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Testimony for the joint subject matter hearing of the Senate Criminal Law Committee and the Senate Special Committee on Public Safety scheduled for September 29, 2010 at 1:00 PM, on the following areas: 1) removing economic bases for driver's license suspensions; 2) reclassifying misdemeanor offenses to civil offenses; 3) drug penalty reform; and 4) elderly parole.

Introduction

By way of introduction, I am a semi-retired attorney. Over the last half century my practice focused on poverty law. I have been employed by legal assistance programs and governmental agencies which advocate for the low-income families and individuals. This testimony is submitted solely on my own behalf - not be on behalf of any group or organization; and is focused economic restrictions related to driving licenses.

1. The Senate should consider legislation which authorizes Secretary of State to issue temporary driving licenses to those who cannot renew their licenses because of unpaid traffic fines and fees

Consideration should be given to an amendment to 625 ILCS 5/6-306.6 which would permit the Secretary of State the issue temporary driver's licenses to individuals whose licenses have expired and cannot be renewed because of unpaid fines and fees. Temporary licensure would give many the opportunity to get back on their feet.

625 ILCS 5/6-306.6 (a) provides that an individual who owes a fine for a traffic offense may not renew his/her driver's license. This collection tool benefits society; but at a significant cost. Many individuals are driving with expired licenses which they are unable to renew because they cannot pay outstanding traffic fines and fees. When stopped, they are ticketed - not only for the offense which triggered the stop - but also for driving on expired licenses. Some municipalities have ordinances which provide for impoundment of the vehicle where the driver's licenses expired for more than a year.

Prior to the pandemic, their employment opportunities in the legitimate economy were limited. Today, their situations are even worse. Individuals are unable to renew their expired licenses solely because of their inability to pay the fees and fines - not because there a convicted of moving violations which justified license suspension. If they had the cash, they would have driving privileges.

Ironically, those who have outstanding fees and fines resulting from misdemeanor and felony convictions are not restricted from renewing their licenses.

2, The Senate should consider the creation of legislative committee to explore the practicality and viability of a state “bankruptcy” proceeding for those seeking discharge of traffic fees and fines debts.

Many individuals carry debts in the form of traffic fines and fees which they will never be able to satisfy. The Secretary of State cannot renew their driver’s licenses. While commercial, consumer and tort debtors can seek discharge of their debts under the federal Bankruptcy Code, “fines and fees, and forfeitures” are not dischargeable in a federal bankruptcy proceeding.¹

However, a state may from create a “bankruptcy” proceeding which would permit those who meet a certain criterion to petition the court for discharge of their outstanding fees and fines obligations. Societal costs of denying driving licenses to those individuals outweigh the whatever benefits which might be derived from punishing them.

The foundation of the Bankruptcy Code is recognition that some commercial, consumer and tort debtors have financial obligations which they will never be able to satisfy; and that the burden of these debts prevents them from becoming productive citizens. This federal clean slate option comes with restrictions. For example, a Chapter 7 bankruptcy petition will be denied if filed within eight years of the filing of a previous Chapter 7 petition. Similar restrictions could be imposed on those seeking discharge of their fines and fees in state court

Creation of this procedure will not be simple. The need to provide the opportunity for a clean slate to those with traffic fine debts must be balanced with the state’s interest in deterring violations of its traffic laws.

Consider the analogy of the certificate of good conduct. Years ago, the General Assembly recognized that while public access of criminal records might constitute a deterrent to criminal activity, this benefit was outweighed by its costs. Punishment, in the form of public shaming, impaired those with criminal records from engaging in lawful employment.

The certificate of good conduct was legislatively created. Those convicted of certain crimes, after a period of time following their conviction, could request the court for a certificate. If the court concluded that the individual was reformed, the certificate would be issued. Criminal records of those who receive a certificate are sealed. The courts, law enforcement, and certain state agencies have access to these records. However, the typical employer does not.

2. The Senate should consider legislation which permits vehicle owners and drivers to register their e-mail addresses with the Secretary of State so that notices and

¹ 11 U.S.C. § 523(a)

administrative orders returned by the Post Office as undeliverable may be sent to them by e-mail

Many of the Secretary's notices to drivers and vehicle owners are returned as undeliverable. As a result, individuals are not notified of license suspensions or the need to renew state registration. This a problem experienced primarily by those who do not have stable long-term living arrangements.

Local governments are authorized by the Vehicle Code to send, by first class mail, notices of red-light camera, automated speed enforcement, parking and compliance violations to the vehicle owner at the owner's address listed in the Secretary's database.² Many of these notices are returned as undeliverable. The owners do not respond to the notices which they did not receive. As a result, administrative law officers enter orders assessing fines. These administrative orders are mailed to the owners at the addresses in the Secretary's database. Many of these orders are also returned as undeliverable. The fines are not be timely paid. Late payment penalties are assessed against the owners.

In 2005, the legislature amended 625 ILCS 5/11-208.3(b)(5) to provide that where a notice of violation or an administrative order is returned as undeliverable the local government *may* send the notice or order "to the last known address recorded in a United States Post Office approved database."³ However, this option is not mandatory.

Last year 625 ILCS 5/11-208.3 was amended to provide that parking and compliance violations need not be attached to the vehicle or handed to driver.⁴ The local government need only mail the citation to the vehicle owner at the address listed in Secretary's database.

The Senate should consider legislation which would permit drivers and vehicle owners to request the Secretary to record their e-mail addresses and share these e-mail addresses with local governments for the purpose of enforcing their red-light camera, automated speed enforcement, parking and compliance ordinances, PDF copies of notices and administrative orders could be emailed where the hard copies are returned by Post Offices as undeliverable. The cost would not be significant.

Respectfully submitted,

Thomas Grippando

² 625 ILCS 5/11-208.3(b)(3)

³ P.A. 94-294, effective January 1, 2006

⁴ P.A. 101-32