services/administrative-hearings/Pages/fees.aspx> [<https://perma.cc/T38C-GF4J>].

99. Crozier & Garrett, *supra* note 8, at 1595 (citing N.C. GEN. STAT. § 20-24.1(c) (LEXIS through Sess. Laws 2023-105 of the 2023 Reg. Sess. of the Gen. Assemb.)).

100. Crozier & Garrett, *supra* note 8, at 1595. “A limited driving privilege is a judgment issued in the discretion of a court for good cause shown authorizing a person with a revoked . . . license to drive for essential purposes” related to work, school, medical care, worship, community service, treatment, and home maintenance. N.C. GEN. STAT. § 20-179.3(a).

101. Crozier & Garrett, *supra* note 8, at 1596 (citing N.C. GEN. STAT. § 20-28(a)). Each such charge results in an additional fine and up to twenty days in jail. N.C. SENT’G & POL’Y ADVISORY COMM’N, A CITIZEN’S GUIDE TO STRUCTURED SENTENCING (2022), <https://www.nccourts.gov/assets/documents/publications/SPAC-Citizen-Guide-to-Structured-Sentencing-2022.pdf> [<https://perma.cc/EJ2M-J3EJ>].

In most cases, driving while one’s license is revoked “is a Class 3 misdemeanor, a criminal charge that . . . leads to new costs” and potential incarceration, and that “becomes part of the defendant’s criminal record.”¹⁰² “Poor defendants often let auto insurance or registration lapse, which can lead to yet more charges.”¹⁰³

B. *The Consequences of License Suspension*

Non-driving-related license suspensions have grown exponentially in North Carolina for decades.¹⁰⁴ As of 2021, more than 1.2 million North Carolina drivers have active suspensions for FTC and/or FTA—about one in seven driving-age people.¹⁰⁵ *That is nearly ten percent of the nation’s total.*¹⁰⁶ One in five Durham residents has had their license revoked or suspended at some point.¹⁰⁷ This high volume of suspensions has had a profound effect; license suspension cascades into further consequences.¹⁰⁸

Of the 1.2 million people with suspended licenses in North Carolina, more than 300,000—mostly people of color—face barriers to opportunity because their driver’s licenses are indefinitely suspended.¹⁰⁹ The two most impactful barriers are difficulty finding meaningful employment and difficulty remaining affordably housed.¹¹⁰ More than 28% of North Carolinians with license suspensions face eviction as a result of losing their licenses.¹¹¹

102. HUNT & NICHOL, *supra* note 14, at 9; see N.C. SENT’G & POL’Y ADVISORY COMM’N, *supra* note 101; see also N.C. GEN. STAT. §§ 15A-1340.23, 20-28(a). If a person’s license was suspended for impaired driving the charge will instead be a Class 1 misdemeanor. N.C. GEN. STAT. § 20-28(a1).

103. HUNT & NICHOL, *supra* note 14, at 9; see Ilya Slavinski & Kimberly Spencer-Suarez, *The Price of Poverty: Policy Implications of the Unequal Effects of Monetary Sanctions on the Poor*, 37 J. CONTEMP. CRIM. JUST. 46, 55–56 (2021); Wilbur C. Leatherberry, *No-Fault Automobile Insurance: Will the Poor Pay More Again*, 26 CASE W. RESV. L. REV. 101, 122 (1975).

104. See DRIVING INJUSTICE, *supra* note 17, at 7.

105. *Id.* at 5.

106. Hirsch & Jones, *supra* note 59, at 875. North Carolina, which makes up about 3% of America’s total population, represents nearly 10% of America’s suspended-driver population. See *U.S. and World Population Clock*, U.S. CENSUS BUREAU, <https://www.census.gov/popclock/> [perma.cc/FL82-KCGB (staff-uploaded archive)]; *QuickFacts North Carolina*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/NC/PST045222> [https://perma.cc/9LZE-8GVX (staff-uploaded archive)].

107. DRIVING INJUSTICE, *supra* note 17, at 3.

108. WILLIAM CROZIER, BRANDON GARRETT & THOMAS MAHER, DUKE L. CTR. FOR SCI. & JUST., EXPLOSION OF UNPAID CRIMINAL FINES AND FEES IN NORTH CAROLINA 4–7 (2020) [hereinafter EXPLOSION OF UNPAID CRIMINAL FINES AND FEES], <https://sites.law.duke.edu/justsciencelab/wp-content/uploads/sites/5/2020/04/CSJ-Criminal-Fines-and-Fees-in-NC-v.7.pdf> [https://perma.cc/H9DJ-5KD4].

109. *Driver’s License Suspensions*, NC FINES & FEES COAL., <https://www.endcriminaljusticedebtc.org/drivers-license-suspensions> [https://perma.cc/W78Q-4FF5].

110. See *Driver’s License Restoration*, *supra* note 14.

111. DRIVING INJUSTICE, *supra* note 17, at 5.

License suspension impedes automobility, which in turn diminishes suspendees' quality of life. Most cities are designed for cars, not people.¹¹² Driving facilitates everyday activities like shopping, laundry, chauffeuring kids, volunteering, and attending church services. It eases access to medical appointments.¹¹³ It facilitates travel to school and extracurricular events.¹¹⁴ It creates opportunities and provides resources necessary to satisfy other basic human needs like shopping for groceries and spending time with loved ones.¹¹⁵

It should come as no surprise, then, that 75% of motorists without a license continue to drive, risking deeper involvement in the criminal system.¹¹⁶ Some people do so because driving "is an indispensable part of their routine."¹¹⁷ Some suspendees who stop driving will suffer severe isolation.¹¹⁸ Regardless of whether they drive, "most individuals who enter this cycle of debt and suspension will never restore their driving privileges."¹¹⁹ As mentioned above, beyond foreclosing the possibility of recovering a license, the steady increase in legal financial obligations creates a vicious cycle of consequences that can last for years, or even persist indefinitely.¹²⁰ But to truly understand this debt cycle, one must first recognize an insidious shift in the nature of "licenses."

C. *Fines and Fees: The License-for-Payment System*

Traditionally, the law defined a license as "permission granted by a qualified authority permitting a licensee to do something."¹²¹ To obtain a driver's license in North Carolina, applicants must pass several tests to demonstrate their knowledge of the rules of the road and their capacity to

112. See Jeff Anderson & Rick Linden, *Why Steal Cars: A Study of Young Offenders Involved in Auto Theft*, 56 CANADIAN J. CRIMINOLOGY & CRIM. JUST. 241, 253 (2014).

113. See *Driver's License Restoration*, *supra* note 14.

114. See DRIVING INJUSTICE, *supra* note 17, at 5 ("People with suspensions overwhelmingly said their day-to-day lives were harder because of the suspension, including getting to the doctor, getting to work, caring for their children, and grocery shopping. Of those reporting, 28.5% said they were in the process of being evicted as a result of their suspensions.")

115. *Id.*; see also Andrea M. Marsh, NAT'L CTR. FOR STATE CTS., *Rethinking Driver's License Suspensions for Nonpayment of Fines and Fees*, in 2017 TRENDS IN STATE COURTS 20, 22 (2017) ("Suspended drivers who can take public transportation to work still may need a car to take their children to school or family members to doctors' appointments.")

116. HUNT & NICHOL, *supra* note 14, at 9 (citing Marsh, *supra* note 115, at 22).

117. *Id.*

118. Beyond individual isolation, the indefinite, long-term loss of a driver's license often has catastrophic impacts on entire families, especially in neighborhoods and communities without access to public transportation. *Driver's License Restoration*, *supra* note 14.

119. *Id.*

120. DRIVING INJUSTICE, *supra* note 17, at 15.

121. *License*, LEGAL INFO. INST., <https://www.law.cornell.edu/wex/license> [<https://perma.cc/RAL3-3Q3U>]. For a CRT critique of the license along racial lines, see *infra* Section III.A.1.

operate a motor vehicle safely.¹²² Absent illegal behavior, driver's licenses in North Carolina can be renewed periodically for a nominal fee, and the holder's capacity may be reassessed periodically to ensure they remain qualified to continue holding the license.¹²³

But lately what we call a "license" has become something more like a subscription to a service. Cruelly, the subscription costs more for poor people. Policies related to FTA and FTC are not designed to promote public safety; rather, they are punitive. They "use suspension to *induce payment and compliance*. . . . [D]river's license suspension [has become] a state-employed debt collection tool."¹²⁴ This is the "license-for-payment" system.¹²⁵ Luckily, in recent years this phenomenon has been scrutinized and critiqued by a diverse array of stakeholders, from activists to lawyers to policymakers.¹²⁶ New state-based advocacy campaigns across the country have critiqued the license-for-payment system and the LFOs that prop it up, achieving reforms via courts, legislatures, and executive agencies.¹²⁷

I join this chorus of critiques by making the following claim: *LFOs are bullshit*.¹²⁸ LFOs are an inhumane form of pecuniary violence, a means of

122. *Driver License Tests*, N.C. DEP'T TRANSP., <https://www.ncdot.gov/dmv/license-id/driver-licenses/new-drivers/Pages/driver-license-tests.aspx> [perma.cc/V822-LAS4]. Drivers must demonstrate their ability to perform basic driving patterns and show their ability to drive safely with traffic. *Id.* "Individuals may not be licensed if they suffer from a mental or physical condition that might keep them from driving safely." N.C. DEP'T OF TRANSP., NORTH CAROLINA DRIVER HANDBOOK 9 (2022) [hereinafter N.C. DRIVER HANDBOOK], <https://www.ncdot.gov/dmv/license-id/driver-licenses/new-drivers/Documents/driver-handbook.pdf> [https://perma.cc/G7Y7-LR4T].

123. The cost to renew regular (noncommercial) licenses comes to \$5.50 per year. *Licenses & Fees*, N.C. DEP'T TRANSP., <https://www.ncdot.gov/dmv/license-id/driver-licenses/Pages/licenses-fees.aspx> [https://perma.cc/4AY2-UQ4N]. Licenses issued to adults ages eighteen to sixty-five are valid for eight years; licenses issued to adults sixty-six and over are valid for five years. *Renewal & Replacement*, N.C. DEP'T TRANSP., <https://www.ncdot.gov/dmv/license-id/renewal-replacement/Pages/default.aspx> [perma.cc/S43V-55YA]. Drivers who must visit a driver license office for their renewal are required to take the vision and traffic sign tests over again. N.C. DRIVER HANDBOOK, *supra* note 122, at 24.

124. Crozier & Garrett, *supra* note 8, at 1588 (emphasis added). To even call the license-for-payment system a "debt collection tool" is misleading, to the extent that such "debt" is illegitimate, as I argue below. See *infra* notes 128–35 and accompanying text. A more apt term would be "state-employed revenue-collection tool." See generally HUNT & NICHOL, *supra* note 14 (arguing that the fines and fees serve no judicial function and are instead a revenue source for the general fund).

125. SALAS & CIOLFI, *supra* note 63, at 1. For a critical analysis of licenses as tools of surveillance and racial policing of bodies, see *infra* Section III.A.

126. See SALAS & CIOLFI, *supra* note 63, at 1; see also, e.g., Melissa Toback Levin, *Driver's License Suspensions for Nonpayments: A Discriminatory and Counterproductive Policy*, 48 HASTINGS CONST. L.Q. 73, 73 (2020) ("License-for-payment laws ultimately create conditions that parallel modern-day debtor's prisons and are vulnerable to several legal challenges. For these reasons, lawmakers should end suspensions for nonpayments of traffic tickets and nonappearances in traffic court, practices which unduly target and harm communities of color.").

127. See Levin, *supra* note 126, at 73.

128. For more on bullshit as a rigorous philosophical referent, see, for example, HARRY FRANKFURT, ON BULLSHIT *passim* (2005); James Fredal, *Rhetoric and Bullshit*, 73 COLL. ENG. 243 *passim* (2011); DAVID GRAEBER, BULLSHIT JOBS *passim* (2018).

revenue creation so illegitimate and so pernicious that their existence is unjustifiable.¹²⁹ LFOs are a tool of racial and class subjugation accomplished via social control; they function to monitor, sanction, and punish poor people in order to regulate their behavior.¹³⁰ Paul Butler puts it starkly: “Poor people lose, most of the time, because in American criminal justice, poor people are losers. Prison is designed for them.”¹³¹ LFOs are an indispensable part of the broken American criminal justice system that subjugates the impoverished.

Beyond being illegitimate under the law, LFOs simply do not correspond to reality. The user-fee framework, similar to the license-for-payment system, helps explain this phenomenon. Heather Hunt and Gene Nichol frame the issue in this way: North Carolina’s sprawling “criminal fees and costs regime” is often “*not closely linked* to expenses directly incurred in particular prosecutions.”¹³² “It frequently serves no actual judicial function and is, instead, seen as a revenue source for the General Fund.”¹³³ Hunt and Nichol go on:

In North Carolina, the legislature has implemented fines and fees in order to raise revenue, even as it cuts court funding. These moves often frame defendants as “customers” and monetary sanctions as “user fees,” reinforcing a notion that the dispensation of justice is simply a commercial enterprise. This cheapens and diminishes the value of the courts, downplays the hardships and inequities imposed by fines and fees, and suggests that defendants (as “customers”) somehow deserve to bear the costs of “doing business.”¹³⁴

Ultimately, justice-involved people are paying a subscription fee for the privilege of participating in society.¹³⁵ This is fundamentally unjust.

129. Vigorous support can be found from Levin, *supra* note 126, at 103 (“[I]t can hardly be considered just, let alone constitutional, that laws permit indefinite driver’s license suspensions as punishment for ‘the crime of being poor.’ The infliction of punishment on individuals solely because of their poverty is not tolerated by the courts. As this is precisely what license-for-payment schemes do, they should be found fundamentally unfair.”).

130. See Alexes Harris, Mary Pattillo & Bryan L. Sykes, *Studying the System of Monetary Sanctions*, RUSSELL SAGE FOUND. J. SOC. SCI., Jan. 2022, at 1, 3 (2022).

131. Paul D. Butler, *Poor People Lose: Gideon and the Critique of Rights*, 122 YALE L.J. 2176, 2178 (2013).

132. HUNT & NICHOL, *supra* note 14, at 13 (emphasis added).

133. *Id.*

134. *Id.* at 18 (citing Spencer Woodman, *Wait, Are You Sure You Want To Plead Guilty?*, SLATE (Dec. 23, 2013, 4:10 PM), <https://slate.com/news-and-politics/2013/12/north-carolinas-bad-plan-to-take-lawyers-away-from-poor-people.html> [<https://perma.cc/6LNU-J5JX>]).

135. Elengold, *supra* note 13 (manuscript at 36) (“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.”).

D. *The Injustice of Debt-Based License Suspension*

Debt-based license suspension raises concerns about constitutional due process,¹³⁶ proportionality,¹³⁷ and equal protection.¹³⁸ While each is consequential, I focus primarily on the last—specifically, concerns about racial and economic discrimination.

