

*Note: The following are excerpts from the book [You Arrested Me for What?](#), author by Richmond, Virginia bail bondsman Dan Barto.*

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# Virginia's Debtor's Prison

## Surrender Your Driver's License



For debtors in early America, consequences were typically harsh. Many states dealt with debtors by imprisoning them in debtor's prisons until their debt was paid. The thinking was that once jailed, their family or some other interested party would pay their debts for their freedom. That would have had to be the only way, because, obviously, once the debtor is jailed, he or she would be unable to work to pay off the debt. This injurious practice was done away with by the mid1800s.

However, Virginia has, unfortunately, instituted it with a different method. The state simply suspends driver's licenses when a citizen doesn't pay court costs, fees, or fines. For most people, the inability to drive means the inability to work and function. While the person may not physically be in jail, the state has just essentially stopped him or her from earning a living until their debt is paid off.

It is often devastating, if not life changing, to lose a license. For instance, many people have occupations that involve driving, so they automatically lose their job. Also, when a job applicant divulges that he or she has a suspended driver's license, that applicant is typically placed in the "unable to arrive at work reliably" pile. So, it's extremely difficult, if not impossible, to get a job.

As with almost any bad policy, the demographic hit the hardest by this is the poor and working poor. It's not as if they can just hire a driver to drive them to work or shuttle their kids. What usually happens is that they simply drive without a license and hope they don't get caught. Then, if they get pulled over, they can be 'cuffed and taken to jail for driving with a suspended license. They get more bail, court costs, and a fine, adding more to their debt. This is clearly a law to create criminals out of citizens who aren't criminals.

I recall one client I had. A twenty-five-year-old young woman called me just bawling because her lawyer told her she was going to need a bondsman the next day. She was going to court for a charge of driving without a license. Her license had been taken away for not paying a fine for a traffic ticket. Despite being a single mom of a three-year-old daughter with almost no family support, she had managed to become an LPN. She was especially upset for a couple of reasons. First, she was afraid for her daughter. She said she had no one to take care of her. I asked her if her parents could help by taking care of her daughter while she went to court. She said that they weren't in a position to help her. It ended up that the father of her daughter took care of the small child during her court date and incarceration. The other reason she was crying was that she was scared to go to jail. She had never been in trouble before. Her bond ended up being just \$300. When I bonded her out, I remember her eyes were bloodshot from crying. She told me she had been bawling all day.

This was one of the first bonds I wrote. It seemed like a complete waste of resources to put this young woman through the system. This girl was working very hard trying to get by and raise her daughter and was not able to pay a traffic ticket. I'm not suggesting she should not have been required to pay the ticket, but this just seemed to be piling debt on her.

Shouldn't suspending or revoking someone's driver's license be reserved for those who are deemed a danger behind the wheel? I hear politicians and others chant "driving is a privilege, not a right." That might be true, but taking someone's driver's license away shouldn't be taken lightly. A person's livelihood may be taken away along with their driver's license.

The Virginia DMV can suspend a person's driver's license for many reasons. Among them are:

- failure to pay court fines and costs for convictions for motor-vehicle-related or non-motor-vehicle-related violations, and
- failure to pay jail fees.

Along with that, once all the fines and fees are paid, DMV charges a fee to reinstate the driver's license. It ranges from \$145 up to \$220, depending on the reason for the suspension or revocation.

So when did the state of Virginia start doing this? In March of 1971, House Delegate A. L. Philpott referred H. B. 196 to Committee:

A BILL to amend the Code of Virginia by adding a section numbered 46.1-423.3, so as to provide for the suspension of operators' or chauffeurs' licenses for the failure or refusal to pay fines incurred for violation of any motor vehicle laws.

It passed later that summer and was signed into law by then-Republican governor, Linwood Holton. (A bit of unrelated trivia here: Governor Holton's daughter, Anne, is married to former governor and current Virginia senator, Tim Kaine.)

I inquired at different governmental agencies as to what was done prior to this law to people who did not pay their fees and fines. No one knew exactly. What I gathered from this is the local jurisdictions would likely have chosen to send it to collections and/or prosecute delinquent debtors in civil court.

