
MICHIGAN’S DRIVER’S LICENSING LEGISLATION: THE ROAD TO UNLICENSED DRIVERS

*Alexa Tipton**

INTRODUCTION

In August of 2009, Renee Lashon Beavers of Detroit, Michigan was pulled over after reportedly driving a stolen vehicle.¹ The police discovered that she had been issued forty-five license suspensions from the Michigan Secretary of State despite never initially acquiring a valid driver’s license.² Although the number of license suspensions Beavers obtained seems shocking, a suspended license is not uncommon among drivers in Detroit. A week after Beavers was arrested, Ahmed Abdul Malik, who had fifty-two driving suspensions, was pulled over for an improper license plate and driving with a suspended license.³ Malik had been driving without a valid license since 1995.⁴

According to a recent report by the Michigan Joint Task Force on Jail and Pretrial Incarceration, “driving without a license is the third most-common offense

* Candidate for Juris Doctor, Notre Dame Law School, 2021; Bachelor of Arts in Economics, Hillsdale College, 2018. I would like to thank the Honorable Derek W. Meinecke for providing me with the opportunity to contribute to Operation Drive and for his encouragement and support in my endeavors.

¹ Tom Greenwood, *Detroit Woman with No License Driving with 45 Suspensions*, DETROIT NEWS (Aug. 27, 2009), <https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:7WGF-V600-Y9DV-836F-00000-00&context=>.

² *Id.* According to Michigan’s Secretary of State, if a person with no license is cited by the police, the citation automatically goes to the Secretary of State, then a driver’s license number is assigned to that person in order to build a record of any citations they may receive. *Id.* Once an individual receives a certain number of points on their driving record, the Secretary of State’s computers automatically distribute a notice of suspension. *Id.*

³ Shawn D. Lewis & Tom Greenwood, *52 Suspensions, but Still Driving*, DETROIT NEWS (Sept. 2, 2009), <https://advance.lexis.com/document?crd=ad4cf474-1212-434b-ae2a-707f7f767557&pddocfullpath=%2Fshared%2Fdocument%2Fnews%2Furn%3AcontentItem%3A7WHR-MTS1-2PYS-J44T-00000-00&pdcontentcomponentid=255260&pdmfid=1000516&pdisurlapi=true>.

⁴ *Id.*

among the top [ten] leading to jail admissions.”⁵ Takura Nyamfukudza, a defense attorney in Meridian Township, Michigan, stated that during the three years she worked on court-appointed cases, “[i]t was not unusual to have in one day as many as a dozen driving while license suspended or invalid driver’s license [cases].”⁶ What caused Michigan’s license suspension rates to rise to such extremes? A multitude of factors have led to this result. Many individuals in southeastern Michigan are forced to rely on driving because Michigan lacks a reliable public transportation system. Additionally, Detroit residents have to commute long distances in order to maintain employment and provide for their families.⁷

But if having a driver’s license is so imperative, then why are so many individuals choosing to forgo the licensing process? A few elements that lead to an individual never receiving his driver’s license include licensing laws that prevent those who have driven without a license from receiving a license, traffic laws that offer no relief for indigent persons, and the high cost and complexity of Michigan’s graduated driver’s licensing process. If the goal of the Michigan Legislature is to have all individuals on the road carrying a valid driver’s license after having gone through an approved driver’s education course, then the laws should make this opportunity accessible to all who intend to drive. Instead, the current statutory scheme discourages individuals from obtaining licenses. Under section 257.303(1)(g) of the Michigan Compiled Laws, an individual who has never obtained a valid license, but receives two or more moving violations within the preceding three years, will be barred from obtaining a valid driver’s license.⁸ In addition, that individual will face up to \$500 in fines, ninety-three days in jail, or both, under section 257.904(3)(a) of the Michigan Compiled Laws.⁹ If this individual cannot pay the fines, he is afforded no relief under Michigan law, making jail his only option and putting him at risk of losing his employment. This process turns Michigan residents away from receiving a driver’s license altogether by consistently placing statutory obstacles in their path. In addition, Michigan’s Graduated Driver’s Licensing Program discourages teens from obtaining their licenses due to longer waiting periods, the increased amount of time it takes to complete the program, and the extra cost of driver’s education. Thus, many individuals never end up obtaining a license.