Debt-based driver's license suspensions are racist.¹³⁹ License suspension is one among many iterations of law constructing whiteness and white supremacy, evidenced by the function the law plays in preventing nonwhite people from driving.¹⁴⁰ Race alone fails to describe the dynamic; the criminalization of poverty is the other main axis of inequality at play here. Race and poverty are inextricably linked; people of color are more likely to experience poverty and to be stopped by law enforcement, as well as to be ticketed, arrested, charged, and convicted for traffic violations.¹⁴¹

“Black and Latin[e] people are over-suspended relative to their representation in the population”,¹⁴² compared to the white population, people of color are nearly twice as likely to have their licenses suspended.¹⁴³ Likewise, poor people are disproportionately over suspended.¹⁴⁴

The debt cycle is racialized.¹⁴⁵ In North Carolina, one in twelve adults has unpaid criminal court debt;¹⁴⁶ a disproportionate number of these debtors are people of color.¹⁴⁷ As the cycle persists, the deprivations among people of color

136. See U.S. CONST. amend. XIV, § 1; see also *Fowler v. Benson*, 924 F.3d 247, 262–63 (6th Cir. 2019) (denying plaintiff's claim that the State's debt-based license suspension regime violated their due process rights but admitting the practice was “unwise, even counterproductive” as a matter of policy).

137. See U.S. CONST. amend. XIV, § 1; *id.* amend. VIII.

138. See *id.* amend. XIV, § 1.

139. I argue that racism is endemic, locked-in, to American society, constitutive of it, rather than an aberration within it; to do so, I draw a throughline between racism, the active process of subordination of nonwhite people, and debt-based license suspension policy in America, rather than treating the two as merely coincidental or correlated. See Devon W. Carbado, *Critical What What?*, 43 CONN. L. REV. 1593, 1613 (2011).

140. Hirsch & Jones, *supra* note 59, at 879.

141. *Id.* at 879–80.

142. DRIVING INJUSTICE, *supra* note 17, at 5.

143. *Id.* at 10 (finding that 24.3% of Black respondents versus 14.2% of white respondents reported a license suspension).

144. *Id.* (finding that people who make less than \$50,000 per year are 46% more likely to have a suspension than those who make more).

145. See, e.g., Lindsey Oldt, *How Chapel Hill Is Combating the Sinister Cycle of Court Debt*, CAROLINA POL. REV. (Feb. 12, 2020), <https://www.carolinapoliticalreview.org/editorial-content/2020/2/12/how-chapel-hill-is-combating-the-sinister-cycle-of-court-debt> [https://perma.cc/4Y8T-5X66] (reporting on creation of Criminal Justice Debt Fund to combat the debt cycle and quoting Chapel Hill Town Council member Karen Stegman as saying “Chapel Hill has ‘unwittingly participated in what is widely accepted to be an unjust system that has a disparate impact on the poor and on people of color’”).

146. DRIVING INJUSTICE, *supra* note 17, at 5.

147. See *id.*

become intergenerational.¹⁴⁸ LFOs “combine with other social and economic challenges, leading to [an] ‘accumulation of disadvantage’ and deepening racial, ethnic and economic inequality,” gouging Black wealth.¹⁴⁹

Debt-based license suspension is one part of a larger system. “Structurally discriminatory practices such as the over-policing of minority neighborhoods,¹⁵⁰ policing schools,¹⁵¹ mandatory sentencing, racial profiling, and the racist debt trap¹⁵² “combine with bias to ensure that criminal punishment is concentrated in poor, minority communities.”¹⁵³ Black people are likelier to receive harsher plea deals, be charged higher court fees, and be jailed for nonpayment of fees.¹⁵⁴ This is an extension of our nation’s long history of racial control through the criminal justice system: a practice rooted in slavery that extends through convict leasing and, more recently, mass incarceration.¹⁵⁵ Hunt and Nichol conclude that “[m]onetary sanctions, considered ‘integral to

148. See generally Monica Privette-Black, *Intergenerational Poverty in the United States*, BALLARD BRIEF (May 2021), <https://ballardbrief.byu.edu/issue-briefs/intergenerational-poverty-in-the-us-83scy> [<https://perma.cc/W4G5-B65R>] (“High rates of incarceration of low-income people, including gang members and even children, may be due to the fact that those living in a high-poverty, violent area are more likely to have more police surveillance and more likely to be convicted of a crime they did or did not do. Around 75% of police misconduct happens in neighborhoods under the poverty line, which puts all members of low-income communities at risk of incarceration, regardless of gang affiliation.” (internal citations omitted)).

149. See HUNT & NICHOL, *supra* note 14, at 25–32; Brianna Hammons, *Monetary Sanctions, Racialized Wealth Extraction, and Momentum for Fines and Fees*, FORGE (June 18, 2020), <https://forgeorganizing.org/article/monetary-sanctions-racialized-wealth-extraction-and-momentum-fines-and-fees-reform> [<https://perma.cc/7VQ6-JYMP>].

150. HUNT & NICHOL, *supra* note 14, at 16. See, e.g., Jasmine B. Gonzales Rose, *Toward a Critical Race Theory of Evidence*, 101 MINN. L. REV. 2243, 2272 (2017) (“African Americans, Latinos, and Native Americans are disproportionately subject to [Federal Rule of Evidence 609] because of racial profiling in police stops, over-policing in minority neighborhoods, the war on drugs, prosecutorial bias, racially disproportionate sentencing, and mass incarceration.”).

151. See, e.g., Barbara A. Fedders, *The End of School Policing*, 109 CALIF. L. REV. 1443, 1143–46 (2021) (addressing the harms caused by school police to Black and Brown students; noting that typical misbehavior is criminalized and pushes students out of school and into courts, jails and prisons; and arguing that policymakers should consider removing police from schools entirely).

152. See, e.g., Veronica Goodman, *Driver’s License Suspensions and the Debt Trap*, GOVERNING (June 1, 2021), <https://www.governing.com/now/drivers-license-suspensions-and-the-debt-trap> [<https://perma.cc/W2RH-WPFW>] (describing the debt trap caused by license suspensions, arguing that this “punitive, unjust practice” must be reformed, and stating, “Black and Hispanic drivers are more likely to get pulled over and have their licenses revoked, although they commit traffic violations at similar rates as other groups”).

153. HUNT & NICHOL, *supra* note 14, at 16; see Alexa Harris, Heather Evans & Katherine Beckett, *Drawing Blood from Stones: Legal Debt and Social Inequality in the Contemporary United States*, 115 AM. J. SOCIO. 1753 *passim* (2010) [hereinafter Harris et al., *Drawing Blood*].

154. ALEXANDER BASTIEN, POLICYLINK, ENDING THE DEBT TRAP: STRATEGIES TO STOP THE ABUSE OF COURT-IMPOSED FINES AND FEES 5 (2017), <https://www.policylink.org/sites/default/files/ending-the-debt-trap-03-28-17.pdf> [<https://perma.cc/2HZ7-NLCA>].

155. See Donna Murch, *Paying for Punishment*, BOS. REV. (Aug. 1, 2016), <https://www.bostonreview.net/articles/paying-for-punishment/> [<https://perma.cc/XYH2-CM2Y>]; Tamar R. Birkhead, *The New Peonage*, 72 WASH. & LEE L. REV. 1595, 1613, 1629 (2015).

systems of criminal justice, debt bondage, and racial domination in the American South for decades,' have transmuted into a new type of peonage."¹⁵⁶ Fortunately, this racialized phenomenon of discrimination-by-debt has not gone unnoticed.

II. A SURVEY OF REFORM DISCOURSE, PROPOSALS, AND IMPLEMENTATION

A. *The Growing Reform Movement*

Some 11 million people in the United States have a suspended driver's license for unpaid LFOs.¹⁵⁷ Many stakeholders agree that the state of debt-based license suspension is a problem that needs to be fixed, and a variety of perspectives has developed to that end.¹⁵⁸

Some critique the problem from an economic ineffectiveness perspective. To date there is more than \$100 billion in uncollected federal criminal debt;¹⁵⁹ the national court debt among states is at least \$27.6 billion, and likely much more.¹⁶⁰ Hirsch and Jones describe how "unproductive and harmful debt-based restrictions not only fail to increase collections of fines and fees, but also divert important public resources for law enforcement and courts away from public safety."¹⁶¹ They go on to state that "[e]ven though no studies or research indicate that license suspension or other penalties lead to increased payment, most states continue to practice this harmful policy."¹⁶²

156. HUNT & NICHOL, *supra* note 14, at 17 (quoting Harris et al., *Drawing Blood*, *supra* note 153, at 1758); see Harris et al., *Drawing Blood*, *supra* note 153, at 1753 (discussing the long-term effects of monetary sanctions); INCARCERATION TRENDS IN NORTH CAROLINA, VERA (2019), <https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-north-carolina.pdf> [<https://perma.cc/7KKE-LW8P>] (showing that North Carolina is typical of this pattern, with Black people constituting more than 50% of prisoners in North Carolina despite making up only 23% of the general population); Birkhead, *supra* note 155, at 1647 (exploring how monetary sanctions have brought about a new type of peonage).

157. Nazish Dholakia, *Driver's License Suspensions for Unpaid Debt: Punishing Poverty*, VERA (July 19, 2022), <https://www.vera.org/news/drivers-license-suspensions-for-unpaid-debt> [<https://perma.cc/ZBN6-8B6D>]. This may be an underestimate; Crozier and Garrett suggest that "perhaps far more" than 11 million Americans may have suspended licenses. Crozier & Garrett, *supra* note 8, at 1588.

158. A prime example is the Free To Drive campaign, a coalition of ideologically diverse organizations committed to the sharing of information and resources related to driver's license suspension for unpaid court debt. *About the Campaign*, *supra* note 77.

159. KARIN D. MARTIN, SANDRA S. SMITH & WENDY STILL, SHACKLED TO DEBT: CRIMINAL JUSTICE FINANCIAL OBLIGATIONS AND THE BARRIERS TO RE-ENTRY THEY CREATE 12 (2017).

160. BRIANNA HAMMONS, FINES & FEES JUST. CTR., TIP OF THE ICEBERG: HOW MUCH CRIMINAL JUSTICE DEBT DOES THE U.S. REALLY HAVE? 4, 10 (2021), https://finesandfeesjusticecenter.org/content/uploads/2021/04/Tip-of-the-Iceberg_Criminal_Justice_Debt_BH1.pdf [<https://perma.cc/BMZ3-ULYU>]. This debt is not neutral—it represents a massive yoke on poor and minority groups. HUNT & NICHOL, *supra* note 14, at 16–17.

161. Hirsch & Jones, *supra* note 59, at 875.

162. *Id.* at 877.

Relatedly, Hirsch and Jones identify an argument from an ineffective allocation of resources perspective, saying: “Law enforcement and court actors waste thousands of hours and millions of dollars that could be devoted to public safety when they are instead citing, stopping, fining, arresting, and prosecuting people for driving on a suspended license or detaining individuals who pose no risk to public safety.”¹⁶³ In fact, suspending drivers’ licenses due to their inability to pay LFOs makes the roads more dangerous and *undermines public safety*, since the typical result is that car insurance becomes more difficult to obtain for suspendees who continue to drive nevertheless.¹⁶⁴

Others look at the practice of debt-based license suspension as a failure of a government to care for its citizens. Though her work does not address license suspension specifically, Maxine Eichner has argued generally that the state should be responsible for providing institutional support to families.¹⁶⁵ This kind of “supportive state” framework centers the family as a critical institution of American life.¹⁶⁶ As demonstrated above, the ability to drive is at the center of mobility, autonomy, and access, all of which map directly onto family life. Each of these, in turn, supports financial stability.

The economic impact of license suspension is undeniable. For example, a recent program in Phoenix, Arizona, helped drivers repay their debt, resulting in license reinstatement for more than 7,000 people.¹⁶⁷ Thanks to that program, Phoenix enjoyed an estimated GDP increase of \$149.6 million, as well as an \$87 million improvement in labor income.¹⁶⁸ Indeed, much bipartisan support has been generated from the perspective that debt-based suspension should be reformed because of the cost it poses to governments and because of its potential to catalyze a major boon to the economy.¹⁶⁹

Another policy perspective is rooted in public assistance. Alexandra Natapoff notes that “the inability to pay a fine, ironically, can deprive a person of the life tools and public benefits they need to escape poverty.”¹⁷⁰ The misdemeanor system, Natapoff contends, “*covertly undermines other public policies*

163. *Id.* at 881.

164. *See id.* at 881–82.

165. Maxine Eichner, *The Supportive State: Government, Dependency, and Responsibility for Caretaking*, in CARE ETHICS AND POLITICAL THEORY 86, 86 (Daniel Engster & Maurice Hamington eds., 2015).

166. *See id.* at 92–93.

167. L. WILLIAM SEIDMAN RSCH. INST., ARIZ. STATE UNIV., THE CITY OF PHOENIX MUNICIPAL COURT’S COMPLIANCE ASSISTANCE PROGRAM, 2016: AN ECONOMIC ASSESSMENT 13 (2017), <https://finesandfeesjusticecenter.org/articles/phoenix-municipal-courts-compliance-assistance-program/> [<https://perma.cc/4SJ7-AXHL>] (click “read the full report here”).

168. Hirsch & Jones, *supra* note 59, at 882.

169. *Id.*

170. ALEXANDRA NATAPOFF, PUNISHMENT WITHOUT CRIME: HOW OUR MASSIVE MISDEMEANOR SYSTEM TRAPS THE INNOCENT AND MAKES AMERICA MORE UNEQUAL 127 (2018).

aimed at alleviating economic disadvantage.”¹⁷¹ Specifically, the misdemeanor system exposes people to financial ruin, first by requiring them to pay the various LFOs associated with their conviction, then by disqualifying them from welfare benefits¹⁷² should they violate their probation. Most states treat failure to pay LFOs as a probation violation.¹⁷³ Rolling back debt-based license suspension is seen by some as a welfare policy in its own right.¹⁷⁴ Accordingly, the misdemeanor system is a kind of *anti-welfare* program, since it strips whatever paltry wealth may exist for the very people who benefit from poverty assistance and impedes future wealth accumulation.¹⁷⁵

Debt-based license suspension is also a transparency issue. Hunt and Nichol point out that the North Carolina Administrative Office of the Courts (“AOC”) itself “has admitted that the court debts of many defendants are a lost cause.”¹⁷⁶ The legislature articulates our “state’s pressing need for the funds that [LFOs] provide,” but it is silent on “the resources required to assess, manage, and collect” LFOs, and “the costs involved in overseeing and sanctioning defendants.”¹⁷⁷ Without the data to assess AOC policies, they remain unchallenged. Hunt and Nichol conclude that if LFOs “can’t stand on the arguments—fiscal exigency and cost efficiency—advanced in their defense, they should be recognized as *purely punitive and vindictive measures* directed at some of the state’s most disadvantaged citizens.”¹⁷⁸

Finally, a compelling perspective for many is addressing the racial subordination caused by debt-based license suspension law.¹⁷⁹ Reform is required to undo its disproportionate burden on communities of color.

