

**Testimony of Tom Papson  
Volunteer Staff Attorney, Consumer Law Unit  
Legal Aid Society of the District of Columbia**

**Before the Committee on Transportation and the Environment  
Council of the District of Columbia**

**Public Hearing Regarding:  
Bill 22-0618  
“Driver’s License Revocation Fairness Amendment Act OF 2017”**

**July 6, 2018**

The Legal Aid Society of the District of Columbia<sup>1</sup> submits this testimony in support of sections of Bill 22-0618 that would end the ability of insurance companies to obtain suspensions of driver’s licenses and registrations as a private debt collection tool in cases arising from an auto accident. Provisions of Title 50 of the D.C. Code currently require the Department of Motor Vehicles (“DMV”) to suspend the driver’s licenses and registrations of judgment debtors at the request of the insurance carrier that obtained the civil judgment against them. Satisfaction of the judgment or making a payment arrangement agreeable to the carrier then becomes a condition of restoring the license and registration.

Legal Aid supports the repeal of these provisions because they are not necessary to support the District’s compulsory insurance system, inappropriately place control over license suspensions in the hands of private debt collectors, and often work extreme hardships on low income District residents. Without a license, persons who cannot afford to satisfy the judgment lose the ability to drive to work, to hold a job that requires a driver’s license, to obtain medical or child care services, or to drive for other essential purposes.

**LICENSE SUSPENSIONS CONTROLLED BY PRIVATE INSURANCE CARRIERS ARE NOT NECESSARY TO ENFORCE THE DISTRICT’S COMPULSORY/NO FAULT INSURANCE SYSTEM**

The first five sections of Bill 22-0618 address the current practice of suspending driver’s licenses based on failure to pay debts from parking tickets, traffic tickets, or court debt. Those provisions, which would eliminate the practice of suspending a license

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<sup>1</sup> The Legal Aid Society of the District of Columbia is D.C.’s oldest and largest general civil legal services organization. Since 1932, Legal Aid lawyers have been making justice real in individual and systemic ways for persons living in poverty in the District. Legal Aid’s Consumer Law Unit regularly represents defendants facing suspensions of their driver’s licenses and registrations as a result of claims by insurance carriers arising from motor vehicle accidents.

based on unpaid citations, have been incorporated into Bill 22-0204. Legal Aid supports those provisions and has addressed them in the context of Bill 22-0204.

The remaining sections of Bill 22-0618 address Subchapter V, Chapter 13 of Title 50 of the D.C. Code, titled “Proof of Financial Responsibility.” That subchapter is an adjunct to the Compulsory/No-Fault Motor Vehicle Insurance Act of 1982 (“the Act”), found in Title 31 of the Code. Before considering the Title 50 provisions proposed for repeal, it is important to understand how Subchapter V of that title relates to the underlying compulsory insurance act in Title 31.

Under the District’s compulsory insurance system, owners of motor vehicles required to be registered in the District must maintain certain minimum insurance coverages and benefits. Owners must certify that they have the required insurance when registering a vehicle. And the DMV must suspend the registration if the insurance lapses.

In aid of these requirements, the Act requires all insurers who sell motor vehicle insurance in the District to, among other things:

- Notify the DMV of insurance cancellations within 30 days of the cancellation (D.C. Code § 31-2403(d)(3)(A));
- Cooperate with and assist the DMV in detecting persons who are non-compliant with the compulsory insurance requirements (D.C. Code § 31-2403(d)(3)(C)); and
- Provide the DMV, on the first day of each month, with electronic files containing records for each vehicle the carrier insures in the District, including policy numbers, commencement, and termination dates of the insurance<sup>2</sup> (D.C. Code § 31-2403(d)(5)).