The purpose of this Note is to analyze the impact of section 257.303(1)(g) and its effect of deterring individuals from receiving their licenses. Section I provides a background of section 257.303(1)(g) and describes how it applies to an individual

⁵ Kyle Davidson, *Lower Penalties for Traffic Cases Could Cut Jail Population, Report Says*, SPARTAN NEWSROOM (Jan. 17, 2020), <http://news.jrn.msu.edu/2020/01/lower-penalties-for-traffic-cases-could-cut-jail-population-report-says/>.

⁶ *Id.*

⁷ Niraj Warikoo, *Trapped in Poverty by Traffic Tickets; Lawsuit Says Michigan’s Practice of Suspending Driver’s Licenses for Minor Infractions Unfairly Penalizes Poor People*, DETROIT FREE PRESS (May 25, 2017), <https://advance.lexis.com/api/document?id=urn:contentItem:5NMG-XVX1-JC3H-03KD-00000-00&idtype=PID&context=1000516>. Detroit is unique in that metro Detroit has the biggest job sprawl among major metro areas—about 77% of jobs in the region are more than ten miles outside the central business district in Detroit. *Id.*

⁸ See MICH. COMP. LAWS ANN. § 257.303(1), (1)(g) (West 2020).

⁹ See *id.* § 257.904(3)(a).

who has driven without a valid license, as well as the lack of public transportation in Michigan and relief for indigent persons. Section II explains why Michigan's Graduated Driver's Licensing Program was adopted and the manner in which it deters teens from obtaining licenses. Finally, Section III compares the Graduated Driver's Licensing Programs in Connecticut and Alabama to Michigan's program, while offering an economic analysis of the downfalls of Michigan's program, along with the benefits of Connecticut's and Alabama's programs. This Note concludes with a summary of the problems in Michigan's current statutory scheme along with the solutions that this Note has presented, concluding that a reform of Michigan's driver's licensing and traffic legislation is necessary in order to incentivize individuals to receive their licenses.

I. BACKGROUND

Strict licensing laws in Michigan encourage those who have driven on a suspended license, or without a license, to abandon the licensing process, as seen in the number of license suspensions individuals, such as Beavers and Malik, have accumulated. Under section 257.303(1)(g) of the Michigan Compiled Laws, a person who has never been issued a valid driver's license and is found responsible for two or more moving violations within the preceding three years will not be able to receive a license from the Secretary of State:

(1) The secretary of state shall not issue a license under this act to any of the following persons:

....

(g) A person who has been convicted of, has received a juvenile disposition for, or has been determined responsible for 2 or more moving violations under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state within the preceding 3 years, *if the violations occurred before issuance of an original license to the person in this state, another state, or another country.*¹⁰

Once a driver is pulled over without a valid driver's license, his ability to receive a license is suspended. Thus, if he continues to drive, he will be driving on a suspended license. The penalties for driving on a suspended license are as follows:

(3) A person who violates subsection (1) or (2) is guilty of a misdemeanor punishable as follows:

(a) For a first violation, by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both. Unless the vehicle was stolen or used with the permission of a person who did not knowingly permit an unlicensed driver to operate the vehicle, the registration plates of

¹⁰ *Id.* § 257.303(1), (1)(g) (emphasis added).

the vehicle shall be canceled by the secretary of state upon notification by a peace officer.¹¹

(b) For a violation that occurs after a prior conviction, by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both. Unless the vehicle was stolen, the registration plates of the vehicle shall be canceled by the secretary of state upon notification by a peace officer.¹²

Therefore, an individual will not only face penalties under section 257.904 but also under section 257.303. This individual will ultimately be punished twice for the same crime. First, the driver will face the penalties of driving with a suspended license. If those punishments successfully discourage the driver from continuing to drive without a license, the driver will then be turned away from receiving a valid license from the Secretary of State until after he completes the necessary requirements. Section 257.303(1)(g) acts as a barrier to obtaining a license instead of encouraging individuals to complete the necessary requirements to receive a valid driver's license.

A. PERILOUS MICHIGAN TRAFFIC OFFENSES WITH LESS SEVERE PUNISHMENTS

An individual's license can be suspended for a longer period of time under section 257.303(1)(g) than a driver who has been convicted of a more serious traffic offense. Individuals who have obtained their licenses, but who have committed offenses related to impaired driving, or driving resulting in the death of another, face less severe suspension rates than drivers who commit a series of minor offenses but have never received their licenses. This conveys the wrong message to Michigan drivers—namely, that as long as drivers merely carry a valid license, their reckless actions will warrant a lesser degree of punishment.