171. *Id.* (emphasis added).

172. Benefits include Temporary Assistance for Needy Families and Supplemental Security Income. *Id.* at 126.

173. Karin D. Martin, Bryan L. Sykes, Sarah Shannon, Frank Edwards & Alexes Harris, *Monetary Sanctions: Legal Financial Obligations in US Systems of Justice*, 1 ANN. REV. CRIMINOLOGY 471, 476 (“Perhaps the most troubling consequence of unpaid monetary sanctions is incarceration. Failure to pay monetary sanctions, including restitution, can be grounds for the revocation of parole or probation, which triggers incarceration.”).

174. See NATAPOFF, *supra* note 170, at 127–28.

175. See Terry Gross, ‘Punishment Without Crime’ Highlights the Injustice of America’s Misdemeanor System, NPR (Jan. 2, 2019, 3:08 PM), <https://www.npr.org/2019/01/02/681606995/punishment-without-crime-argues-that-americas-misdemeanor-system-targets-the-poor> [https://perma.cc/5VR2-2QSM].

176. HUNT & NICHOL, *supra* note 14, at 19 (citing BETH A. WOOD, OFF. OF THE STATE AUDITOR, PERFORMANCE AUDIT, JUDICIAL DEPARTMENT, COURT-ORDERED FINES, FEES, AND RESTITUTION 18 (2011)).

177. *See id.*

178. *Id.* (emphasis added).

179. *See, e.g.*, EXPLOSION OF UNPAID CRIMINAL FINES AND FEES, *supra* note 108, at 10 (“Criminal debt falls disproportionately on black and Latine persons in North Carolina.”); Hirsch & Jones, *supra* note 59, at 880 (“Further, though 75 percent of New York City drivers are white, 87 percent of those charged with driving with a suspended license are non-white. This is a racial issue.”); *see also*

Regardless of one's ideological commitments or perspective, a host of potential responses have arisen to combat the societal ills created by debt-based license suspension.

B. *Three Proposed Categories of Remedies to Debt-Based License Suspension and Three Critiques*

1. Legislative and Policy Approaches

Over the past decade in North Carolina, several legislative measures have profoundly impacted the lives of debtor-suspendees. One law softened the consequences for driving while license revoked, setting the stage for later legislation and litigation.¹⁸⁰ One law created *automatic* expunctions for certain dismissed criminal charges and expanded expunction eligibility.¹⁸¹ While that law does not bear directly on driver's license suspension, it was borne of a policy perspective attentive to debt-based license suspension, and it demonstrates that Auto-Jubilee is within the purview of state lawmakers.

Ben David, North Carolina District Attorney ("DA") for New Hanover and Pender Counties and former president of the North Carolina Conference of District Attorneys, commented on just how impactful this legislative expunction effort is, concluding that these expunctions make the community *safer*.¹⁸² This perhaps counterintuitive view is rooted in community participation. Nonviolent defendants are typically living in poverty—a state of economic darkness marked by social and emotional deprivation. But, David said, the automatic expunction program made these former defendants feel "welcomed back to the sunlight."¹⁸³ Having old charges expunged felt like forgiveness.¹⁸⁴ It was the first step for many to restore their driver's licenses, a key precursor to civic involvement and a sense of societal belonging.¹⁸⁵ Positive

Monica Bell, Stephanie Garlock & Alexander Nabavi-Noori, *Toward a Demosprudence of Poverty*, 69 DUKE L.J. 1473, 1494 (2020) ("[T]he criminalization of poverty has long been used as a mechanism to enforce America's racial caste system.").

180. North Carolina Drivers License Restoration Act, ch. 186, 2015 N.C. Sess. Laws 483 (codified as amended in scattered sections of N.C. GEN. STAT. § 20 (2023)) (repealing punishment of revoking license for committing certain driving while license revoked offenses, and making offenses nonmoving violations for certain purposes).

181. An Act to Make Various Revisions to the Expunction Laws of the State, ch. 35, 2020 N.C. Sess. Laws 234 (codified as amended in scattered sections of N.C. GEN. STAT. § 15A (2021)); see *NC Second Chance Act*, N.C. JUST. CTR., <https://www.ncjustice.org/projects/fair-chance-criminal-justice-project/second-chance-act/> [<https://perma.cc/32XN-F473>].

182. Melissa Boughton, *NC Officials Dismiss Hundreds of Thousands of Old Court Cases as Part of Massive Data 'Clean-Up'*, NC NEWSLINE (June 6, 2019, 6:15 AM), <https://ncnewsline.com/2019/06/06/nc-officials-dismiss-hundreds-of-thousands-of-old-court-cases-as-part-of-massive-data-clean-up/> [<https://perma.cc/S2EC-UFDC>].

183. *Id.*

184. *See id.*

185. *Id.*

civic externalities can snowball—the expunctions made formerly justice-involved people feel safe and entitled to call for help from the police when they needed it, without fear of being locked up on an old warrant.¹⁸⁶

Legislative efforts such as this have helped shift the legal environment for debtor-suspendees away from being cruelly punitive. Indeed, at least for a time, a culture of forgiveness seemed to be gaining currency. A previously introduced bill in the North Carolina Senate is a referendum on just how forgiving North Carolinians are prepared to be when it comes to debt-based license suspension.¹⁸⁷

S.B. 490 proposed changes to the state law governing license revocation for FTA and FTC.¹⁸⁸ One change would have required the DMV to lift a revocation for FTA twelve months after the effective date of the revocation if the suspendee provided proof of insurance.¹⁸⁹ Another would have enabled a suspendee to petition the court to lift the revocation in exchange for a monthly payment toward the judgment which resulted in the revocation.¹⁹⁰ SB 490 also would have reduced the revocation time for certain offenses, provided the offense causing the underlying revocation had been resolved or the person was complying with a court-ordered payment plan to satisfy any outstanding LFOs causing the underlying revocation.¹⁹¹

As written, the Bill would have helped 350,000 North Carolinians restore revoked licenses via these payment plans.¹⁹² But implementation was problematic. It would have been difficult for superior court clerks across the state to track payment plans and to inform the DMV of missed payments. Unfortunately, the payment plan language derailed plans to vote the bill through the North Carolina House of Representatives in October 2021.¹⁹³

Beyond implementation, it's unclear how easy it would be for people to make use of the plan's benefits. In North Carolina we already have a severe access-to-justice gap: annually, 71% of poor families will have a civil legal need,

186. *Id.*

187. S. 490, 2021 Gen. Assemb., Reg. Sess. (N.C. 2021) (this bill is also known as “License to Work”).

188. *Id.*

189. *Id.* § 1.(a).

190. *Id.* This subsection would also have required the court to grant the petition if the person could show that they had no conviction for any traffic offense in the year prior to the petition. If the person failed to make a payment of \$10 or more for a period of 60 days, their license would be re-revoked. *Id.*

191. *Id.* § 2.(a).

192. Travis Fain, *Bill Moving To Help Hundreds of Thousands Get Their Driver's Licenses Back. But There's a Catch*, WRAL NEWS, <https://www.wral.com/bill-moving-to-help-hundreds-of-thousands-get-their-driver-s-licenses-back-but-there-s-a-catch/19834916/> [<https://perma.cc/E9YE-FKWG>] (last updated Aug. 23, 2021, 12:09 PM). The cheapest plan would be \$10 per month. *Id.*

193. *See id.*

and 86% of those needs will not be met.¹⁹⁴ Nationwide, poor people received either no help or too little help for 92% of their civil legal problems.¹⁹⁵ Moreover, many people are under suspension in the first place because they did not show up for court, which may be due to a distrust for the system and/or an unwillingness to take the necessary affirmative steps to take advantage of the proposed legislation.

S.B. 490's failure, while disappointing, illustrates competing perspectives on debt-based license suspension reform. On one hand, S.B. 490 can be critiqued as just another revenue-generating tool, though some people without licenses would likely gladly pay the proposed \$10 monthly minimum to be allowed to drive again. On the other hand, S.B. 490 marks a slow, iterative adjustment in attitude toward the culpability of debtor-suspendees. The role such proposed reforms play to shift our culture is significant. Still, cultural shifts alone are insufficient to restore the legal rights stripped of debtor-suspendees. To intervene on their behalf, partnerships are emerging statewide at the local level to provide legal assistance and advice to debtor-suspendees.

2. Local Approaches

Local restoration efforts are collaborations between states, localities, and/or nongovernmental organizations to help people restore suspended licenses. Their defining feature is one-on-one work with people who are provided with an opportunity to restore their suspended licenses, sometimes to expunge their criminal convictions, and usually to receive other helpful information.¹⁹⁶ These efforts are noble and make a meaningful material impact on the lives of suspendees in the twenty-six states that have yet to pass reforms to curb debt-related driving restrictions.¹⁹⁷

Many debtor-suspendees distrust courts, are wary of legal notices, believe they will be unable to pay fees, and fear attending court because of potential legal consequences.¹⁹⁸ For these reasons, localized license restoration efforts have been crucial to reaching affected populations.¹⁹⁹ These efforts typically

194. N.C. EQUAL ACCESS TO JUST. COMM'N, IN PURSUIT OF JUSTICE, AN ASSESSMENT OF THE CIVIL LEGAL NEEDS OF NORTH CAROLINA 3 (2021), https://www.ncjap.org/_files/ugd/8a3baf_9e23d20e0ffb41cbb7c57315665bbb81.pdf [<https://perma.cc/WPU7-PN7E>].

195. *The Justice Gap: The Unmet Civil Legal Needs of Low-Income Americans*, LEGAL SERVS. CORP., <https://justicegap.lsc.gov/> [<https://perma.cc/S3BW-ST9R>].

196. *Second Chance Workshops*, INDY.GOV, <https://www.indy.gov/activity/second-chance-workshops> [<https://perma.cc/4UDB-C3VL>].

197. *About the Campaign*, *supra* note 77.

198. See Crozier & Garrett, *supra* note 8, at 1627.

199. See *id.*

focus on informing suspendees of the legal and bureaucratic steps required to restore their licenses, and providing resources to assist in that process.²⁰⁰

One exemplary local restoration effort is the Durham Expungement And Restoration (“DEAR”) program. From 2018 to 2019, Durham District Attorney Satana Deberry dismissed more than 3,000 charges for people with suspended driver’s licenses.²⁰¹ The program, a collaboration between local city government officials, the court, and community actors, provided free help to clients with driver’s license restoration, expungements, and certificates of relief.²⁰² As of 2021, DEAR has led to the waiving of \$2.7 million in fines, putting 11,084 drivers back on the road.²⁰³ It also dismissed roughly 50,000 charges—some of which date back to the mid ‘80s—that were tied to 35,000 people.²⁰⁴ Similar DA-led efforts have achieved modest success in Buncombe,²⁰⁵ Cumberland,²⁰⁶ and Mecklenburg²⁰⁷ counties. Other non-DA-led local restoration efforts are underway in Chapel Hill,²⁰⁸ Charlotte,²⁰⁹ and western North Carolina.²¹⁰

200. See, e.g., *Driver’s License Restoration Project*, N.C. PRO BONO RES. CTR., <https://ncprobono.org/drive/> [<https://perma.cc/2A2S-L2G8>] (“As part of the Driver’s License Restoration Project, advocates coordinate with district attorney partners to motion the court to remit traffic court costs and fees for people with long-term license suspensions stemming from low-level traffic offenses. The Pro Bono Resource Center also coordinates volunteer attorneys to draft license restoration advice letters for people who have requested help through ncfairchance.org.”); *Driver’s License Restoration, Restoring Mobility for North Carolinians*, N.C. JUST. CTR., <https://www.ncjustice.org/drivers-license-restoration/> [<https://perma.cc/QN3Q-GMGC>] (providing an informative video outlining the legal and procedural steps necessary to help individuals make the first steps toward seeking license restoration).

201. See Crozier & Garrett, *supra* note 8, at 1627.

202. CITY OF DURHAM, DEAR: DURHAM EXPUNCTION & RESTORATION PROGRAM, <https://www.deardurham.org/> [<https://perma.cc/L3R3-WAAX>]; *Durham Expunction & Reinstatement Program (DEAR)*, CITY DURHAM, <https://www.durhamnc.gov/5081/Durham-Expunction-Reinstatement-Program-> [<https://perma.cc/2QAY-RV77>] (staff-uploaded archive).

203. *Durham Expunction & Reinstatement Program*, *supra* note 202.

204. *Id.*

205. Laura Brigman, *About 800 Drivers Get Buncombe Co. Traffic Charges Dropped: Find Out If You’re One of Them*, ABC 13 NEWS (Nov. 16, 2021, 12:14 PM), <https://wlos.com/news/local/about-800-buncombe-county-drivers-traffic-charges-dropped-find-out-if-youre-one-of-them> [<https://perma.cc/GA9L-9P4R>] (staff-uploaded archive).

206. Jack Boden, *More than 7,000 Revoked Cumberland County Driver’s Licenses Now Eligible To Be Restored*, FAYETTEVILLE OBSERVER (Oct. 13, 2021, 7:00 AM), <https://www.fayobserver.com/story/news/2021/10/13/cumberland-county-da-forgives-more-than-7-000-traffic-fines/8424111002/> [<https://perma.cc/S2BJ-UFUX>].

207. *What We Do: Driver’s License Restoration*, CHARLOTTE CTR. FOR LEGAL ADVOC., <https://charlottelegaladvocacy.org/what-we-do/drivers-license-restoration> [<https://perma.cc/7AF4-TRTY>].

208. *Orange County Restoration Legal Counsel*, ORANGE CNTY. N.C., <https://www.orangecountync.gov/2301/Restoration-Legal-Counsel> [<https://perma.cc/7Q8D-XWKE>] (staff-uploaded archive).

209. *What We Do*, *supra* note 207.

210. *Programs*, PISGAH LEGAL SERVS., <https://www.pisgahlegal.org/free-legal-assistance/programs/> [<https://perma.cc/ZL7P-7HZU>].