Subchapter V, Chapter 13 of Title 50, in contrast, addresses requirements for “proof of future financial responsibility,” a form of insurance verification that is not required to register a vehicle under Title 31. The term is defined as proof that a motor vehicle subject to registration is actually insured into the future to the extent required under the Compulsory/No Fault Motor Vehicle Insurance Act. A motor vehicle owner provides such proof by obtaining a special certificate of insurance issued by an insurance carrier. *See* D.C. Code § 50-1301.54. These certificates are generally referred to by carriers as an “SR-22,” a high risk insurance classification. The certificate verifies that the person had pre-paid coverage for a specific term.

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<sup>2</sup> This requirement may also be satisfied by participation in an online insurance verification system. D.C. Code §31-2403(d)(5)(C).

Under Title 50, there are two categories of persons who may be required to deposit proof of financial responsibility for the future: (1) “persons who have been convicted . . . of certain offenses under the motor vehicle laws”; and (2) persons “who have failed to pay judgments upon causes of action arising out of ownership, maintenance, or use of vehicles . . . subject to registration under the laws of the District of Columbia.” D.C. Code § 50-1301.34. Title 50 also authorizes the suspension of driver’s licenses in certain circumstances in both categories.

Bill 22-0618 would not affect the existing Title 31 requirement that all vehicle owners maintain the required levels of insurance coverage. Nor would it affect the existing Title 50 requirement that persons who have failed to pay judgments arising from motor vehicle causes of action deposit proof of future financial responsibility in order to maintain their registrations. Instead, Section 7 of the Bill would put enforcement of these requirements in the hands of the DMV (where it belongs) and take it out of the hands of the insurance carrier acting as a private debt collector. And it would eliminate suspension of a driver’s license just because the person has not paid a private judgment.

Section 7 of the Bill accomplishes this by repealing the provisions of Subchapter V that currently require the DMV to suspend the judgment debtor’s driver’s license (and registration) at the request of a private judgment creditor (the insurance carrier), pending satisfaction of the judgment or the making of payment arrangements satisfactory to the carrier. The key provision proposed for repeal is D.C. Code § 50-1301.43. The Bill would not repeal the provision that allows the judgment creditor to obtain a certificate of an unpaid motor vehicle judgment from the court for transmission to the DMV. *Id.* § 50-1301.41. The carrier could still notify the DMV, but further decisions on enforcement would then reside with the agency.

## **LEGAL AID SUPPORTS THE REPEAL OF THE PROVISIONS ALLOWING PRIVATE JUDGMENT CREDITORS TO USE DRIVER’S LICENSE SUSPENSION AS A DEBT COLLECTION TOOL**

Legal Aid regularly represents District residents in insurance subrogation cases in which a carrier sues the driver or owner of a motor vehicle to recover damages incurred by the carrier’s insured in an automobile accident. Sometimes our representation of the defendant driver arises in the original lawsuit. Other times, Legal Aid represents drivers years after a default judgment has been entered, when the sudden suspension of their driver’s license causes them to learn about a long-closed debt collection lawsuit for the very first time. This is often because the judgment debtor never received proper notice of the court case when it was first filed. In still other cases, we represent drivers against whom a judgment arising from an automobile accident was entered many years ago and has now expired, but who are nonetheless unable to obtain a driver’s license from the DMV.

Section 7 of Bill 22-0618 would repeal only those provisions of current law that give an insurance company the right to use and control license suspensions as a private debt collection tool. The Committee and the Council should support that limited repeal for a variety of reasons.

First, it is both unseemly and unnecessary to allow insurance carriers who obtain judgments in subrogation cases to use license suspensions as leverage in their private debt collection efforts. Those companies have all the rights to post-judgment execution, including wage garnishment and attachment of bank accounts, that are conferred on every judgment creditor under D.C. law. Nothing in Bill 22-618 would change that.

Second, the DMV has its own robust system for ensuring that all motor vehicles registered in the District are properly insured (whether or not the motor vehicle is involved in an accident). The Compulsory/No Fault Motor Vehicle Insurance Act requires the DMV to obtain proof of insurance before registering a vehicle and to continuously monitor current motor vehicle registrations to ensure the owners maintain the insurance coverage that was required to obtain the registration in the first place. The DMV already has the ability to promptly suspend the registrations of owners who allow their coverage to lapse. The DMV's Title 31 enforcement authority operates independently of the requirements for proof of financial responsibility and license and registration suspensions in Title 50.