First, under section 257.319(8)(b) of the Michigan Compiled Laws, an individual that operates a vehicle while visibly impaired for the *second* time will only have her license suspended for a maximum of 180 days, while remaining eligible for a restricted license during the entirety or part of the suspended period.¹³ As a *second* offense, a minor who contains a bodily alcohol content of up to 0.07 grams per 100 milliliters of blood and is found driving will only have her license suspended for ninety days.¹⁴ Additionally, a person's license is suspended for merely one year when the individual is convicted of a felony in which a motor vehicle was used.¹⁵ Lastly, a licensed driver who commits a moving violation that is the proximate cause of another's death is also suspended from driving for only one year.¹⁶ These

¹¹ *Id.* § 257.904(3)(a).

¹² *Id.* § 257.904(3)(b).

¹³ *Id.* § 257.319(8)(b).

¹⁴ *Id.* § 257.319(8)(d).

¹⁵ *Id.* § 257.319(2)(d).

¹⁶ *Id.* § 257.601(d)(1).

punishments, as compared to those in section 257.303(1)(g), indicate Michigan's skewed perspective on traffic laws. If an individual drives without a license and receives two moving violations within the preceding three years, he will not be able to apply for a license for a maximum of three years with no eligibility to receive a restricted license.¹⁷ This person's ability to possess a valid license will be suspended for a longer period of time under section 257.303(1)(g) than in each of the cases presented above, whether or not the unlicensed individual engaged in reckless driving. This is further evidence that Michigan's statutory law needs to be reformed in order to bring it into line with the expectations and standards of Michigan drivers.

B. IF NO LICENSE, THEN WHAT?

In Michigan, individuals without a license have few affordable alternatives to driving due to the fragmented public transportation system.¹⁸ In addition, if an individual chooses to drive with no license, a suspended license, or without paying previous traffic tickets, his license will be further suspended, with no relief offered for indigent individuals.¹⁹ The combination of a lack of available public transportation in Michigan and the State offering no relief for indigent persons poses an incredible barrier for low-income families. This leads to a higher unemployment rate, with fewer individuals contributing to the Michigan economy, and a higher rate of individuals driving without valid licenses.²⁰ The Honorable Derek W. Meinecke, a state district court judge in a Detroit suburb, has created a temporary solution for individuals driving without a license or with a suspended license. Judge Meinecke delays sentencing while promising to reduce an individual's fees if he pays off his fines in other jurisdictions and becomes eligible for a valid driver's license.²¹ While this has encouraged hundreds of individuals to obtain their licenses, the actions of one judge cannot be the solution to this problem. State-wide reform is necessary to fully resolve this issue.²²

1. No Alternatives to Driving

Michigan residents face great hardships under Michigan's current driver's licensing laws due to a lack of cost-effective alternatives to driving.²³ Michigan's public transportation is known for being unreliable and fragmented, leaving teens with few available alternatives for travel to and from their employment and school.²⁴

¹⁷ *Id.* § 257.303(1)(g).

¹⁸ Slone Terranella, *Detroit Misses Amazon HQ2 Cut Over Mass Transit*, SOUTH END (Mar. 19, 2018), https://www.thesouthend.wayne.edu/features/article_42ba9cd0-2bdf-11e8-9ea1-9f3640f93378.html.

¹⁹ *See* Fowler v. Benson, 924 F.3d 247 (6th Cir. 2019).

²⁰ *See* Ryan Felton, *How Detroit Ended Up with the Worst Public Transit*, DETROIT METRO TIMES (Mar. 11, 2014), <https://www.metrotimes.com/detroit/how-detroit-ended-up-with-the-worst-public-transit/Content?oid=2143889>.

²¹ *See* Interview with the Honorable Derek W. Meinecke, Judge, 44th Dist. Ct., Royal Oak, in Royal Oak, Mich. (Aug. 9, 2019).

²² *See id.*

²³ Terranella, *supra* note 18.