Across the state, the Driver's License Restoration Project, a project of the North Carolina Pro Bono Resource Center ("NCPBRC"), has joined the effort.²¹¹ Their advocates coordinate with district attorney partners to seek fee remittances for people with long-term license suspensions stemming from low-level traffic offenses.²¹² The NCPBRC also coordinates volunteer attorneys to draft license restoration advice letters for people who have requested help through ncfairchance.org.²¹³

NC Fair Chance is a partnership between the NCPBRC, the North Carolina Justice Center, and DAs across the state to assist drivers in removing minor charges and unpaid fines from their records to help drivers restore their licenses.²¹⁴ Central to their efforts is a new website that enables suspended drivers to find out if they are eligible for relief and request legal help.²¹⁵

Perhaps the most sweeping effort at restoration has been the North Carolina Task Force for Racial Equity in Criminal Justice.²¹⁶ Co-chaired by Public Safety Secretary Eddie Buffaloe Jr. and Supreme Court of North Carolina Associate Justice Anita Earls, the task force's work has focused on addressing existing policies that disproportionately affect communities of color and developing solutions to ensure racial equity in North Carolina's criminal justice system.²¹⁷ The task force identified recommendations including assessing a defendant's ability to pay prior to levying fines and fees, reducing court fines and fees, and developing a process to eliminate criminal justice debt.²¹⁸

Restoration efforts require measures to inform people of the relief they are receiving and active assistance in formally restoring their driving privileges through the DMV.²¹⁹ DEAR collaborated with a tech nonprofit, Code the Dream, to build a website that allows people to see if their traffic charges have been dropped and/or their LFOs forgiven as a result of a mass relief program.²²⁰ This sort of last-step logistical assistance is materially helpful, and necessary to accomplish Auto-Jubilee.

211. *Driver's License Restoration Project*, *supra* note 200.

212. *Id.*

213. *Id.*

214. NC FAIR CHANCE, <https://drive.ncfairchance.org/license> [<https://perma.cc/QTC8-H7LJ>].

215. *See id.*; *see also* RESOLVE TRAFFIC DEBT NC, <https://resolvetrafficdebtnc.org> [<https://perma.cc/9M3L-CXVG>] (showing a website created by the NC Justice Center to assist people who have received a notice from NC DMV of license suspension due to unpaid tickets).

216. *Task Force for Racial Equity in Criminal Justice (TREC)*, N.C. DEP'T JUST., <https://ncdoj.gov/trec/> [<https://perma.cc/4B6K-TP2H>].

217. *Id.*

218. Phil Dixon, *Getting Relief from Financial Obligations*, VIMEO, <https://vimeo.com/696690822/a0863e1aeb> [<https://perma.cc/Y2L7-634W>].

219. Crozier & Garrett, *supra* note 8, at 1628.

220. Erin Williams, *A 'Year of Jubilee': Durham Drivers Are Getting a Second Chance*, 9TH ST. J. (Dec. 2, 2019), <https://9thstreetjournal.org/2019/12/02/a-year-of-jubilee-durham-drivers-are-getting-a-second-chance/> [<https://perma.cc/GYJ9-TXRA>].

Still, despite these efforts, debt-based license suspension is far from over. While a handful of well-resourced counties have been able to conjure restoration efforts for their citizens, the vast majority continue to languish quietly under the lash of North Carolina's punitive license suspension regime. Seeking justice, some have looked to the judiciary to turn the tide.

3. Judicial Approaches

Judges have the power to alleviate deprivations caused by debt-based license suspension; advocacy groups have identified statutory language that demonstrates courts' authority to make discretionary decisions about assessing and remitting fees.²²¹ Recognition of this authorization illuminates how impactful judicial discretion is and how underutilized remittances are.²²²

A rule change and a settlement have combined to alter the landscape of license suspension in North Carolina, both proactively and retroactively. On January 1, 2022, North Carolina Supreme Court Rule 28, "Equitable Imposition of Monetary Obligations in Criminal Cases and Infraction Cases Based on the Defendant's Ability to Pay," became effective.²²³ The rule requires trial court judges to "consider a person's ability to pay upon request before imposing costs, fees, fines, restitution, or other monetary obligations."²²⁴ Specifically, Rule 28 establishes a motion procedure for a defendant to request an equitable imposition of monetary obligations based on their ability to pay.²²⁵

The rule also revises form AOC-CR-415, also known as an "ability to pay form,"²²⁶ to assist with implementation. When a person going to court submits this new form, the court is required to review the motion and consider whether

221. N.C. GEN. STAT. §§ 15A-1362(a), 15A-1340.36(a), 7A-304(a), 15A-1363 (LEXIS through Sess. Laws 2023-105 of the 2023 Reg. Sess. of the Gen. Assemb.); FINES & FEES JUST. CTR., MECKLENBURG COUNTY DISTRICT COURT BENCH CARD: IMPOSITION OF FINES, FEES, AND RESTITUTION, <https://finesandfeesjusticecenter.org/content/uploads/2018/11/Mecklenburg-Final-Imposition-Bench-Card-10.16.17.pdf> [<https://perma.cc/AL63-PA3S>].

222. See HUNT & NICHOL, *supra* note 14, at 5.

223. *Supreme Court Adopts Ability-To-Pay Rule*, N.C. JUD. BRANCH (Mar. 4, 2022), <https://www.nccourts.gov/news/tag/general-news/supreme-court-adopts-ability-to-pay-rule> [<https://perma.cc/V49R-9UX5>]. For example, a recent local judicial effort in Pender and New Hanover counties allowed more than 7,000 people to restore their licenses after their traffic LFOs were forgiven. Kendall McGee, *Traffic Fines Wiped for Thousands of Cape Fear Residents Unable To Pay*, WECT 6 NEWS, <https://www.wect.com/2020/12/08/traffic-fines-wiped-thousands-cape-fear-residents-unable-pay/> [<https://perma.cc/MA5G-GNPW>] (last updated Dec. 8, 2020, 7:33 PM).

224. Media Release, Timothy Young, N.C. Just. Ctr., *New NC Court Rules Are Step in the Right Direction for Debt Relief* (Jan. 27, 2022), <https://www.ncjustice.org/statement-new-nc-court-rules-are-step-in-the-right-direction-for-debt-relief/> [<https://perma.cc/8QRA-YR87>].

225. *Supreme Court Adopts Ability-To-Pay Rule*, *supra* note 223.

226. Young, *supra* note 224.

to waive or reduce court costs.²²⁷ The form also functions as an order that a judge can use to rule on the motion.²²⁸

Rule 28 is limited to criminal and infraction cases in which the court has discretion to impose monetary obligations.²²⁹ The rule does not apply where there is a mandatory cost, nor does it apply to attorney appointment fees.²³⁰ Otherwise the rule applies broadly—to costs, fees, fines, restitution, and other court-imposed LFOs.²³¹ Phil Dixon explains:

A person who has resolved [an] underlying case but still owes money beyond their ability to pay may file the form and ask the court to excuse the debt. This interpretation is consistent with the terms of [a March 2022] class-action settlement . . . under which people with license suspensions resulting from [FTC] have been alerted to the existence of this pathway for potential relief.²³²

In May 2018, the ACLU and other civil rights groups sued the DMV for revoking the driver's licenses of people who could not afford traffic tickets.²³³ The complaint in the federal class-action lawsuit claimed that North Carolina violated the due process rights of mostly poor and minority drivers by suspending their licenses for FTC and not giving them a chance to explain their financial circumstances to a judge.²³⁴ The plaintiffs claimed this practice was unconstitutional discrimination on the basis of poverty.²³⁵

The parties settled. Under the settlement the DMV will send a notification to some 185,000 residents who lost their licenses after failing to pay tickets, court costs, and other financial penalties.²³⁶ The notification will inform these people of the new procedure and mechanism for relief: the ability-to-pay

227. *Id.*

228. Jamie Markham, *New AOC Form for Relief from Monetary Obligations*, N.C. CRIM. L. (Sept. 16, 2020), <https://nccriminallaw.sog.unc.edu/new-aoc-form-for-relief-from-monetary-obligations/> [<https://perma.cc/XA5L-LNFW>].

229. Phil Dixon, *Getting Relief from Criminal Monetary Obligations: New Webinar and FAQ on Rule 28 of the General Rules of Practice*, N.C. CRIM. L. (June 6, 2022), <https://nccriminallaw.sog.unc.edu/getting-relief-from-criminal-monetary-obligations-new-webinar-and-faq-on-rule-28-of-the-general-rules-of-practice/> [<https://perma.cc/F4M4-R8VG>].

230. *Id.*

231. *Id.*

232. *Id.*

233. Complaint ¶ 4, *Johnson v. Goodwin*, No. 18-cv-00467 (M.D.N.C. Mar. 7, 2022). The other groups include the ACLU of North Carolina, the Southern Poverty Law Center, and the Southern Coalition for Social Justice. *Id.* ¶ 114.

234. *Id.* ¶ 4.

235. *Id.* ¶ 11.

236. Settlement Agreement at 9, *Johnson*, No. 18-cv-00467, Doc. 113; *Settlement Announced in Lawsuit on Revocation of Licenses for Not Paying Traffic Court Debts*, N.C. DEPT' TRANSP., <https://www.ncdot.gov/news/press-releases/Pages/2022/2022-03-28-settlement-announced-lawsuit-licenses-ncdmv.aspx> [<https://perma.cc/R83U-J6XE>] (last updated Mar. 30, 2022, 9:35 AM).

hearing.²³⁷ The purpose of the hearing is to determine if revocation of their driver's license was the result of their inability to pay LFOs.²³⁸ If it was, the hearing will further determine if they are eligible for waiver or reduction of those costs and reinstatement of their license.²³⁹ Thanks to this settlement, tens of thousands of low-income North Carolinians with suspended licenses could get their driving privileges back.²⁴⁰

Michael Gordon reported: "Under the terms of the settlement, the DMV promises to do a better job of contacting people facing the loss of their license and informing them of their rights."²⁴¹ The DMV also agreed to pay for the creation of a website that provides information on preventing or overturning a license suspension for nonpayment, and also provides resources to help people access free legal help.²⁴²

But informing people of their rights and "providing" suspendees with the "opportunity" to have a fee remittance hearing completely misses the point. This creates more bureaucratic steps while offering no guarantee that debtor-suspendees' licenses will be restored, nor that judges will find their case compelling enough to merit forgiveness in the case of fee-remittance hearings. Gordon concludes that "many people who are sent notices will never receive them, many more will be unable to navigate the court system on their own . . . and many of those who do will ultimately be denied relief."²⁴³

But there's an even more fundamental problem with any judiciary-based proposal to remedy debt-based license suspension: judges are *forced* to criminalize poverty in North Carolina.²⁴⁴ Hunt and Nichol note that, in addition to our state's "unusually long list of user fees in criminal cases," we also

237. Settlement Agreement, *supra* note 236, at 9.

238. *Id.*; Press Release, ACLU N.C., Federal Court Settlement Provides Step Towards Ending Poverty-Based Driver's License Revocation in North Carolina (Mar. 3, 2022), <https://www.acluofnorthcarolina.org/en/press-releases/federal-court-settlement-provides-step-towards-ending-poverty-based-drivers-license> [<https://perma.cc/K3FR-X5FH>].

239. Settlement Agreement, *supra* note 236, at 9; Federal Court Settlement Provides Step Towards Ending Poverty-Based Driver's License Revocation in North Carolina, *supra* note 238.

240. Michael Gordon, *Thousands of NC Residents Could Get Driver's Licenses Back After Settlement Approved*, CHARLOTTE OBSERVER, <https://www.charlotteobserver.com/news/politics-government/article258639938.html> [<https://perma.cc/S5WF-3Y2T> (staff-uploaded, dark archive)] (last updated Mar. 6, 2022, 1:47 PM) [hereinafter Gordon, *NC Residents*].

241. *Id.*

242. *Id.* The N.C. DMV currently provides a link to <https://resolvetrafficdebtnc.org/> on its license suspension website in a section about the class action lawsuit. *License Suspension*, *supra* note 56. That website is maintained by the North Carolina Justice Center, and contains information and resources from various sources, including the North Carolina General Statutes, the N.C. DMV, the N.C. Administrative Office of the Courts, and various North Carolina advocacy organizations working on the problem of driver's license suspension. RESOLVE TRAFFIC DEBT NC, <https://resolvetrafficdebtnc.org/> [<https://perma.cc/N8MQ-LRTX>].

243. Gordon, *NC Residents*, *supra* note 240.

244. Gene Nichol, *Forcing Judges To Criminalize Poverty*, 4 UCLA CRIM. JUST. L. REV. 227 *passim* (2020) [hereinafter Nichol, *Forcing Judges To Criminalize Poverty*].

have “the nation’s most aggressive scheme” to restrict judges’ ability to prevent the poor from being punished for their poverty.²⁴⁵

An avalanche of legislation has chilled judicial issuance of fee waivers. A 2011 law required that the court system regularly publish the names of judges who waive fines and fees along with the total dollar amount waived.²⁴⁶ In “2012, the requirement was expanded to demand ‘findings of fact and conclusions of law’ to support the determination.”²⁴⁷ Hunt and Nichol report that:

In 2014, legislators took the path-breaking step of requiring the AOC to issue an annual report, outlining by court and individual judge, how many times fees and fines have been waived—a report many judges describe as a legislative “shaming” effort. Then, in 2017, yet another restriction was passed demanding that courts provide a [fifteen]-day notice and opportunity to be heard to an array of government and quasi-governmental agencies—615 in all—that stand to receive a portion of the fines and fees under consideration to be waived.²⁴⁸

One judge has remarked that the waiver “provision is designed to make the process so cumbersome that judges will elect to not waive costs.”²⁴⁹ Other judges complain that this regime creates a disincentive to grant waivers; granting waivers becomes an optics problem because it makes the judges look like they are denying funds to their home county.²⁵⁰ This shaming effort is a source of political pressure that curtails judges’ otherwise broad discretion to waive fees²⁵¹ and denies due process rights to the poor.²⁵²

Moreover, these “ability-to-pay” determinations are inadequate to transform a racialized system of penal debt.²⁵³ Penal debt is a form of social control.²⁵⁴ Penal debt calculates fines, imposes and collects them or punishes for nonpayment, a process “rooted in racism and nurtured by economic

245. See HUNT & NICHOL, *supra* note 14, at 15.

246. N.C. GEN. STAT. § 7A-350 (LEXIS through Sess. Laws 2023-119 of the 2023 Reg. Sess. of the Gen Assemb.); see also N.C. ADMIN. OFF. OF CTS., 2022 REPORT ON CRIMINAL COST WAIVERS (2022).

247. HUNT & NICHOL, *supra* note 14, at 15.

248. *Id.*

249. Melissa Boughton, *House and Senate Differ over Budget Provision Making It Harder for Judges To Waive Fees for Poor Defendants*, NC NEWSLINE (June 1, 2017, 5:00 AM), <http://www.ncpolicywatch.com/2017/06/01/house-senate-differ-budget-provision-making-harder-judges-waive-fees-poor-defendants> [<https://perma.cc/HB3Y-BS98>].

250. Roshan Abraham, *North Carolina Drivers Still Face “Debt Traps” Despite Some Local Reforms*, BOLTS (May 16, 2022), <https://boltsmag.org/north-carolina-debt-traps-for-drivers/> [<https://perma.cc/9MVQ-G8SA>].