This brings up a couple of points. First, a reality of any business is that some people will not pay their bill. The recourse for the creditor is to take the debtor to civil court. If a legal judgment is made in a creditor's favor, the debtor either pays or their credit may be downgraded. This is the only thing a private individual or business can legally do to a person or business that doesn't pay their bill. No other damage or harm can be done to the debtor by the creditor. This is not the case with the state and local governments. If they're the creditor, they will take away the person's ability to function in society by suspending their driver's license, thereby sentencing them to live "off the grid" until their debt is paid. If I didn't know better, I would almost believe the state is purposely trying to create a permanent underclass.

The larger point to this is to question the kind of government we are living with and tolerating. We have allowed it to become increasingly oppressive. This type of consequence would not be tolerated if done by a private business or corporation. Imagine not paying the phone bill, and instead of the phone provider dropping your service, they make it so you can no longer get phone service from any provider until they are paid. That would not be tolerated. Shouldn't the government adhere to the same rules as the governed? After all the political rhetoric about standing up for the little guy

and the poor, instituting and maintaining these types of laws is contradictory and dishonest. It's no wonder politicians are viewed so poorly by private citizens.

So I have a theory and a proposal. My theory is that after a certain amount of time, a debtor will give up trying to pay the debt, even if it means not being able to legally drive. I have had numerous clients who operate off the grid and haven't been able to legally drive for years. I recall one young woman who breeds purebred cats. She actually does pretty well. She has no bank accounts and all of her transactions are in cash.

I attempted to get information from the local city and county courts pertaining to delinquent debts. The information requested was the delinquent debts currently outstanding that were incurred two, three, four, and seven years ago. However, none of the courts or agencies could get that specific information. They were able to give me the delinquent debts for that year, but couldn't distinguish when the debts began. So for the record, on this subject, I don't have data to back up my theory and proposal. I would like to state up front that this is not fact but conjecture. I feel I have to make that known; otherwise, if I were to put it down as fact without any proof, the pretrial services lobby might get confused and think I was working for them and try to hire me to collaborate with Spike Bradford.

Anyhow, the premise of my theory is that people who are employed, paying taxes, and engaged with others in the community are more beneficial to society than people who are unemployed and live off the government. How this pertains to suspending driver's licenses is that it drastically inhibits people in the lower economic classes from advancing economically. Not only will people in this situation not be able to pay the court fees and fines, the state may very likely have to continue paying welfare payments for them. So it's economically detrimental to the local governments, to society, and to the individual to suspend driver's licenses for not paying fees and fines. This practice is immoral. I cannot think of any policy or law more injurious to the poor and working poor. The old grievance "it's a crime to be poor" comes to mind here.

My proposal is to repeal the law now. Let the local jurisdictions collect the fees and fines as they see fit. They may be able to garnish wages or negatively affect credit as motivation for payment. They may be able to come up with other ideas to motivate debtors to pay. The effect on the public of repealing this law would be more citizens eligible to legally work in the workforce. Basic opportunities that were previously closed to them would now be open.

Second, periodically, forgive the debts. As a jumping off point, how about every seventh year the local and state governments forgive all debts incurred by its citizens, at least eighteen months prior. The reason for the eighteen-month buffer is, suppose this is enacted and in October of the sixth year someone gets a speeding ticket. If he or she knows the fine will be forgiven in a couple of months, he or she might be inclined to wait it out and not pay it. However, it would be difficult to endure eighteen months or more of being a debtor to the local government, so he or she would likely just pay it.

A primary benefit of this would be that by cutting people a break and giving them a second chance, many of them would seize upon this and be motivated to work since they know they will be able to keep their earnings rather than just working for the local governments and the DMV. The

other benefit is that people would have a better attitude toward their local governments. When people are directly affected in a positive manner by their local government, the attitudes will change. Imagine a person having a \$700 bill to the court hanging over their head for two years and receiving a letter saying the \$700 is forgiven; nothing is owed. Rather than having the attitude, of “The stinking greedy state is just going to take my money; they’re keeping me down,” their attitude would become, “Holy cow, I can’t believe this. Maybe they’re not so bad after all.”

You might be thinking that if they are the poor or working poor, they still won’t be paying much, if anything, in taxes. That’s true, at least initially, and it may be for some time. But there can be only good to come from it. On the other side, I see no benefit to suspending driver’s licenses based on inability to pay debts. The only motivation I can see for it is a sinister one. By putting up roadblocks to prevent upward economic mobility, it is easier for the government to control and influence the people.

I understand that this may be a radical idea, but I think it is a good one. However, I certainly cannot claim credit for it. It’s actually from the Bible, Deuteronomy 15:1:

“At the end of every seven year period you shall have a relaxation of debts.”