²⁴ *Id.*

Further, adults who have not received their licenses are left with few options for commuting to work. This results in individuals choosing to drive without a license anyway or adding hours onto a workday commute instead of spending that time at their employment.²⁵

Fewer licensed individuals results in fewer productive members of the economy due to southeastern Michigan's lack of a reliable public transportation system. Cars, in many cases, are necessary in order to maintain employment.²⁶ The Suburban Mobility Authority for Regional Transportation ("SMART") bus system is difficult to navigate, disconnected, and often incurs many delays. Individuals need to budget hours for a bus ride to their location of employment that is only a fifteen-to twenty-minute drive.²⁷ Additionally, some communities have opted out of the SMART bus system, reducing revenue that would support the system and creating gaps in the bus route.²⁸

The consequences of an unreliable and inefficient public transportation system are found in Detroit's unemployment rates.²⁹ Often, those who have the skills to qualify for a job outside of their local community are unable to commute to the job due to either being unlicensed and without a car, or having a lack of public transportation.³⁰ Specifically, many citizens of Detroit do not possess the skills needed for the jobs that are within the city limits—a recent estimate concludes that

²⁵ See Bill Laitner, *Detroit's Commute of Heart and Sole*, DETROIT FREE PRESS (Jan. 31, 2015), <https://www.freep.com/story/news/local/michigan/oakland/2015/01/31/detroit-commuting-troy-rochester-hills-smart-ddot-ubs-banker-woodward-buses-transit/22660785/>.

²⁶ Thomas Capretta, Note, *Highway Robbery: Due Process, Equal Protection, and Punishing Poverty with Driver's License Suspensions*, 26 WM. & MARY BILL RTS. J. 1213, 1224 (2018). Cars have been found to increase the hours worked and wages earned by those who own them. *Id.*

²⁷ Ryan Felton, *How Detroit Ended Up with the Worst Public Transit*, DETROIT METRO TIMES (Mar. 11, 2014), <https://www.metrotimes.com/detroit/how-detroit-ended-up-with-the-worst-public-transit/Content?oid=2143889>.

²⁸ Eric D. Lawrence & John Gallagher, *SMART's Opt-Out Option Gets Blame for Transit Woes*, DETROIT FREE PRESS (Feb. 7, 2015, 11:12 PM), <https://www.freep.com/story/news/local/michigan/detroit/2015/02/07/smart-opt-blamed-transit-woes-michigan-detroit/23047697/>. A frequently cited reason for cities opting out is the impending tax increase that follows adopting the bus route. *Id.* This is also why the Regional Transit Authority's spending plan to expand municipal bus services and institute a rail system has not passed. Derek Draplin, *Metro Detroit Transit Tax Assumes Funding from State and Feds that May Never Come*, CAPCON (Oct. 26, 2016), <https://www.michigancapitolconfidential.com/22908>.

²⁹ In the first quarter of 2019, Detroit's unemployment rate was 8.8%, more than double the state of Michigan's 4.0% unemployment rate. WORKFORCE INTEL. NETWORK, CITY OF DETROIT: WIN LABOR MARKET REPORT (2019) at 4, https://winintelligence.org/wp-content/uploads/2019/09/Detroit-LMR-Q2-2019-FINAL_OP-1.pdf. See also, MICH. DEP'T OF TREASURY, MICHIGAN ECONOMIC UPDATE (2019) at 2, https://www.michigan.gov/documents/treasury/Michigan_Economic_Update_-_May_2019_660737_7.pdf.

³⁰ Zachary A. Goldfarb, *Amid Detroit Bankruptcy, Residents Grapple with Poverty and Unemployment*, WASH. POST (July 19, 2013), https://www.washingtonpost.com/business/economy/amid-detroit-bankruptcy-residents-grapple-with-poverty-and-unemployment/2013/07/19/1560a33e-f0b5-11e2-bed3-b9b6fe264871_story.html?noredirect=on&utm_term=.a5b884b5f959.

about two-thirds of Detroit residents commute to the suburbs for work each day.³¹ With Detroit residents lacking access to cars, public transportation must improve.³²

Michigan's laws should encourage teens and adults to remain employed. However, if the driver's licensing laws disincentivize individuals to complete the necessary requirements and raise the cost of complying with the laws to exclude low-income families, fewer individuals will acquire a license. This leaves families with no available alternatives due to Michigan's delayed and gap-ridden public transportation, which encourages individuals to drive anyway without a license. Once an individual receives two moving violations, she will be barred from obtaining a license for three years and will be even more discouraged from complying with the licensing requirements.³³

2. No Relief for Indigent Persons

Many persons who are unlicensed and receive tickets in southeastern Michigan fail to pay the tickets and instead continue to drive while collecting more moving violations.³⁴ Detroit police officers do not arrest individuals who drive on a suspended license, while officers in West Bloomfield, Royal Oak, Birmingham, and surrounding suburbs do arrest those who are suspended from driving.³⁵ Thus, by the time an individual appears in front of a judge, this driver can have ten or more tickets from Detroit alone. Once individuals finally pay off their fines and tickets, they will be confronted with section 257.303(1)(g) of the Michigan Compiled Laws. The date of the tickets on their record often reflects the date that the ticket was ultimately paid, not the date that it was given.³⁶ Therefore, although an individual received tickets far earlier than within the preceding three years, they will now have multiple tickets dated within the same year, suspending this individual from receiving a license for another three years.