251. *Id.*

252. HUNT & NICHOL, *supra* note 14, at 4, 14–15, 24.

253. Zhen, *supra* note 1, at 188.

254. See *id.*

expediency.”²⁵⁵ Theresa Zhen has observed that, under this system, budgets are balanced on the backs of poor people, allowing the State to justify “the unprecedented extraction of large amounts of wealth by equating nonpayment with noncompliance with the law.”²⁵⁶

Zhen continues, “[A]bility-to-pay determinations at best reduce court debt burdens and at worst represent a neoliberal racial project that serves to redistribute resources from Black families to state governments in a regressive taxation scheme that exacerbates the racial economic divide.”²⁵⁷ While ability-to-pay determinations seem progressive, they function as “a state-based attempt to neutralize calls for *more systemic reforms to penal debt*.”²⁵⁸ Zhen concludes that “ability-to-pay determinations require invasive inquiries into a defendant’s financial resources, apply under-inclusive criteria to define ‘indigency,’ and invoke implicit and explicit racial biases.”²⁵⁹

Perhaps as troubling as the racial and carceral implications of the ability-to-pay approach is its narrowness. The recent DMV settlement simply ignores the largest category of victims: FTA suspendees.²⁶⁰ There are an estimated 827,000 drivers whose licenses were suspended after they did not show up in traffic court.²⁶¹ Many either did not know about their hearings or simply did not go because they could not afford to pay.²⁶² But the settlement does not offer them help. Indeed, this is true throughout the country—legislatures are willing to amend a statute with regard to FTC, but not FTA.²⁶³

While the settlement in *Johnson v. Goodwin*²⁶⁴ may seem significant, it leaves debtor-suspendees at the mercy of hamstrung judges.²⁶⁵ While ability-to-pay determinations are a fine idea, in practice they amount to little more than an additional bureaucratic step with no guarantee of license restoration.²⁶⁶ Between the racialized system of penalized debt and the chill from judicial disclosure laws in North Carolina, the courtroom will not be an effective arena to undo the harm caused by the massive license suspension epidemic.

The current approaches to remedying debt-based license suspension are excessively individualistic—the efforts address symptoms, not underlying

255. *Id.*

256. *See id.* at 191.

257. *Id.* at 175.

258. *Id.* (emphasis added).

259. *Id.*

260. Gordon, *NC Residents*, *supra* note 240 (citing *DRIVING INJUSTICE*, *supra* note 17).

261. *Id.*

262. *Id.*

263. *See* Elengold, *supra* note 13 (manuscript at 42 & n.218).

264. No. 18-cv-00467, 2022 WL 1632940 (M.D.N.C. Mar. 7, 2022).

265. *See* HUNT & NICHOL, *supra* note 14, at 10.

266. *See id.* at 24 (describing this developing bureaucratic scheme as “Kafkaesque”).

causes. Instead, efforts should be automated and massively scaled,²⁶⁷ and the burden should be on the government to remedy the problem it has created.

III. AUTO-JUBILEE

A. *A Proposal for Auto-Jubilee*

Auto-Jubilee is the shorthand I use for a comprehensive proposal to remedy the societal ills caused by the state of debt-based license suspension law in North Carolina. It addresses the cycle of debt, the criminalization of poverty, and the structural racism endemic to the current legal regime in ways that existing proposals do not. Auto-Jubilee consists of massive, automatic debt cancellation, license restoration, criminal charge expunction,²⁶⁸ and repeal of debt-based suspension legislation. It would recur every seven years to recover any progress potentially lost as the political landscape morphs; the purpose of this recurrence is to prevent the proposed progressive changes to the state of the law from reverting to its current retrograde state. Auto-Jubilee is the only remedy commensurate with the scale of the problem—the only remedy that extirpates the root of the problem rather than merely treating its symptoms.

1. The Critical-Legal Theoretical Foundation for Auto-Jubilee

Debt-based license suspension is among the economic phenomena that reproduces racial accumulation.²⁶⁹ Thus, it reproduces monetary deprivation on a racial axis by depriving people of color—especially Black people—of chances to accumulate *wealth*. This in turn reproduces the poison ideology of race, specifically in terms of *worth*: that people of color are worth less, are worthless, are less worthy of the privilege of a driver's license than their white counterparts. The law transmits this wrong message and people receive it, absorbing it into their reasoning and values as they attempt to make sense of the world.²⁷⁰

267. Automated governance offers several benefits, including efficiency, cost-savings, and the capability to uncover historical patterns of bias. Ifeoma Ajunwa, *Automated Governance*, 101 N.C. L. REV. 355, 355 (2023). An automated solution is commensurate with the scale of harm, perpetrated historically against people of color and poor people, caused by debt-based license suspension.

268. See also Brian M. Murray, *Insider Expungement*, 2023 UTAH L. REV. 337, 337–38 (2023) (discussing the bureaucratization and democratization of expunction and the value of community-based participatory expunction as an alternative to automated expunction).

269. Carbado, *supra* note 139, at 1608.

270. Racism functions as an ideology, as a way to make sense of and meaning from the world. Barbara Jeanne Fields, *Slavery, Race, and Ideology in the United States of America*, NEW LEFT REV. (1990), <https://newleftreview.org/issues/i181/articles/barbara-jeanne-fields-slavery-race-and-ideology-in-the-united-states-of-america> [<https://perma.cc/QBZ2-EN9K>].

Auto-Jubilee is an intervention against the neoliberal faith in markets underlying this poison ideology.²⁷¹ Auto-Jubilee seeks to provide material assistance as a remedy for the historical subordination experienced by people of color generally and Black people in particular.²⁷² It aims to correct market failure and the unjust racial allocation it produces—an intervention that contests the neutrality of the law of debt-based license suspension by historically contextualizing the material consequences of racial inequality.²⁷³

Black people have had a complex, often ambivalent relationship to automobility.²⁷⁴ Some Black people who could afford to travel by car did so to resist the everyday racial segregation of public transportation; driving gave them a degree of freedom that they lacked in most public places.²⁷⁵ But despite the automobility conferred to Black people by car ownership, driving still posed difficulties.²⁷⁶ Throughout the twentieth century, Black drivers were regularly harassed by police officers; “driving while Black” has been a dangerous phenomenon for as long as cars have been on the road.²⁷⁷ Indeed, Black people’s access to automobility via driver’s licenses has been circumscribed, managed, and surveilled since the advent of driver’s licenses.²⁷⁸ Black people are subject to violence for their use of the roads in ways that white people are not.²⁷⁹

Such violence occurs all too frequently. I call attention to it to justify the sweeping policy changes embedded in Auto-Jubilee. Citations are an even more common consequence of driving. The insidious, corrosive character of traffic citations further justifies Auto-Jubilee.²⁸⁰ These citations are propped up by the

271. See, e.g., Bernard E. Harcourt, *Neoliberal Penalty: A Brief Genealogy*, 14 THEORETICAL CRIMINOLOGY 74, 87 (2010) (“The persistence of this rhetoric of market efficiency is indeed remarkable. The perseverance of both the faith in free markets and the use of that key dichotomy—free versus constrained, private versus government controlled—is simply astonishing. And it has had a significant toll in the penal sphere. By marginalizing and pushing punishment to the outskirts of the market, neoliberal rationality effectively reinforces the carceral domain.”).

272. For more on the specifics of racial subordination and how it differs from Black subordination, see Carbado, *supra* note 139, at 1633.

273. This operation follows the CRT methodology outlined by Carbado, *supra* note 139, at 1609 (“CRT intervenes to correct this market failure and the unjust racial allocations it produces.”).

274. *The Social and Cultural Meaning of the Automobile for African-Americans*, STAN.: CLAYMAN INST. FOR GENDER RSCH. (Apr. 25, 2019), <https://gender.stanford.edu/news/social-and-cultural-meaning-automobile-african-americans> [<https://perma.cc/V52S-A6YC>].

275. *Id.*

276. *Id.*

277. See *id.*

278. See Cassius Adair, *Licensing Citizenship: Anti-Blackness, Identification Documents, and Transgender Studies*, 71 AM. Q. 569, 583 (2019).

279. See *supra* Introduction.

280. N.Y. L. SCH. RACIAL JUST. PROJECT, DRIVING WHILE BLACK AND LATINX 17 (2020), <https://finesandfeesjusticecenter.org/content/uploads/2020/02/RJP.-Drivers-License-Suspension.-Final.pdf> [<https://perma.cc/9CQV-8GTV>].

interlocking axes of poverty and nonwhiteness, which trap poor people and people of color in the modern-day debtors' prison that is license suspension.²⁸¹

Debt-based license suspension is an instance of law creating race.²⁸² When “neutral” laws are applied disproportionately to people of color, law operates to categorize people of color—to coercively *race* them.²⁸³ At its worst and most expressive, law provides criteria for how to treat people so raced (take away their right to drive), applies false social meanings to the categories (people without licenses have failed to maintain responsibility), and purports to confirm these false meanings (people of color are nonwhite because they are poor; the poor are poor because they are irresponsible; the irresponsible are to blame for their predicament; their lack of merit and work ethic landed them in the state of deprivation they are in).²⁸⁴

This mythic reaffirmation is fundamental to the construction of whiteness contemplated by CRT.²⁸⁵ Indeed, the majority of people who are white and not poor seem hypnotized by their own implicit expectation to be treated preferably, and to remain comfortable, autonomous, mobile, and licensed.²⁸⁶

To disrupt white supremacy's hypnotic effect, Auto-Jubilee seeks to advance the causes of reparations and abolition.²⁸⁷ Auto-Jubilee recognizes that

281. Kimberlé Crenshaw coined the term “intersectionality” to help explain the specific way in which Black women are oppressed. Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. LEGAL F. 139 *passim* (1989); Kimberlé Crenshaw on Intersectionality, *More than Two Decades Later*, COLUM. L. SCH. (June 8, 2017), <https://www.law.columbia.edu/news/archive/kimberle-crenshaw-intersectionality-more-two-decades-later> [<https://perma.cc/W74Y-6884>]. My use of the term “interlocking” here draws from Crenshaw's theoretical framework.

282. See generally RICHARD ROTHSTEIN, *THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA* (2017) (arguing that governments systematically created and reinforced neighborhood segregation through property law and debunking the false binary of de facto and de jure segregation). Rothstein's work demonstrates how official U.S. policy kept Black people separate from and subordinate to white people. I argue that the regime of debt-based license suspension operates likewise, by legally imposing structural conditions that unfairly immobilize people of color. As Elengold puts it, the laws behind debt-based license suspension use economics to control the racialization of space, “an extension of a larger historic dynamic, whereby the state has used debt policy to increase physical mobility for White people and simultaneously constrain physical mobility for Black people.” Elengold, *supra* note 13 (manuscript at 1). For a clear, thorough analysis of how law creates race, see Ian Haney López, *WHITE BY LAW: THE LEGAL CONSTRUCTION OF RACE passim* (1996).

283. Carbado, *supra* note 139, at 1610.

284. See *id.*

285. See *id.* at 1597.

286. See DERRICK BELL, *FACES AT THE BOTTOM OF THE WELL* 7 (2008) (explaining the hypnotic effect of racism).

287. For a discussion of abolition in legal thought and policy, see generally Thomas Ward Frampton, *The Dangerous Few, Taking Seriously Prison Abolition and Its Skeptics*, 135 HARV. L. REV. 2013, 2018 (2022) (arguing that “prison abolitionism has much to offer both criminal law scholars and those interested in criminal justice reform (especially those wary of the project's radical aims)” and that “legal scholars have something important to contribute to [the abolitionism discussion]”).

people of color, particularly the descendants of enslaved people, are subject to societal debt—“a racial disrepair structured and facilitated by law,” as Kimberlé Crenshaw puts it.²⁸⁸ This disrepair is both monetary and ideological; Black people are owed reparations to their bank accounts and to the profound deficit of status, dignity, and opportunity that law has created over generations.²⁸⁹

If what Justice Antonin Scalia once said—“Under our Constitution there can be no such thing as either a creditor or a debtor race”²⁹⁰—is true, then its corollary must be true: racial debt is unlawful.²⁹¹ Lawmakers have an affirmative duty to decouple debt and race, and Auto-Jubilee offers a way to do just that.

Reparations are due to Black people for the continuous subordination they have suffered at the hands of American kleptocracy over the past 400 years. While slavery presents the clearest and most easily justifiable case for reparations, the law has continually upheld economic deprivation long after the official abolition of slavery. Examples range from legalized segregation via Jim Crow laws; to redlining, housing discrimination, predatory contracts and exclusion from federal benefits;²⁹² to the mass incarceration epidemic and the so-called “War on Drugs”;²⁹³ to municipal plunder;²⁹⁴ to other anti-Black practices like discriminatory public policies in criminal justice and education.²⁹⁵

Debt-based license suspension must now be counted among these deprivations. Accordingly, it merits reparations, and Auto-Jubilee proposes those reparations come in the form of license reinstatement and criminal-charge expunction.

288. Kimberlé Crenshaw, *The Court's Denial of Racial Societal Debt*, ABA (Jan. 1, 2014), https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/2014_vol_40/vol_40_no_1_50_years_later/court_denial_racial_debt/ [<https://perma.cc/B27F-G99D>].

289. See Ta-Nehisi Coates, *The Case for Reparations*, ATLANTIC (June 2014), <https://www.theatlantic.com/magazine/archive/2014/06/the-case-for-reparations/361631/> [<https://perma.cc/M2LJ-YY3A> (dark archive)].

290. *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 239 (1995) (Scalia, J., concurring).

291. Debt is racialized: debt incurred by Black people is morally stigmatizing and considered shameful, whereas debt accumulated by white people is seen as unproblematic, though the injustice of the former and the privilege of the latter remain largely invisible to all, due to the shame dispensed by the capitalist zeitgeist. See Louise Seamster, *Black Debt, White Debt*, 18 CONTEXTS 30, 31–35 (2019).

292. See generally ROTHSTEIN, *supra* note 282 (arguing that housing and residential segregation is not unintended, but a systemic and purposeful public policy).

293. andré douglas pond cummings & Steven A. Ramirez, *The Racist Roots of the War on Drugs and the Myth of Equal Protection for People of Color*, 44 U. ARK. LITTLE ROCK L. REV. 453, 455 (2022).

294. See McKenzie Wark, *Prisoners of the Algorithm: On Jackie Wang*, VERSO (Sept. 4, 2020), <https://www.versobooks.com/blogs/news/4846-prisoners-of-the-algorithm-on-jackie-wang> [<https://perma.cc/TR33-FKQY>] (“Local governments struggle to raise tax revenue; they turn instead to borrowing and to using the police and the courts to extract fees and fines, particularly from Black populations.”).

295. Rashawn Ray & Andre M. Perry, *Why We Need Reparations for Black Americans*, BROOKINGS (Apr. 15, 2020), <https://www.brookings.edu/articles/why-we-need-reparations-for-black-americans/> [<https://perma.cc/39PR-QDNP>]; see also Hal Clay, *Forty Acres and a Mule: America's Bill for Reparations Is Long Past Overdue*, 24 SCHOLAR 505, 556, 565 (2022).

