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**Testimony on House Bill 21-1314**  
**Before the Committee on the Judiciary,**  
**Colorado House of Representatives**  
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Chairperson Weissman and members of the Committee, thank you for allowing me the opportunity to join you today to express my strong support for House Bill 21-1314. I am most grateful for Representative Herod's leadership for bringing this bill forward, and her efforts to ensure that we have a more just and humane criminal justice system. I am also grateful for the stakeholders, particularly the Colorado State Patrol, Colonel Packard, and Sergeant Honn for their leadership in advocating for this commonsense reform.

My message today is simple—driver license suspensions, revocations, cancellations, and denials should be a consequence reserved only for dangerous driving offenses. It is unjust, unfair, and unwise for Colorado to continue the practice of restricting driving privileges solely because a person is unable to pay court fines and fees.

Our current laws that establish this penalty result in tens of thousands of safe, competent drivers facing barriers to get to work, visit the doctor, or take their kids to school. For many people in this situation, they must make a lose-lose decision—risk further punishment by driving with a license under restraint or accept barriers to transportation that can result in the neglect of their employment or family.

Because losing a license often leads to losing a job, the current law imposes significant harms on low-income Coloradans, their families, and our communities. This system makes it harder, not easier, for affected individuals to pay the fines and fees owed to the State. And worse yet—it keeps people down, undermining their ability to support families, communities, and workplaces at the same time that it presents them with a looming threat of steep penalties for driving without a license. In short, this penalty propels a cycle that people cannot escape. It furthers no public interest. The public deserves better from our criminal justice code.

With this bill, Colorado can restore economic dignity to low-income Coloradans, increase fairness in our legal system, and improve public safety by freeing up law enforcement to focus time and attention where it is needed most. Moreover, we also expect that repealing this restriction will result in a better ability to pay unpaid fines and thus will result in increased payments of the relevant fees.

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Holding a license to drive an automobile lawfully on Colorado roads is a privilege. That privilege must be earned and maintained by demonstrating competence and care behind the wheel. For public safety reasons, drivers who abuse that privilege by driving dangerously should have their driving privileges limited or revoked. Driver's license cancellations can be an appropriate, proportional, and essential consequence for dangerous driving, necessary to keep others on the roadways safe. But let me be clear: revocation or denial of driving privileges should be a penalty reserved only for dangerous driving violations.

Our current laws ignore this principle. In Colorado, driving privileges may not only be suspended for accumulating an excessive amount of penalty points resulting from extremely dangerous driving or repeated driving violations,<sup>1</sup> but may also be cancelled or denied for failure to pay court fines, surcharges, and fees associated with low-level motor vehicle offenses and, in the case of minors, various municipal law violations.<sup>2</sup> These offenses could have minimal—and in some cases, zero—connection to driving a motor vehicle, let alone doing so in a dangerous manner. The Denver Post reported that, in 2019, Colorado revoked the privileges of 86,500 drivers due to unpaid court debt.<sup>3</sup> Indeed, failure to pay court fines and fees was the single most common reason for revoking driver licenses in the last reporting year.<sup>4</sup>

To understand how this system works in practice, consider the case of a person who receives a ticket for low-level motor vehicle violations, a failure to show proof of a valid fare on public transit, or any municipal offense as a minor, even if entirely unrelated to driving. In this case, the driver cannot afford to pay the penalty fines and surcharges that the ticket carries.<sup>5</sup> Once the driver does not pay the penalties on time and is subsequently found guilty, the court enters a judgment that includes the amount of the initial penalty fine and surcharge plus the court docket fee and

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<sup>1</sup> Colo. Rev. Stat. § 42-2-127.

<sup>2</sup> Colo. Rev. Stat. §§ 42-4-122, -1709(7).

<sup>3</sup> Alex Burness, *Driving While Poor: Colorado's Vicious Cycle of Unpaid Fines and Suspended Licenses*, DENVER POST (Dec. 22, 2019), <https://www.denverpost.com/2019/12/22/colorado-drivers-license-suspension-fines-fees/>.

