

April 20, 2021

The Honorable Chris Coons
United States Senate
Washington, D.C. 20510

The Honorable Roger Wicker
United States Senate
Washington, D.C. 20510

RE: ABA Support for S. 998, the Driving for Opportunity Act of 2021

Dear Senator Coons and Senator Wicker:

On behalf of the American Bar Association (ABA), the largest voluntary association of lawyers and legal professionals in the world, I write to express our appreciation for your introduction of S. 998, the Driving for Opportunity Act of 2021, which would incentivize states to end the practice of suspending driver's licenses for unpaid fines and fees. The ABA supports the legislation, as we believe that a person's inability to pay a fine or fee should never result in disproportionate sanctions, including the suspension of a driver's license.

Every day in the United States, numerous financial obligations are imposed upon individuals who have been charged with criminal offenses or civil infractions. Too often those fines and fees are imposed without regard to the individual's ability to pay. In August 2018, the American Bar Association House of Delegates adopted the [*ABA Ten Guidelines on Court Fines and Fees*](#) (ABA Guidelines), which provide practical guidance and recommendations to government officials, policymakers, and others charged with developing, reforming and administering fines and fees.

The ABA Guidelines call for an overall reduction in the use of fees and for the setting of fine and fee amounts based on ability to pay (*see* ABA Guidelines 1 and 2). Further, the ABA Guidelines urge jurisdictions to prohibit the use of any disproportionate punishment or deprivation of fundamental rights due to inability to pay, including suspending driver's licenses because of failure to pay (*see* ABA Guidelines 3 and 5 and Commentary to ABA Guideline 3).

As explained more fully in our Guidelines, suspending drivers' licenses for nonpayment of fines and fees can lead to many negative unintended consequences.¹ For example, those who are prohibited from driving often lose their ability to work or attend to other important aspects of their lives. In addition, suspending a person's driver's license can lead to a cycle of re-incarceration because it places many of those individuals in the untenable position of either driving with a suspended license or losing their jobs, and because driving on a suspended license is itself an offense that may be sanctioned with incarceration. Therefore, suspending a person's driver's license

¹ *See* Commentary to ABA Guideline 3 (Prohibition Against Incarceration and Other Disproportionate Sanctions, Including Driver's License Suspensions), at 3-4 (citations omitted).

for nonpayment is a disproportionate response to the problem and actually makes it less likely that the fines and fees will be paid.²

We appreciate that states may incur certain costs associated with reinstating driver's licenses previously suspended for unpaid fines and fees and that these costs may have a temporary negative impact on state budgets. The Driving for Opportunity Act would address this by amending the Edward Byrne Memorial Justice Assistance Grant Program to make federal funding available to states to help cover these costs. To be eligible for these grants, states could not have laws allowing the suspension or revocation of driver's licenses—or prevent individuals from renewing their motor vehicle registration—for nonpayment of fees or fines.

For these and other related reasons, the American Bar Association supports the Driving for Opportunity Act. We applaud your leadership on this important issue and look forward to working with you to pass the legislation this Congress. If you or your staff have any questions, please contact Kenneth Goldsmith in our Governmental Affairs Office at (202) 662-1789 or kenneth.goldsmith@americanbar.org.

Sincerely,



Patricia Lee Refo
President, American Bar Association

cc: Members, Senate Committee on the Judiciary

² See Commentary to ABA Guideline 3 at 3-4. See also generally Alicia Bannon, Mitali Nagrecha & Rebekah Diller, [Criminal Justice Debt: A Barrier to Reentry](#), The Brennan Center for Justice at New York University School of Law (2010), at 24-25 (describing the impacts of drivers' license suspensions); and Department of Justice ["Dear Colleague" Letter](#) (March 14, 2016), at 6-7 (noting that suspensions "raise significant public policy concerns," including impeding "individuals' ability to maintain a job, pursue educational opportunities or care for families.").