The need for automobility cannot be fulfilled within the existing regime of debt-based license suspension law; that need can only be fully realized in the absence of such law. Abolition complements reparations by extirpating legal sources of dispossession. Auto-Jubilee seeks to advance the cause of abolition by proposing the repeal of the legislation that led to the state of debt-based license suspension in the first place. Such a change is an attempt at a “non-reformist reform,” one that challenges existing power relations in a way that creates space for true social equality across lines of difference, ultimately seeking to undermine the foundation of the existing unjust structure.²⁹⁶

By intervening via reparations and abolition, Auto-Jubilee seeks to work against the structural racism and poverty-criminalization that undergird the debt-based license suspension epidemic. This shifts the understanding of license suspension away from neutrality and toward a historical-material acknowledgement of deprivation. This shift is necessary to justify the sweep and scope of Auto-Jubilee as a remedy. Thus, it gets to the heart of the issues identified in a way that other proposals—blinded by locality, individual agency, liberal faith in procedure, neoliberal faith in markets, and naïve reliance on government—simply cannot.

2. The Material Implementation of Auto-Jubilee in Four Phases

Auto-Jubilee requires four fundamental phases: (1) criminal charge expunction, (2) debt cancellation, (3) automatic driver’s license reinstatement, and (4) legislative changes to prevent massive discriminatory license suspension from recurring. These four phases should repeat every seven years.

Criminal charge expunction is “a legal process to remove a criminal conviction or a criminal charge from a person’s record and to seal or destroy the State’s records of the arrest, charge, and/or conviction.”²⁹⁷ A criminal record is the public record of a person’s criminal offense history. In North Carolina, adult criminal records, including convictions for traffic law violations, are permanent and public.²⁹⁸ But legally speaking, a person who has received an expunction can truthfully state that the expunged criminal proceeding never occurred.²⁹⁹

296. See HANS A. BAER, *MOTOR VEHICLES, THE ENVIRONMENT, AND THE HUMAN CONDITION: DRIVING TO EXTINCTION* 166 (describing nonreformist reforms as reforms that “challenge existing power relations and pave the way for more revolutionary changes in the larger society necessary for a more socially just and environmentally sustainable world”); see also CHRIS DIXON, *ANOTHER POLITICS: TALKING ACROSS TODAY’S TRANSFORMATIVE MOVEMENTS* 289 (describing nonreformist reforms as those that undermine the foundations of the existing structure).

297. *Expunctions*, N.C. JUD. BRANCH, <https://www.nccourts.gov/help-topics/court-records/expunctions> [https://perma.cc/CD7G-MLYW].

298. *Criminal Record Expunction: FAQs, Self-Help Materials and More*, LEGAL AID N.C., <https://legalaidnc.org/resource/criminal-record-expunction/> [https://perma.cc/Q4QU-ZWS6].

299. *Id.*

Auto-Jubilee would automatically expunge all non-public-safety-related charges that led to debt-based license suspension. This would include all FTA and FTC charges, as well as violations for lack of documentation like driving without an operator's license,³⁰⁰ insurance,³⁰¹ registration,³⁰² and similar charges. Critically, Auto-Jubilee would also expunge all charges for driving while license revoked³⁰³ stemming from such violations. The purpose of this expunction regime is to dissociate the right to drive from the ability to pay.

Debt cancellation is the dismissal of LFOs accumulated by drivers whose licenses have been suspended for FTA or FTC. Note that the familiar phrase "debt forgiveness" is not used here. That phrase is misleading, because the money "owed" does not correspond to any actual cost incurred, service rendered, or good delivered.³⁰⁴ The "debt" is revenue unethically extracted from poor people. The "debt" is a failure to pay a user fee to remain unincarcerated.

Accordingly, a better term for this process is debt *cancellation*.³⁰⁵ Auto-Jubilee would require the North Carolina government to make restitution to each of its debtor-suspendee citizens in the form of total traffic debt cancellation. Because the records of legal debt are kept and administered electronically by the treasurer,³⁰⁶ it would be incumbent upon that office to take the appropriate measures to cancel that debt and make any accounting adjustments necessary to establish the cancellation as permanent. Next, the North Carolina government would be legally enjoined from assessing further FTA and FTC LFOs to motorists.³⁰⁷

300. N.C. GEN. STAT. § 20-35 (LEXIS through Sess. Laws 2023-120 of the 2023 Reg. Sess. of the Gen. Assemb.).

301. *Id.* § 20-313.

302. *Id.* § 20-111.

303. *Id.* § 20-28.

304. *See supra* Section I.C.

305. "Debt cancellation" is not a novel legal concept. It figures in tax law and bankruptcy law. In recent years, "debt cancellation" has appeared as a phrase matching my usage here. For example, the proposed Justice for Black Farmers Act of 2021 provided debt cancellation and other benefits to Black farmers who had participated in racial discrimination lawsuits that left them in severe debt. Laura Reiley, *Federal Judge Halts Black Farmers' Debt-Relief Program in New Legal Blow*, WASH. POST (June 23, 2021, 10:23 PM), <https://www.washingtonpost.com/business/2021/06/23/black-farmers-debt-relief-preliminary-injunction/> [<https://perma.cc/G49M-2N34>]; *see* H.R. 1393, 117th Cong. (2021). This Act led to the inclusion of debt cancellation provisions in the American Rescue Plan Act of 2021. American Rescue Plan Act of 2021, Pub. L. No. 117-2, § 1005, 135 Stat. 4, 12–13 (repealed). "Debt cancellation" is also the terminology used by the Biden administration's efforts to relieve student debt. *See* discussion *infra* Section III.B.2. I argue that "debt relief" and "debt abolition" are other more accurate alternatives to "debt forgiveness."

306. *About the State Debt Section*, N.C. DEP'T STATE TREASURER, <https://www.nctreasurer.com/divisions/state-and-local-government-finance/about-state-debt-section> [<https://perma.cc/R58X-GJMQ>]; *Debt Reports and Notices*, N.C. DEP'T STATE TREASURER, <https://www.nctreasurer.com/divisions/state-and-local-government-finance/lgc/local-debt-management/debt-reports-and-notices> [<https://perma.cc/J9JN-HH8S>].

307. This could be accomplished either via lawsuit or legislation, for example.

The next phase of Auto-Jubilee is driver's license reinstatement. Automatic reinstatement is necessary and commensurate because the law currently requires automatic license suspension for debtors. It is fair because debtor-suspendees should not have to take steps to correct a mistake of law they did not create. One practical and expressive benefit of Auto-Jubilee is that it shifts the burden to the government to undo the past harm it has caused—an expressive and material procedural step to undo the degradation suffered by debtor-suspendees.

Again, because the records of licenses are kept electronically, automatic reinstatement will be incumbent upon the DMV. This can be accomplished by a comprehensive database update that reverses all indefinite FTA and FTC suspensions on North Carolina drivers' driving records. To accomplish this, the government might contract with groups like Code the Dream, who have already demonstrated their capacity to do technological work of this caliber in the service of improving the lives of low-income people and people of color.³⁰⁸

Each of these first three phases could be described as radical. But the most radical change—in the true etymological sense of the word—is the change that removes the *root* cause of debt-based license suspension.³⁰⁹ The root cause of that problem is N.C. Gen. Stat. § 20-24.1, which still requires that a driver's license must be suspended for FTC and/or FTA.³¹⁰ While this law remains, debt-based license suspension will persist *automatically*. Therefore, the final phase of Auto-Jubilee is repealing section 20-24.1 and all other laws that require automatic license suspension for FTC and/or FTA, and all laws that otherwise confer authority to suspend a driver's license as a consequence of debt.³¹¹

308. Sarah Willets, *Advocates Say Durham's Experiment To Wipe Thousands of Old Cases Off the Books Could Be a Model for Statewide Justice*, INDYWEEK (Mar. 13, 2019), <https://indyweek.com/news/durham/durham-dear-experiment-north-carolina-reform/> [<https://perma.cc/CM63-PH47>].

309. *Radical*, ONLINE ETYMOLOGY DICTIONARY, <https://www.etymonline.com/search?q=radical> [<https://perma.cc/YB9H-643P>].

310. N.C. GEN. STAT. § 20-24.1 (LEXIS through Sess. Laws 2023-120 of the 2023 Reg. Sess. of the Gen. Assemb.).

311. *Id.* Section 20-24.1 is the clear and unequivocal authority for debt-based license suspension. That being said, Auto-Jubilee might require suspension of supporting statutes to be fully effective. One such statute is § 20-23, to the extent an out-of-state suspension resulted only from unpaid debt. *Id.* § 20-23. ("Revoking resident's license upon conviction in another state."). Also included is § 20-28.1, to address compound driving while license revoked charges due to an original debt-based license suspension. *Id.* § 20-28.1 ("Conviction of moving offense committed while driving during period of suspension or revocation of license."). Accordingly, § 20-16 ("Authority of Division to suspend license"), § 20-19 ("Period of suspension or revocation; conditions of restoration"), and other such laws must be modified to harmonize with the other changes to the law proposed here. *Id.* § 20-16, -19. An easy example of how a statute could be quickly and effectively written to this end can be found in N.C. GEN. STAT. § 20-18, which reads: "Conviction of offenses described in G.S. 20-181 shall not be cause for the suspension or revocation of driver's license under the terms of this Article." *Id.* § 20-18. Section 20-181 provides for a penalty for failure to dim one's headlights upon encountering another

Auto-Jubilee is intended to be uniform, applying to residents across the state, and would not rely on discretion of individual actors like prosecutors or judges to administer forgiveness on a case-by-case basis. It seeks a true cure instead of palliative care that merely tends to symptoms. It appropriately shifts the burden to the government for remedying the harms caused by automatic debt-based license suspension.

Perhaps surprisingly, Auto-Jubilee serves the interests of the State.³¹² Driver's license revocations are an ineffective policy for increasing court collections.³¹³ For example, since 2011, Tennessee law has allowed for the revocation of a driver's license for overdue court debt, but a temporary policy change from July 2018 to July 2021 halted driver's license revocations for unpaid court debt and allowed for unprecedented data collection.³¹⁴ A recent report used that data to determine whether driver's license revocation increased court collection.³¹⁵ They found driver's license revocations did not result in increased collection rates, and the report indicates that "ending revocations would lower recidivism rates and boost the economy."³¹⁶

Generally speaking, law produces emotional and ideological outcomes.³¹⁷ However neutral and objective statutes and codes may appear, they are inevitably interpreted by fallible humans (both officially, as by judges, and unofficially, as by journalists, pundits, and scholars), who then tell stories about the impressions the law has had on them. Those stories in turn become a form of mythology, and in this process, law has effects beyond its official function as

vehicle on the highway. *Id.* § 20-181. The Auto-Jubilee statute would simply replace § 20-24.1 and other relevant statutes with § 20-181 as it is used in § 20-18. Importantly, the statutory authority to effect other license suspension for public safety violations (for example, excessive speeding, driving while impaired, aggressive driving, etc.) would remain unchanged.

312. Edward Treat, Staff Attorney with Pisgah Legal Services, has said that repealing debt-based license suspension may serve the State in other ways. *See* Interview with Edward Treat, Staff Attorney at Pisgah Legal Servs. (Oct. 13, 2023) (on file with the North Carolina Law Review). He suggested that Auto-Jubilee could increase the labor pool, the tax base, and residents' earning power. *Id.* Moreover, he said, Auto-Jubilee could enable law enforcement personnel, from police to district attorneys, to reallocate their resources to fund the pursuit of crime that actually poses a threat to public safety. *Id.* This, he said, would likely comport with their own sense of duty and their professional goals in a way that mere debt collection enforcement does not. *Id.*

313. *Reducing the Harms of Court Debt: Driver's License Revocations Are an Ineffective Policy for Increasing Court Collections*, FINES & FEES JUST. CTR. (Nov. 7, 2022), <https://finesandfeesjusticecenter.org/articles/reducing-the-harms-of-court-debt-drivers-license-revocations-are-an-ineffective-policy-for-increasing-court-collections/> [https://perma.cc/53MS-MXZN].

314. *Id.*

315. *Id.*

316. *Id.*

317. *See* Colin Sumner, *Criminology Through the Looking-Glass*, in *LAW IN POPULAR BELIEF: MYTH AND REALITY* 16 (Anthony Amatrudo & Regina E. Rauxloh eds., 2017); Richard L. Wiener, Brian H. Bornstein & Amy Voss, *Emotion and the Law: A Framework for Inquiry*, 30 *LAW & HUM. BEHAV.* 231, *passim* (2006).

a rules system.³¹⁸ Law is not only obeyed—its creation, modification, repeal, etc., are all *perceived*, and thus law creates emotion and ideology.³¹⁹ Scholars Anthony Amatrudo and Regina Rauxloh put it this way: “Law is a form of media *itself* through which more is conveyed than simply a proclamation about what is permissible and what is not. Law is a vehicle of communication through which messages about belonging . . . , identity . . . , power relationships . . . , and balance of conflicting rights . . . are communicated.”³²⁰

One purpose of Auto-Jubilee is to use this expressive power to communicate to former debtor-suspendees that they are worthy of autonomy, mobility, empathy and dignity. Its implementation aims to make people feel more cared for, more invested in, more welcome, more valid, and more like they matter. The goal is for former debtor-suspendees to see their state as supportive rather than vampiric, and by this *perceptual* process, to strengthen their sense of community belonging and to increase civic participation.

As with any significant shift, there are potential downsides. One potential issue with Auto-Jubilee is that it could shrink an entire sector of the economy. Thousands of people are employed by the North Carolina Department of Transportation.³²¹ Thousands more work for the one hundred clerk-of-court offices across North Carolina.³²² Hundreds work as traffic attorneys to represent debtor-suspendees.³²³ Those attorneys are aided by the thousands of people who work as paralegals, legal assistants, and legal support workers.³²⁴ Insurance

318. See Anthony Amatrudo & Regina E. Rauxloh, *Introduction*, in *LAW IN POPULAR BELIEF: MYTH AND REALITY* 15, 16 (Anthony Amatrudo & Regina E. Rauxloh eds., 2017) (arguing that law needs myths for its legitimacy and for its existence); Sumner, *supra* note 317, at 16 (describing the circularity of cultural reproduction as it pertains to criminology); Wiener et al., *supra* note 317, at 232 (“Judgment and decision making in the law is emotional.”).

319. Wiener et al., *supra* note 317, at 245–46; Stephen M. Feldman, *The Transformation of an Academic Discipline: Law Professors in the Past and Future (or Toy Story Too)*, 54 J. LEGAL EDUC. 471, 473 (2004); Cosmin Sebastian Cercel, *Narrating Dystopia: Nicolae Ceausescu’s Legal Career*, 6 J. COMPAR. L. 1, 3 (2011).