A judge's discretion is the only available form of relief from the disenfranchising effects of this law. Not all courts allow payment plans, but instead give the individual the option of paying the high cost upfront or serving time in jail

³¹ John Gallagher, *These Detroiters Aren't Looking for Jobs. Why Might Surprise You*, DETROIT FREE PRESS (June 8, 2018, 8:00 AM), <https://www.freep.com/story/money/business/john-gallagher/2018/06/08/workforce-participation-detroit/674401002/>.

³² *Id.*

³³ MICH. COMP. LAWS ANN. § 257.303(1)(g) (West 2020).

³⁴ There are many other reasons why an individual's license may be suspended, such as convictions for failing to pay traffic tickets, drug crimes, or fleeing from police. Stacy Sellek, *Judge Meinecke: Helping Individuals Get Back in the Driver's Seat Toward a Better Life*, CONNECTIONS: MICH. TRIAL CTS. CONNECTING TO IMPROVE SERV. (June 28, 2019), https://scao-connections.blogspot.com/2019/06/judge-meinecke-helping-individuals-get.html?fbclid=IwAR1kqGwHDUL27hdDwn1UHZ6gawFjszuIfmyaRjkCGJzB7DmqhU_dXEs8hs. Judge Meinecke stated that "the law prohibiting driving on a suspended license applies the same charge and punishment no matter the reason why a person's license is suspended." *Id.* The severity of the crime is not accurately represented when the same penalty of driving on a suspended license is applied in response to a multitude of crimes.

³⁵ Interview with the Honorable Derek W. Meinecke, *supra* note 21.

³⁶ *Id.*

in place of paying the fines.³⁷ After years of nonpayment, a few speeding tickets can quickly rack up to hundreds of dollars. Multiply this across several jurisdictions and a person is faced with an insurmountable debt, leaving the individual feeling as if jail is her only choice. Tactics like this further disenfranchise individuals and adversely affect low-income families. One who cannot pay the exorbitant fees will choose to serve jail time instead. This puts individuals at risk of losing their employment, leaving them with no income to pay off their tickets in other jurisdictions.

Michigan does not accord any statutory relief to indigent persons in cases of driver's license suspension.³⁸ The U.S. Court of Appeals for the Sixth Circuit recently heard a case addressing the issue of whether Michigan state law establishes a right of the indigent, who cannot pay court debt, to be exempted from a driver's license suspension.³⁹ The plaintiffs in *Fowler v. Benson* argued that the Michigan Secretary of State's suspension of an indigent person's driver's license due to unpaid court debt violates both the Due Process and Equal Protection Clauses of the Fourteenth Amendment.⁴⁰ The plaintiffs reasoned that "suspending the driver's licenses of the poor is irrational" because license suspension makes their commuting to and from work difficult and therefore reduces their ability to pay their debt.⁴¹ Fowler works twenty hours a week making minimum wage and claims that she lacked the resources to pay her court debts.⁴² As a result of her suspended license, it is impossible for her to find good-paying work because "many desirable jobs require a commute and there is no reliable public transit."⁴³ Using rational basis review, the majority of the three-judge panel rejected the plaintiffs' claim that indigent individuals have a right to be exempted from driver's license suspensions on the basis of unpaid court debt.⁴⁴ The court reasoned that the plaintiffs' procedural due process claim failed because Michigan's law mandating suspensions for failure to pay court debt has no exception

³⁷ *Id.*

³⁸ See MICH. COMP. LAWS ANN. § 257.321(a)(2) (West 2020).

³⁹ *Fowler v. Benson*, 924 F.3d 247, 258 (6th Cir. 2019).

⁴⁰ *Id.* at 252.

⁴¹ *Id.* The plaintiffs in that case are in a similar situation as many of the individuals who are directly affected by section 257.303(1)(g)—specifically, Fowler accumulated three tickets for civil infractions and failed to pay the court debt associated with those tickets. *Id.* When she attempted to renew her Michigan driver's license, she was unable to do so because she had outstanding court debts. *Id.* Fowler acquired these three tickets in Georgia. *Id.* Similarly, section 257.303(1)(g) denies a license to an individual who "has been determined responsible for [two] or more moving violations under a law of this state . . . or a law of another state substantially corresponding to a law of this state." MICH. COMP. LAWS ANN. § 257.303(1)(g) (West 2020).