<sup>4</sup> *Id.*

<sup>5</sup> For the schedule of penalty fines and surcharges for motor vehicle and traffic violations, see Colo. Rev. Stat. § 42-4-1701.

other applicable costs,<sup>6</sup> and, often, additional fees or surcharges.<sup>7</sup> The court then informs the DMV about the outstanding judgment. Altogether, these fines, surcharges, fees, and other costs can easily surpass one hundred dollars, and sometimes far more. For many hardworking families, this presents a great difficulty. After all, 4 out of 10 families cannot pull together \$400 for an emergency expense.<sup>8</sup> If the driver does not pay the fines and fees to satisfy the outstanding judgment within thirty days of receiving notice from the DMV, current Colorado law requires the DMV to cancel the driver's license or deny a future license application.<sup>9</sup>

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Our current law—cancelling licenses of drivers who do not to pay court debt—is simply unjust.

First, this penalty imposes severe and disproportionate economic harm on persons living in poverty without any legitimate justification for doing so. As emphasized above, many hardworking Coloradans live paycheck to paycheck. It is no surprise that some low-income individuals cannot afford to pay these fines, surcharges, fees, and other costs. Moreover, for those unable to make such payments, the looming threat of losing their license will not increase their likelihood of paying on time. In general, the inability to pay such fines is not related to an unwillingness to do so, but *inability* to do so. A better strategy, for example, would be to use more creative and flexible payment schedules—not overly punitive consequences.

Cancelling or denying licenses for those who cannot pay court-imposed fines does not solve the problem of inability to pay—it exacerbates it. For most Colorado workers, if they cannot drive, they cannot keep or find work. Research demonstrates a significant relationship between driver's licenses suspensions and negative economic consequences, including short-term job loss, prolonged unemployment, and reduced income.<sup>10</sup> One study, for example, found that 42 percent of drivers were fired from jobs after their licenses were suspended.<sup>11</sup> Of those who lost their jobs, 45 percent could not find another job while their licenses were suspended. And of those who did find another job, 88 percent reported earning lower wages than in their

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<sup>6</sup> Colo. Rev. Stat. § 42-4-1710(4)(a).

<sup>7</sup> See Colo. Rev. Stat. §§ 24-4.1-119; 24-4.2-104; 42-4-1710(4)(a.5).

<sup>8</sup> BOARD OF GOVERNORS OF THE FED. RES. SYS., REPORT ON THE ECONOMIC WELL-BEING OF U.S. HOUSEHOLDS IN 2017 2, 21-22 (May 2018), <https://www.federalreserve.gov/publications/files/2017-report-economic-well-being-us-households-201805.pdf>.

<sup>9</sup> Colo. Rev. Stat. § 42-2-122.

<sup>10</sup> JON A. CARNEGIE, DRIVER'S LICENSE SUSPENSIONS, IMPACTS AND FAIRNESS STUDY (Aug. 2007), <https://www.nj.gov/transportation/business/research/reports/FHWA-NJ-2007-020-V1.pdf>.

<sup>11</sup> *Id.* at 88.

previous job. These consequences were true across all income groups but were most pronounced among low-income drivers.<sup>12</sup>

For workers living paycheck-to-paycheck, a cancelled license—and subsequent job loss—pushes them and their families more deeply into poverty. Since driving is often essential for employment, doctor’s visits, grocery runs, and school drop-offs, those with revoked licenses face an impossible choice: continue to drive without an active license, risking further penalties and fines;<sup>13</sup> or do not drive, and risk losing their job.

The downstream risk of further consequences disproportionately burdens residents of color, who, studies suggest, are significantly more likely than their white counterparts to be pulled over by law enforcement.<sup>14</sup> Forcing Coloradans to choose between violating the law or meeting their family’s basic needs is bad public policy.

Second, cancelling low-income person’s licenses is fiscally counterproductive. Revoking the license of low-income drivers *decreases* their ability to pay court fines and fees. That decision, in turn, *decreases* the government’s likelihood of collecting owed revenue. Moreover, the current law burdens the State with downstream fiscal impacts, such as lost tax revenue when workers go unemployed.<sup>15</sup>

Evidence from jurisdictions that ended the practice of debt-based license suspensions suggests that the government’s ability to suspend licenses for failure to pay is not necessary to maintain acceptable payment and collection levels. Consider the example of the San Francisco Superior Court, which in 2015 became the first court in California to stop suspending drivers licenses for failure to pay traffic tickets. The data shows that “since the San Francisco Superior Court stopped using driver’s license suspensions to compel payment, there has been no negative impact on revenue collection. In fact, collections on delinquent debt per filing in San Francisco has increased since eliminating the penalty.”<sup>16</sup>

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<sup>12</sup> *Id.* at 88.