320. Amatrudo & Rauxloh, *supra* note 318, at 11.

321. Dawn Baumgartner Vaughn, *What You Should Know About Being a State Employee in North Carolina*, NEWS & OBSERVER (May 15, 2022), <https://www.newsobserver.com/news/politics-government/article259915595.html> [<https://perma.cc/K7H5-GKA5> (staff-uploaded, dark archive)].

322. N.C. ADMIN. OFF. OF THE CTS., THE NORTH CAROLINA CLERK OF SUPERIOR COURT: EX OFFICIO JUDGE OF PROBATE (2022), https://www.nccourts.gov/assets/documents/publications/CLERKS-OFFICE_tri-fold-brochure_07_2022.pdf [<https://perma.cc/E52W-PQK9>].

323. *North Carolina Traffic Ticket Lawyers*, JUSTIA, <https://www.justia.com/lawyers/traffic-tickets/north-carolina> [<https://perma.cc/F8V8-PSYS>].

324. See Alissa Sauer, *North Carolina Paralegal Career and Salary Guide*, PARALEGAL 411, <https://www.paralegal411.org/careers/north-carolina/> [<https://perma.cc/9VP4-PR73>]; *Occupational Employment and Wages, May 2022*, U.S. BUREAU LAB. STAT. (May 2022), <https://www.bls.gov/oes/current/oes232011.htm> [<https://perma.cc/J5G6-JJPC>]; *May 2022 Metropolitan and Nonmetropolitan Area Occupational Employment and Wage Estimates, Southeast Coastal North Carolina Nonmetropolitan Area*, U.S. BUREAU LAB. STAT. (May 2022), https://www.bls.gov/oes/current/oes_3700001.htm [<https://perma.cc/W6MT-M39X>].

companies generate a tremendous volume of business revenue as a result of traffic infractions.³²⁵ If the debtor-suspendee crisis was solved via Auto-Jubilee in the way I propose, it is possible some of these jobs would wither.

Still, Auto-Jubilee does not propose to eradicate all traffic citations—far from it. Those statutes that provide for consequences for threats to public safety would remain good law, and violators would remain subject to existing penalties, and therefore would remain enmeshed in the economy surrounding such violations. Ultimately, it is unclear how the changes in the law brought about by Auto-Jubilee would be borne by the economy.

Another issue is the optics of Critical Race Theory (“CRT”), the academic and legal framework that undergirds Auto-Jubilee. Some people today see CRT as an extremist political ideology.³²⁶ While CRT does represent a departure from the status quo, it does so with the goal of creating humane and just laws that provide equal access to the privileges and opportunities of American life.³²⁷ Framed in this manner, CRT harmonizes with the theoretical underpinnings of our nation’s founding document, the Constitution.

That interpretation notwithstanding, the next section outlines several iterations of debt cancellation to help contextualize the history of Jubilee and to demonstrate its acceptance in modern society. While CRT is the ideological framework I find most compelling to justify Auto-Jubilee, our history and our contemporary legal practice provide additional support for the proposal and its workability. It is my hope that appeals to these authorities would be persuasive to folks for whom appeals to CRT is a nonstarter.

B. *Jubilee: History and Modern Iterations*

The ancient Hebrew law of Jubilee is set out in the Torah³²⁸ and appears in the Old Testament.³²⁹ It ordains every seventh year to be a sabbath year³³⁰

325. Drew Gula, *Does a Speeding Ticket Affect Your Insurance?*, NERDWALLET, <https://www.nerdwallet.com/article/insurance/auto-insurance-rates-after-speeding-ticket> [https://perma.cc/2T3J-34RT] (last updated Aug. 14, 2023, 9:39 AM).

326. See Rashawn Ray & Alexandra Gibbons, *Why Are States Banning Critical Race Theory?*, BROOKINGS (Nov. 2021), <https://www.brookings.edu/articles/why-are-states-banning-critical-race-theory/> [https://perma.cc/3ADN-Y8HX]; *Extremists See Critical Race Theory as Evidence of “White Genocide,”* ANTI-DEFAMATION LEAGUE (June 30, 2021), <https://www.adl.org/resources/blog/extremists-see-critical-race-theory-evidence-white-genocide> [https://perma.cc/H9MQ-2M5Q].

327. *Critical Race Theory, Frequently Asked Questions*, LEGAL DEF. FUND, <https://www.naacpldf.org/critical-race-theory-faq/> [https://perma.cc/CA89-HWPK].

328. *Vayikra (Leviticus)* 25:1–55; 27:1–34 (The Contemporary Torah), <https://www.sefaria.org/Leviticus.1.1?lang=bi&caliyot=0> [https://perma.cc/8TWT-UNNU]. I would like to note here that my citation to holy texts is in no way meant to intimate that I believe the changes I propose are in any way divinely ordained, nor that they are authorized or endorsed by any faith tradition, nor reflective of the values of any believers. Instead, I chose to structure my proposal based on this history because of the personal inspiration I felt when I learned about the practice of Jubilee.

329. *Leviticus* 25:1–55 (New International).

330. *Id.* at 25:1–7.

and every fiftieth year to be a Jubilee year.³³¹ In the sabbath year, each field was to lie fallow, an agricultural practice that allows land to recover its fertility.³³² The year of Jubilee was much more radical.³³³ Every fiftieth year, all leased or mortgaged lands were to be returned to their original owners, and all enslaved persons and bonded laborers were to be freed.³³⁴ While these holy texts do not explicitly mention “debt” per se, theologian Tim Atwater has argued that “Jubilee is all about debt cancellation, restored community, and freedom from debt bondage.”³³⁵

It is unclear if Israel actually observed the Jubilee year or the antislavery provisions associated with it on a wide-scale basis.³³⁶ Theologians have observed that its widespread neglect may have occurred not because the Jubilee was unfeasible, but because the wealthy were unwilling to accept the social and economic implications that would have been costly and disruptive to them.³³⁷ This draws a stirring parallel with contemporary societal dynamics. Jubilee is not utopian literary fiction, nor is it an obsolete religious relic. Instead, it is an instructive, historically grounded model for creating utilitarian policy that confers care and dignity to citizens.

The concept of relieving debtors of their financial obligations and providing them with a fresh start may seem extreme. But even outside the potential justification to be found in holy texts, the practice is actually well-established under American law, with roots in precolonial English jurisprudence.³³⁸ Bankruptcy and student debt cancellation are legal practices that function as modern iterations of Jubilee, which, though limited in scope, provide a sound policy-based foundation for debt cancellation. Some states have already begun to reinstate licenses suspended for FTC,³³⁹ thus providing a practical model for how Auto-Jubilee may be implemented in North Carolina.

331. *Id.* at 25:8–17.

332. Bob Stallman, *The Sabbath Year and the Year of Jubilee (Leviticus 25)*, THEOLOGY WORK PROJECT (May 28, 2013), <https://www.theologyofwork.org/old-testament/leviticus-and-work/the-sabbath-year-and-the-year-of-jubilee-leviticus-25> [<https://perma.cc/45SX-JZN8>].

333. *Id.*

334. *Leviticus* 25:10, 25:39–42 (New International).

335. See, e.g., Tim Atwater, *Debt Cancellation: Biblical Norm, Not Exception*, JUBILEE USA NETWORK (2007), <https://www.jubileeusa.org/faith/faith-and-worship-resources/debt-cancellation-a-biblical-norm.html> [<https://perma.cc/YY3A-G22M>]. The Jubilee Network also claims that support for debt cancellation can be found in other holy texts, including the Qur’an. *Islam & Jubilee*, JUBILEE USA NETWORK, <https://www.jubileeusa.org/faith/islamic-resources/islam-and-jubilee.html> [<https://perma.cc/4ZMG-QSU7>]. A detailed theological analysis is beyond this Comment’s scope.

336. Stallman, *supra* note 332.

337. *Id.*

338. See, e.g., An Act Against Such Persons As Do Make Bankrupt 1542, 34 & 35 Hen. 8 c. 4 (Eng.) (discussing precolonial concept of modern bankruptcy).

339. Priya Sarathy Jones & Jonathan Ben-Menachem, *Free To Drive*, FINES & FEES JUST. CTR., <https://www.freetodrive.org/maps/#page-content> [<https://perma.cc/5JSP-C8U8>].

1. Bankruptcy

Bankruptcy is the legal process through which people or entities who cannot repay debts to creditors may seek relief from some or all of their debts.³⁴⁰ A fundamental goal of the federal bankruptcy laws enacted by Congress is to give debtors a financial *fresh start* from burdensome debts.³⁴¹ Filing bankruptcy is fairly common: one in ten adult Americans has turned to the bankruptcy system for help.³⁴² Bankruptcy is not always caused by financial recklessness or irresponsibility. Rather, 90 percent of families who declare bankruptcy do so for one of three reasons: a job loss, a medical problem, or a family breakup.³⁴³ Bankruptcy is supposed to work as a safety net for individuals and businesses by helping them get back on their feet financially when overwhelmed by debt.³⁴⁴

But bankruptcy is not pure forgiveness. Filing for bankruptcy costs money, and some debts are not dischargeable.³⁴⁵ Bankruptcy also carries serious social stigma.³⁴⁶ Because bankruptcy is listed on credit scores, it impedes access to rentals and employment.³⁴⁷ Bankruptcy can also curtail automobility.³⁴⁸ Notably, people who file for bankruptcy are generally not able to discharge local government fines—LFOs are off limits.³⁴⁹ Moreover, it has become harder to file bankruptcy in the last twenty years,³⁵⁰ and Black Americans are treated

340. See *Bankruptcy*, LEGAL INFO. INST. <https://www.law.cornell.edu/wex/bankruptcy> [<https://perma.cc/98ST-R7NM>] (last updated June 2022).

341. *Process - Bankruptcy Basics*, ADMIN. OFF. U.S. CTS., <https://www.uscourts.gov/services-forms/bankruptcy/bankruptcy-basics/process-bankruptcy-basics> [<https://perma.cc/D496-3U8H>].

342. Pamela Foohey, Robert M. Lawless & Deborah Thorne, *Portraits of Bankruptcy Filers*, 56 GA. L. REV. 573, 573 (2022). Between 2009 and 2018 alone, over 11 million individuals filed for bankruptcy. *Id.* at 575.

343. Elizabeth Warren, *Fixing Our Bankruptcy System To Give People a Second Chance*, WARREN FOR SENATE, <https://elizabethwarren.com/plans/bankruptcy-reform> [<https://perma.cc/Z8AF-ZRBC>].

344. Note that the efficacy and availability of this “safety net” across lines of class, race, and gender, has been critiqued and contested. See Kristin Brandser Kalsem, *Bankruptcy Reform and the Financial Well-Being of Women: How Intersectionality Matters in Money Matters*, 71 BROOK. L. REV. 1181, 1199–202 (2006).

345. *Id.* at 1202–03.

346. See, e.g., Rafael Efrat, *The Evolution of Bankruptcy Stigma*, 7 THEORETICAL INQUIRIES L. 365, 365–66 (2006) (surveying the history of bankruptcy stigma and attempting to measure its evolution empirically).

347. Ben Luthi, *How Does Filing Bankruptcy Affect Your Credit?*, EXPERIAN (July 26, 2020), <https://www.experian.com/blogs/ask-experian/how-does-filing-bankruptcy-affect-your-credit/> [<https://perma.cc/FC6A-M9FE>].

348. Pamela Foohey, Robert M. Lawless & Deborah Thorne, *Driven to Bankruptcy*, 55 WAKE FOREST L. REV. 287, 312–13 (2020).

349. Warren, *supra* note 343.

350. See *id.*

worse than others in the bankruptcy process.³⁵¹ Recent reform efforts have attempted to curb these problems.³⁵²

Bankruptcy shares some significant conceptual similarities with Jubilee. Debt discharge is a form of compassionate, humanitarian forgiveness that permits people to reclaim their autonomy and dignity. But the scope of bankruptcy is narrow, and those who turn to it have typically been met with hostility, derision, and even degradation³⁵³—precisely the opposite of the spirit Auto-Jubilee seeks to engender. Luckily, bankruptcy is not the only Jubilee-adjacent legal tool available. Student debt cancellation offers another helpful framework worthy of consideration.

2. Student Debt Cancellation

Massively scaled cancellation of student debt is a viable policy decision well within the purview of our government. Debt has been cancelled, that cancellation has been contested, and debt has been cancelled again.³⁵⁴ Both student debt cancellation and traffic debt cancellation via Auto-Jubilee offer pathways to financial autonomy and to racial equity.³⁵⁵

In August 2022, President Biden announced that the federal government would cancel up to \$20,000 of federal student loans per individual borrower.³⁵⁶ Tens of millions of people qualified.³⁵⁷ The announcement also extended the pause on monthly student loan payments and provided details on a new proposal to create a more affordable income-driven repayment plan.³⁵⁸ The plan was met with hostility by a coalition of Republican-led states, who convinced the U.S. Court of Appeals for the Eighth Circuit to issue an injunction preventing the government from discharging any debt while the court considers a lawsuit to end the policy.³⁵⁹ In June 2023, the Supreme Court struck down the

351. See Jakayla J. Dabera, *Too Poor for Care and Too Black for Bankruptcy: Making the Case for Fairly Discharging Medical Debt While Controlling for Racial Inequality*, 15 S.J. POL'Y & JUST. 99, 142, 199 (2022).

352. Consumer Bankruptcy Reform Act of 2020, S. 4991, 116th Cong. (2020); Consumer Bankruptcy Reform Act of 2022, S. 4980, 117th Cong. (2022).

353. See Efrat, *supra* note 346, at 365–66.

354. See *infra* notes 356–65 and accompanying text.

355. Raphaël Charron-Chénier, Louise Seamster, Thomas M. Shapiro & Laura Sullivan, *A Pathway to Racial Equity: Student Debt Cancellation Policy Designs*, 9 SOC. CURRENTS 4, 4 (2021).

356. Ron Lieber & Tara Siegel Bernard, *What You Need To Know About Biden's Student Loan Forgiveness Plan*, N.Y. TIMES (Mar. 1, 2023), <https://www.nytimes.com/2022/08/24/your-money/biden-student-loan-forgiveness.html> [<https://perma.cc/S4S4-3SVU> (dark archive)].

357. *Id.*

358. *Id.*

359. *Nebraska v. Biden*, 52 F.4th 1044, 1048 (8th Cir. 2022); Ayelet Sheffey, *13 GOP Lawmakers Who Support Blocking Student-Loan Forgiveness Represent Thousands of Borrowers in Battleground Districts. Advocates Just Launched a Campaign Against Them Ahead of Next Year's Elections*, BUS. INSIDER (July 6, 2023, 1:54 AM), <https://www.businessinsider.com/republicans-oppose-student-loan-forgiveness->

forgiveness plan, ruling that federal law does not authorize the Department of Education to cancel student loan debt.³⁶⁰

The Biden administration's attempts to cancel student debt writ large³⁶¹ can be seen as a meaningful and progressive step toward cultivating a culture of American Jubilee. But the Supreme Court's recent rejection of the Biden administration's debt forgiveness plan demonstrates the instability of this approach.³⁶² Still, the fact that this issue is controversial shows how this area of law is contested, unsettled, and subject to change as the balance of power shifts among political parties and the branches of the federal government.