⁴² *Fowler*, 924 F.3d at 252.

⁴³ *Id.* Harris, another plaintiff in that case, was ticketed for "impeding traffic," and when she called the 43rd District Court-Ferndale Division, she was denied a payment program and told that if she waited too long to make the payment, her driver's license would be suspended. *Id.* After a month, Harris was informed that her failure to pay resulted in an increase in the amount she owed and that her driver's license was suspended. *Id.* at 253. Secretary of State Jocelyn Benson disputed this claim and argued, with the support of a signed affidavit of Linda Carroll, the Court Administrator for the Ferndale court, that anyone who calls and makes any type of payment will always be granted an extension and these individuals can raise their inability to pay at a show-cause hearing. *Id.* However, a payment plan is entered into at the discretion of a court administrator. According to the Trial Court Collections Standards and Guidelines, a document published by the Michigan Supreme Court, "upon determination of good cause, a payment plan may be authorized." MICH. SUP. CT., TRIAL COURT COLLECTIONS STANDARDS & GUIDELINES § 2.3.1 (2016).

⁴⁴ *Fowler*, 924 F.3d at 261–62.

for indigence or non-willfulness, thus the plaintiffs were not entitled to a hearing or any other procedural opportunity where they could raise the issue of their indigency.⁴⁵

Additionally, the plaintiffs argued that the suspension of their licenses constitutes impermissible wealth discrimination under the Equal Protection Clause that, again, cannot pass rational basis review. The plaintiffs reasoned that it is “patently irrational” to suspend an indigent person’s driver’s license since doing so makes it harder for that individual to obtain and hold a job, which in turn makes him less likely to pay his court debt.⁴⁶ The court countered that rational basis review only asks whether Michigan’s statutes are rationally “related to legitimate government interests,” not to determine the statute’s effectiveness.⁴⁷

If indigents were afforded relief from the debilitating fines that can rack up after nonpayment, or if license suspension was not the punishment for failure to pay or driving without a license, the effect of section 257.303(1)(g) would be less disenfranchising for low-income families. The state should incentivize individuals to pay their tickets or, if they are truly unable to pay, to seek relief. Tacking on fees for late payment and then suspending one’s license does not deter an individual from committing the act in the first place. Instead, the current procedure leads to disenfranchisement by making it even more difficult for the individual to maintain employment so that he is able to pay his fines. The dissent in *Fowler* agreed, stating that “an individual who has had their license suspended because they cannot afford to pay a fine is at an extraordinary disadvantage in earning an income and obtaining basic essentials.”⁴⁸ Similarly, individuals who are suspended from applying for licenses because of section 257.303(1)(g) are put at a greater disadvantage while they are affirmatively deterred from receiving licenses.

A judge of Michigan’s 44th District Court in Royal Oak, a Detroit suburb, has noticed the damaging effects of section 257.303(1)(g) and is one of the few judges who has created a plan, called Operation Drive, to encourage individuals to apply for licenses. The Honorable Derek W. Meinecke, creator of Operation Drive, will work with individuals in this situation to clear their licenses in the surrounding cities so that they become eligible to receive a valid driver’s license.⁴⁹ Once an individual has been arrested for the offense of Driving While License Suspended (“DWLS”), Judge Meinecke will delay sentencing using section 771.1 of the Michigan Compiled Laws and will offer to substantially reduce the acquired fines if the individual pays off her

⁴⁵ *Id.* at 258. Michigan’s statutory scheme for license suspensions does not reference the “indigency status of those whose licenses are subject to suspension.” *Id.*; see also MICH. COMP. LAWS ANN. § 257.321(a)(2) (West 2020) (“If the person fails to appear or fails to comply with the order or judgment within the 14-day period, the court shall, within 14 days, inform the secretary of state, who shall immediately suspend the license of the person.”).

⁴⁶ *Fowler*, 924 F.3d at 262.

⁴⁷ *Id.* The court reasoned that the suspension of one’s license in response to the nonpayment of court debt heightens the incentive for an individual to pay. *Id.* at 263. However, increasing the severity of punishment does little to actually deter future crime. See *Five Things About Deterrence*, NAT’L INST. OF JUST. (June 5, 2016), <https://nij.ojp.gov/topics/articles/five-things-about-deterrence>.