Third, the Bill would preserve the DMV's ability to require proof of future responsibility in appropriate cases, including those where the operator or owner of a motor vehicle has not paid a civil judgment arising from an auto accident.

Fourth, license suspensions based on unpaid civil judgments often work severe hardships on low income District residents for much the same reason as suspensions based on unpaid traffic citations work severe hardships. Our clients need their driver's licenses to get children to and from daycare, to get medical care, to travel to their place of employment, or to drive an employer's vehicle as a condition of their employment. Without being able to work, they cannot pay their debts, making license suspension particularly counter-productive. License suspension can force District residents to make the difficult choice of driving with a suspended license to take care of critical life tasks, with criminal consequences that have a disproportionate impact on people living in poverty and people of color.

Finally, drivers who receive mailed notices of license suspensions from the DMV based on unpaid civil judgments are confronted with a system for getting their license restored that is both complicated and bewildering.<sup>3</sup> That system includes obtaining

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<sup>3</sup> To make matters worse, the notice form currently used by the DMV is confusing and inaccurate. *See* Testimony of Stacy Santin, Staff Attorney, Legal Aid, Before the Committee on Transportation and the Environment, D.C. Council at 2 (Mar. 8, 2018)(performance oversight hearing)

information from the court regarding previously unknown judgments, tracking down and negotiating payment plans with attorneys for the carriers, filing court motions to vacate judgments in cases where the person was never properly served, and trying to convince DMV clerks that an old judgment has expired and can no longer be used as the basis for license suspension. Confusion within the actual operation of the system abounds. In short, not only is the current system of license suspension for unpaid civil judgments in this context concerning as a matter of policy, but it is also one that harms District residents far beyond the scope of those it was ever intended to reach.

A case that Legal Aid handled just a month ago illustrates some of these issues. A client that I'll call Mr. W needed a car and a driver's license for the first time in years because his employer moved to a new location that Mr. W could no longer get to using public transportation. When Mr. W visited the DMV, he learned for the first time that an auto insurer had obtained a court judgment against him four years ago. He had no prior notice of the court case or the judgment. The DMV told him that he could not get a license until he satisfied the judgment and that that he had to go to the court to obtain information about the case. Desperate to obtain a license to keep his job, but never having seen the original complaint, Mr. W filed a pro se motion to allow him to pay the judgment in installments.

Later, after Mr. W obtained Legal Aid counsel, we discovered that a process server had served an individual Mr. W had never heard of at an address at which he did not live at the time of the original lawsuit. Worse still, the lawsuit itself had alleged that Mr. W was liable solely in his capacity as the rider of a *bicycle* that allegedly had collided with a car. As the carrier surely knew, a bicycle is not a "motor vehicle" required to be registered or have insurance under Title 31, and the Title 50 license suspension provisions do not apply to judgments against a person who was not operating (and did not own) a motor vehicle. But that did not stop the carrier, the court, or the DMV from going through the motions that resulted in Mr. W not being able to get a driver's license when he critically needed it for work. When confronted with evidence of its improper use of the DMV suspension system, the insurer immediately agreed to lift the hold on issuance of a driver's license. But without a lawyer's help, Mr. W would likely have been stuck with that barrier unless and until he satisfied the judgment or paid in installments acceptable to the carrier.

## **CONCLUSION**

Legal Aid commends Councilmember Silverman and the other bill sponsors, the Committee on Transportation and the Environment, and Chairperson Mary Cheh for moving Bills 22-0204 and 22-0618 swiftly through the legislative process so that District residents will be protected from driver's license suspensions that often work an extreme hardship on drivers and their families. We urge the Committee to move Bill 22-0618 through to markup and a Council vote as quickly as possible.