There is a more fundamental problem with student debt cancellation efforts. Although one-time debt cancellation may begin to relieve the pressure from individual and societal issues that arise from student debt in the short term, it offers no sustainable relief.³⁶³ The underlying cause of student debt is not addressed, and certainly not solved, by a single instance of debt cancellation. The student debt crisis so far has led 45 million borrowers to collectively owe around \$1.6 *trillion*.³⁶⁴ The main drivers of that growing debt include rising tuition costs and increased federal loan availability, further exacerbated by corresponding wage stagnation.³⁶⁵ By failing to grasp at the root of student debt, the extant efforts to cancel it fall short of Jubilee as I envision it.

Ultimately, student debt cancellation likely only affects a fraction of the population whose licenses are suspended for debt-related reasons, and forgiveness of student debt alone is unlikely to enable everyone to pay off their license-related debt. Accordingly, massive license restoration is a key component to Auto-Jubilee. This process has already begun in some places.

advocates-reelection-campaign-attack-2023-7 [https://perma.cc/KN6H-VBGB]; Stacy Cowley & Alan Rappeport, *Appeals Court Temporarily Halts Biden's Student Debt Cancellation*, N.Y. TIMES (Oct. 21, 2022), <https://www.nytimes.com/2022/10/21/business/appeals-court-student-debt-relief-biden.html> [https://perma.cc/YXT9-V56F (dark archive)].

360. *Biden v. Nebraska*, 143 S. Ct. 2355, 2362 (2023).

361. Sam Fossom, *Biden Administration Announces \$39 Billion in Student Debt Relief Following Administrative Fixes*, CNN POL., <https://www.cnn.com/2023/07/14/politics/student-loan-relief-biden-administration/index.html> [https://perma.cc/7PUJ-3J2Q] (last updated July 14, 2023, 5:03 PM).

362. *But see Presidential Statement on Federal Student Loan Debt Relief Efforts*, 2023 DAILY COMP. PRES. DOC. 693 (Aug. 14, 2023) (praising the Biden administration's debt-cancellation efforts and promising that "804,000 borrowers who have been in repayment for over 20 years will start to see their student debt cancelled," and that "[o]ver 614,000 of them will have all of their remaining Federal student loan debt cancelled once this action is complete").

363. Kate Souza, *How Can I Ever Repay You? The Borrower's Dilemma and a Tax-Based Solution to the Student Debt Problem*, 73 HASTINGS L.J. 129, 152–53 (2022).

364. Dalie Jimenez & Jonathan D. Glater, *Student Debt Is a Civil Rights Issue: The Case for Debt Relief and Higher Education Reform*, 55 HARV. C.R.-C.L. L. REV. 131, 132 n.1 (2020).

365. *Id.* at 158.

3. State-Level License Restoration

Since 2017, twenty-four states and Washington, D.C. have passed reforms that curb or eliminate the use of driver's license suspensions and driving privilege restrictions for unpaid fines and fees.³⁶⁶ As Hirsch and Jones put it, "While most states continue to suspend, revoke, or prohibit license and/or vehicle compliance renewals for those with unpaid court debt, a growing movement for reform has taken hold."³⁶⁷

In 2017, Mississippi offered Jubilee to more than 100,000 drivers whose licenses were suspended for nonpayment of traffic tickets.³⁶⁸ It did so by agreeing to reinstate their licenses and to stop suspending licenses for failure to pay fines, a meaningful step to ensure no new debt traps.³⁶⁹ Under this new regime, Mississippi will waive its license reinstatement fee, notify drivers that their licenses are reinstated, and tell drivers how to reinstate expired licenses.³⁷⁰

Similar Jubilees have restored the driving privileges of former debtor-suspendees nationwide. A court in Washington State declared debt-based license suspension unconstitutional.³⁷¹ The governor of Oregon forgave fines in more than 13,000 traffic cases, which could restore driving privileges for more than 7,000 citizens.³⁷² The Arizona program mentioned above helped 7,000 people get their driver's licenses back.³⁷³ The governor of Pennsylvania recently signed legislation that will restore the driving privileges of more than 6,000 former debtor-suspendees.³⁷⁴ More than 350,000 citizens benefited from recent Michigan laws, which ended license suspensions for unpaid tickets and court

366. Jones & Ben-Menachem, *supra* note 339.

367. Hirsch & Jones, *supra* note 59, at 875.

368. *SPLC Reaches Agreement with Mississippi To Reinstate over 100,000 Driver's Licenses Suspended for Non-Payment of Fines*, S. POVERTY L. CTR. (Dec. 19, 2017), <https://www.splcenter.org/news/2017/12/19/splc-reaches-agreement-mississippi> [<https://perma.cc/KSA7-6E8N>].

369. *Id.* The agreement was brokered in part by the Southern Poverty Law Center and Mississippi Department of Public Safety. *Id.*

370. *Id.*

371. *Driver's Licenses Suspended for Unpaid Traffic Fines May Be Recovered Under New Court Order*, WASHINGTONLAWHELP.ORG, <https://www.washingtonlawhelp.org/resource/if-your-drivers-license-was-suspended-for-failing-to-pay-traffic-fines-you-may-be-able-to-get-it-back-under-a-new-court-order> [<https://perma.cc/F8QJ-LZ3U>] (last updated May 26, 2022).

372. Nigel Jaquiss, *Gov. Kate Brown Will Undo 7,000 Oregonians' Driver's License Suspensions*, WILLAMETTE WK. (Dec. 22, 2022, 11:02 AM), <https://www.wweek.com/news/2022/12/22/gov-kate-brown-will-undo-7000-oregonians-drivers-license-suspensions/> [<https://perma.cc/6QZB-DQLN>].

373. L. WILLIAM SEIDMAN RSCH. INST., *supra* note 167, at 13–14 (2017).

374. John Finnerty, *Thousands of Pa. Drivers Will Get License Suspensions Lifted Because of New Law*, PITT. POST-GAZETTE (Nov. 8, 2022, 7:02 AM), <https://www.post-gazette.com/news/state/2022/11/07/pennsylvania-vehicle-license-suspended-law-non-traffic-violations/stories/202211070073> [<https://perma.cc/D2QN-G737>].

finances unrelated to safe driving.³⁷⁵ Washington, D.C., residents are no longer subject to a “Clean Hands Law” which had previously disqualified debtors from obtaining or renewing driver’s licenses.³⁷⁶ A recent New York act lifts suspensions for unpaid traffic tickets and makes payment plans available; just by entering a plan, drivers will have their debt-based license suspensions lifted.³⁷⁷ This legislation is expected to allow hundreds of thousands of New Yorkers to regain their licenses.³⁷⁸ And in North Carolina, as mentioned above, certain cities and counties have extended Jubilee to their citizens, allowing debt-based suspensions to be lifted and licenses to be restored.³⁷⁹

While not yet the prevailing attitude nationwide, it is clear that Jubilee has gained currency in several states. North Carolina should take a cue from these states and implement Auto-Jubilee statewide by proactively halting further debt-based license suspension and retroactively restoring licenses previously suspended for FTC and/or FTA.

CONCLUSION

North Carolina’s existing system of debt-based license suspension serves no legitimate policy goals. Materially, it functions only to immobilize poor people and people of color, to degrade them, and to extract their wealth.³⁸⁰ Culturally, it perpetuates the violent myth that poor people’s poverty is blameworthy and their own fault.³⁸¹ Theresa Zhen illustrates the phenomenon:

The racial project of penal debt arising from traffic and criminal violations is not merely extractive. It punctures the safety net so forcefully that a person is effectively stagnated in all modes of economic possibility. Without being able to pay off fines and fees, the cycle of

375. Nushrat Rahman, *Free Clinics Can Help Some Michigan Drivers Restore Suspended Licenses*, DET. FREE PRESS, <https://www.freep.com/story/news/local/michigan/2022/04/07/suspended-licenses-michigan-unpaid-tickets-court-fines/9475165002/> [https://perma.cc/55AH-2RKP] (last updated Apr. 7, 2022, 4:31 PM).

376. See *Parham v. District of Columbia*, 648 F. Supp. 3d 99, 116 (D.D.C. 2022) (citing D.C. CODE ANN. § 47-2861 (2023)) (enjoining Washington, D.C.’s, Clean Hands Law); *Tzedek DC and Venable Win Justice for DC Residents Struggling with Fines and Fees*, TZEDEK DC (Jan. 5, 2023), <https://www.tzedekdc.org/news-1/2023/1/5/tzedek-dc-and-venable-win-justice-for-dc-residents-struggling-with-fines-and-fees> [https://perma.cc/9RSR-AJEN].

377. Act of Dec. 31, 2020, ch. 382, § 3, 2020 N.Y. Laws 1206, 1207–08 (codified at N.Y. VEH. & TRAF. LAW § 226 (2021)); *New York’s Driver’s License Suspension Reform Takes Full Effect*, FINES & FEES JUST. CTR. (June 28, 2021), <https://finesandfeesjusticecenter.org/2021/06/28/new-ny-drivers-license-reform-takes-effect-tuesday/> [https://perma.cc/Y8GQ-39V5].

378. *New York’s Driver’s License Suspension Reform Takes Full Effect*, *supra* note 377.

379. See *supra* Section II.B.2.

380. See WANG, *supra* note 37, at 184–90.

381. See, e.g., Charles Lawrence, *The Id, the Ego, and Equal Protection: Reckoning with Unconscious Racism*, 39 STAN. L. REV. 317, 374–75 (1987); *Dispelling Myths About Poverty*, EQUAL JUST. UNDER L., <https://equaljusticeunderlaw.org/poverty-myths> [https://perma.cc/SB5G-M7R6].

poverty spins faster, towards an inevitable end of joblessness, criminalization, incarceration, and economic precariousness.³⁸²

This is the modern-day debtors' prison—a subtle, often invisible web of deprivation that ensnares all who are unable to pay for escape.

Subtle, because in operation this prison looks like a subscription service. As servitization has proliferated as an organizing principle of our economy,³⁸³ it has contaminated and contorted the legal concept of “license.” Poor people and people of color can no longer expect to pay a one-time fee to be licensed and expect that legal privilege to persist. Instead, they can expect to be charged a subscription fee for the right to stay on the road and out of jail.

This malicious practice is inappropriate in any democracy. And it specifically contravenes the notions of justice and common welfare enshrined in the constitutions of our nation and state. It also ought to offend our commonsense understanding of government as benevolent, as supportive, and as a protector of its citizens.

The short-term fixes currently in operation have made some materially meaningful progress for a fraction of North Carolinians. But each only addresses symptoms of the problem. To get at the problem's root cause, all traffic debt must be forgiven, all licenses suspended for FTA and FTC must be reinstated, convictions for debt-based traffic violations must be expunged, and N.C. Gen. Stat. § 20-24.1 must be repealed.

Such a tectonic shift in law and policy would likely result in a reorganization of the economy, including job disruption among certain workers within the license-suspension industrial complex. Court clerks, attorneys, insurance adjusters, and DMV workers would all have less work to do were the illegitimate practice of debt-based suspension rescinded. But we might find socially proactive, connective, generative, and supportive tasks that these workers could do instead.

The law's historical spirit of hostility toward individual debtors—whether students, bankruptcy petitioners, or folks unable to pay LFOs—might reasonably cause one to be pessimistic about the viability of Auto-Jubilee. Indeed, some theorists have identified our economy in late capitalism as

382. Zhen, *supra* note 1, at 221.

383. See, e.g., Janja Hojnik, *The Servitization of Industry: EU Law Implications and Challenges*, 53 COMMON MKT. L. REV. 1575, 1578 (2016) (“Servitization is nowadays widely recognized as the process of creating value by adding services to products and is considered omnipresent in manufacturing companies in developed economies.”). Here, I use servitization figuratively to illustrate the subtle transformation that debt-based license suspension has accomplished, whereby driver's licenses increasingly function materially as “products” that provide holders with the “service” of being in good standing with law enforcement entities and remaining unincarcerated, while those who cannot afford this “product” become unjustly exposed to criminalization and thereby trapped in the debt-cycle. See *supra* Sections I.B and I.D.

financialized, depending on debt for its very survival.³⁸⁴ The “debt economy” uses the criminal justice system as a lever to legitimize and extract portions of the value of that debt from debtors, all while blaming the victims of this unjust economic regime for their own plight.³⁸⁵ The massive cancellation of debt I propose seems like it would be anathema to such an economic structure. Nevertheless, Auto-Jubilee is designed and theorized pursuant to a constructive, optimistic view of the law’s capacity to change economic and social arrangements for the good.

Ultimately, it is our duty as students, instructors, adjudicators, activists, community members, legal thinkers, legal practitioners, lawmakers, and stakeholders in society to look out for the most vulnerable and most historically mistreated among our neighbors. Ending debt-based license suspension via Auto-Jubilee is one clear path to discharging that duty.

DANIEL STAINKAMP**

384. See WANG, *supra* note 37, at 18, 124, 170–77.

385. See *id.* at 30–34; see also M. Buno, *Carceral Capitalism: A Conversation with Jackie Wang*, L.A. REV. BOOKS (May 13, 2018), <https://lareviewofbooks.org/article/carceral-capitalism-conversation-jackie-wang/> [<https://perma.cc/XD9F-49RN>] (“The financialization of governance and the emergence of new ‘exotic’ credit instruments produce new modes of extraction that are carried out by the criminal justice system. . . . [B]oth the debt economy and racialized mass incarceration are propped up by a moral economy that fractures the population into the *deserving* and *undeserving*.”).

** J.D. Candidate, the University of North Carolina School of Law, 2024. I go by “Nebraska,” so you may know me by that name instead of “Daniel.” I owe a massive debt of gratitude to Nicole Downing, Kate Sablosky Elengold, Laura Fisher, Rachel Gurvich, Dan Hatley, Osamudia James, Joe Kennedy, Tom Kuell, Keegan Pace, Rick Su, and Edward Treat for helping me brainstorm, research, workshop, (re)arrange, develop, draft, and think through this Comment. Thanks to Brandon Garrett, William Crozier, Gene Nichol, Heather Hunt, Joni Hirsch, Priya Sarathy Jones, and Theresa Zhen for laying the substantive groundwork on which much of this Comment relies. Special thanks to the staff of the *North Carolina Law Review* for their work shepherding this piece from its inchoate stages to someplace more coherent and comprehensible. And very special thanks to my Mom, Dad, Sister, my recovery community, and my friends for supporting me through the emotionally harrowing times that sometimes accompanied the writing of this Comment.