⁴⁸ *Fowler*, 924 F.3d at 269 (Donald, J., dissenting).

⁴⁹ See Sellek, *supra* note 34.

tickets in other jurisdictions and receives her license.⁵⁰ Additionally, he allows payment plans for individuals who cannot pay the full cost up front.⁵¹ Judge Meinecke has spoken to judges of Michigan’s 36th District Court in Detroit about the problem of unlicensed driving, and he informed them about Operation Drive and encouraged them to adopt their own plan.⁵² As of August 13, 2020, Judge Meinecke’s efforts have restored 865 licenses.⁵³

Although Judge Meinecke has created a temporary solution, there must be action on the part of the Michigan Legislature to encourage individuals to receive their licenses, as opposed to deterring individuals through harsh suspension laws. The effects of these laws are only compounded due to southeastern Michigan’s lack of reliable and comprehensive public transportation. The courts, as seen in *Fowler*, have chosen not to question the effectiveness of Michigan’s statutory traffic laws.⁵⁴ An individual’s license gives her the ability to obtain and maintain employment, transport her children to and from school, and care for her family. Because section 257.303(1)(g) makes it even more difficult for an individual to obtain a license, relief from this disenfranchising law cannot and should not be left up to a judge’s discretion—there must be a statutory change.

B. STATES WITH STATUTES COMPARABLE TO SECTION 257.303(1)(G) THAT CARRY LESS SEVERE PENALTIES

In both Connecticut and Alabama, residents face less severe penalties for driving while unlicensed than residents of Michigan. If a Michigan resident receives two moving violations within the same year when he is unlicensed, this individual will have his license suspended for a maximum of three years under section 257.303(1)(g); he could be punished for a misdemeanor; and he will face up to ninety-three days in jail or a fine of up to \$500.⁵⁵ In contrast, Connecticut and Alabama’s laws offer penalties that do not debilitate an individual’s ability to receive a valid license.

Under Connecticut’s statutes, anyone under eighteen who is convicted of driving a motor vehicle without a driver’s license will have her driving privilege suspended for a period of one year.⁵⁶ Anyone eighteen or older who drives without a valid license will be subject to a fine of \$75 to \$95, and each subsequent violation will include a suspension of driving privileges for ninety days and possibly up to thirty

⁵⁰ MICH. COMP. LAWS ANN. § 771.1 (West, Westlaw through P.A.2020, No. 249, of the 2020 Regular Session, 100th Legislature).

⁵¹ Interview with the Honorable Derek W. Meinecke, *supra* note 21.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Fowler v. Benson*, 924 F.3d 247, 262 (6th Cir. 2019).

⁵⁵ *Id.*

⁵⁶ *Driving Without a License*, STATE OF CONN. DEP’T OF MOTOR VEHICLES, <https://portal.ct.gov/DMV/Suspension/Suspension/Driving-Without-a-Drivers-License-Penalties> (last visited Nov. 9, 2019).

days in jail.⁵⁷ In order to restore one's driving privilege, an individual must pay a \$175 restoration fee to Connecticut's Department of Motor Vehicles prior to the end of the suspension term.⁵⁸

In Alabama, anyone who drives without a driver's license is guilty of a misdemeanor and will be fined according to the discretion of the judge.⁵⁹ The fine must be not less than \$10 nor more than \$100.⁶⁰ In addition to the fines, fees, costs, and punishments prescribed by law, there shall be imposed or assessed an additional penalty of \$50 in all criminal and quasi-criminal proceedings.⁶¹ One is not suspended from applying for a valid license in Alabama if this individual drives prior to receiving a valid driver's license.⁶²

Neither Connecticut nor Alabama penalize an unlicensed driver as harshly as Michigan. By splitting the sanction into two age groups, Connecticut offers a harsher penalty to younger drivers for driving without a license.⁶³ This may serve as a deterrent to younger drivers from committing the act again. By offering a less severe penalty to anyone above the age of eighteen, Connecticut still allows for these individuals to apply for a license relatively soon after being cited for driving without a license.⁶⁴ Alabama similarly offers a less severe punishment with the maximum fine being \$100, as compared to Michigan's maximum fine of \$500, and Alabama specifically does not suspend an individual's ability to apply for a license.⁶⁵ Although a Michigan judge retains discretion in assessing jail time or a fine for an unlicensed driver, there is a broader scope reflected in the statutory law that the judge can use to impose much harsher penalties.⁶⁶ This creates opportunities for judges to impose inconsistent punishments and for uncertainty to arise in the law. However, it also gives a Michigan judge the ability to account for individuals who encountered extraordinary circumstances that necessitated driving without a license when assessing their penalty.