<sup>13</sup> Colo. Rev. Stat. § 42-2-138.

<sup>14</sup> See Emma Pierson et al., *A large-scale analysis of racial disparities in police stops across the United States*, 4 NATURE HUM. BEHAV. 736 (2020), <https://www.nature.com/articles/s41562-020-0858-1>; Sharon LaFraniere & Andrew W. Lehren, *The Disproportionate Risk 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>.

<sup>15</sup> For a general discussion of the full—and often overlooked—social cost of justice system fines and fees, see MATTHEW MENENDEZ ET AL., THE STEEP COSTS OF CRIMINAL JUSTICE FINES AND FEES (Nov. 21, 2019), [https://www.brennancenter.org/sites/default/files/2019-11/2019\\_10\\_Fees&Fines\\_Final5.pdf](https://www.brennancenter.org/sites/default/files/2019-11/2019_10_Fees&Fines_Final5.pdf).

<sup>16</sup> SAN FRANCISCO FINANCIAL JUSTICE PROJECT, OFFICE OF THE TREASURER, DRIVING TOWARDS JUSTICE, 1 (Apr. 2020), <https://sfgov.org/financialjustice/sites/default/files/2020-04/DrivingTowardJustice.pdf>.

Lastly, cancelling and denying licenses for non-driving offenses is an unnecessary burden on local law enforcement and the Colorado State Patrol. As the American Association of Motor Vehicle Administrators advised, “[w]ith the expectation that limited highway safety resources should be focused on reducing the risk of dangerous drivers, using a driver’s license suspension for non-highway safety violations should be avoided.”<sup>17</sup> The Association summed up the issue in a 2013 report, concluding that “the cost of handling non-highway safety related suspensions by the criminal justice system is a significant burden that society can no longer afford.”<sup>18</sup> I agree. Our law enforcement agencies are burdened enough. Their limited resources should focus on protecting the safety of our roadways.

Every year, Colorado state and local enforcement agencies lose tens of thousands of personnel hours—the equivalent of multiple FTEs—stopping, processing, and appearing in court to testify against drivers with licenses suspended for reasons other than dangerous driving, including for failure to pay court fines and fees.<sup>19</sup> And the comparison between the two groups—those with suspended licenses for unpaid fines versus for dangerous driving—is telling. National data shows that only 7 percent of drivers suspended for non-highway safety reasons commit a moving violation while under suspension, compared with approximately 34 percent of drivers suspended for highway safety reasons.<sup>20</sup> Similarly, drivers suspended for non-highway safety reasons are nearly three times less likely to be involved in a crash as compared to drivers with licenses suspended for highway safety reasons.<sup>21</sup>

If Colorado stopped this practice of cancelling or denying driver’s licenses for unpaid fines, it would generate a significant time and resource savings to law enforcement. By enabling law enforcement to refocus on core priorities, this legislation is a step towards greater overall community safety.

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<sup>17</sup> AM. ASSOC. OF MOTOR VEHICLE ADM’RS, REDUCING SUSPENDED DRIVERS AND ALTERNATIVE REINSTATEMENT: BEST PRACTICES 29 (Nov. 2018), <https://www.aamva.org/reducingsuspendeddriversalternativereinstatementbp/> [hereinafter AAMVA 2018].

<sup>18</sup> AM. ASSOC. OF MOTOR VEHICLE ADM’RS, BEST PRACTICES GUIDE TO REDUCING SUSPENDED DRIVERS 12 (Feb. 2013), <https://www.aamva.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=3723&libID=3709>.

<sup>19</sup> Cf. AAMVA 2018 at 16-17 (estimating that the Washington State Patrol annually expends more than 30,000 personnel hours, or the equivalent of approximately 15 FTEs, in the arrest and adjudication of drivers caught driving while suspended for non-highway safety reasons.)

<sup>20</sup> AAMVA 2018 at 8.

<sup>21</sup> AAMVA 2018, Appendix B at 33.

Before this Committee today is an opportunity to end the unwise and unjust practice of suspending driving privileges of individuals for reasons other than dangerous driving. This bill is an important step to affirm the economic and community participation of thousands of Coloradans by restoring their freedom to drive, to work, and to care for their families.

Members of the Committee, thank you for the opportunity to speak to you today. I am pleased to answer any questions you may have.