II. THE GRADUATED DRIVER'S LICENSING PROGRAM ENCOURAGES MICHIGAN RESIDENTS TO FORGO A DRIVER'S LICENSE

A driver's license is essential for most individuals to care for their families and maintain employment.⁶⁷ However, when the licensing process is expensive and

⁵⁷ *Driving Without a Valid (or on a Suspended) License in Connecticut*, DRIVINGLAWS, <https://www.drivinglaws.org/resources/driving-without-a-license-connecticut.htm#:~:text=Driving%20without%20a%20valid%20license%20is%20a%20traffic%20infraction%20and,a%20license%20for%20one%20year> (last visited Aug. 7, 2020).

⁵⁸ *Id.*

⁵⁹ ALA. CODE § 32-6-18(a) (Westlaw through Act 2020-206).

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Driving Without a License*, *supra* note 56.

⁶⁴ *Id.*

⁶⁵ ALA. CODE § 32-6-18(a) (Westlaw through Act 2020-206); MICH. COMP. LAWS ANN. § 257.303(1)(g) (West 2020).

⁶⁶ *See* § 257.303(1)(g).

⁶⁷ Slightly more than 91% of Michigan workers use a car, truck, or van to commute to and from work, while only about 9% carpool. Julie Mack, *See Average Work Commute Time in Your Michigan County*, MLIVE

takes years to complete, the incentive is for individuals to forgo obtaining their driver's license altogether. The Graduated Driver's Licensing program has increased the cost and length of time it takes to become a licensed driver in Michigan, deterring individuals from participating in the process. Those who do not receive their licenses through this program ultimately wait until they can take a test to receive their licenses after the age of eighteen or choose to never become licensed drivers. Unfortunately, these unlicensed drivers take to the roads anyway.

A. OVERVIEW OF THE GRADUATED LICENSING PROGRAM

Prior to 1996, most states employed a single-stage licensing system where individuals turning sixteen or seventeen years old could obtain full driving privileges.⁶⁸ As a solution to the high rates of teen fatalities due to dangerous driving, states have adopted graduated licensing programs ("GDL").⁶⁹ Under this three-part system, teen drivers must remain in the first two stages for a designated minimum period of time.⁷⁰ The first stage is a supervised learner's period, and under the second stage, the driver obtains an intermediate license if the driver passes a road test.⁷¹ During the second stage, restrictions are placed on the driver to avoid high-risk situations.⁷² The final stage is full licensure and can only be obtained after successful completion of the first two stages.⁷³

Legislatures across the country implemented this program in response to the unfavorable realities of teen driving. In the United States, motor vehicle related injury is the leading cause of death for people aged one to twenty-four.⁷⁴ For example, in 1993, "two-thirds of the deaths of passengers aged [thirteen] to [nineteen] occurred when other teenagers were driving."⁷⁵ There are several features that affect the likelihood of a crash in younger drivers, such as a lack of skills, elevated risk-taking, peer pressure, nighttime driving, and high rates of alcohol-impaired driving.⁷⁶ Additionally, teen traffic fatalities are most concentrated during nighttime driving, as

(May 20, 2019), https://www.mlive.com/news/2018/03/michigan_commuting_to_work_tim.html. Four percent work at home, 2% walk, a little less than 2% use public transportation, and 0.5% bike to work. *Id.* Nationally, 85% of Americans drive or carpool to work, 5% use public transportation, 5% work at home, and 3% walk. *Id.*

⁶⁸ *Essential Facts About Graduated Driver Licenses (GDL)*, EDMUNDS (May 5, 2009), <https://www.edmunds.com/car-safety/essential-facts-about-graduated-driver-licenses-gdl.html>.

⁶⁹ David C. Grabowski & Michael A. Morrissey, *The Effect of State Regulations on Motor Vehicle Fatalities for Younger and Older Drivers: A Review and Analysis*, 79 MILBANK Q. 517, 524 (2001). However, a study conducted in Georgia covering the years 1978 to 1981 revealed that "driver education had no effect on motor-vehicle-related crashes or violations." *Id.* at 520.

⁷⁰ *Id.* at 524.

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.* at 517.

⁷⁵ *Id.* at 517-18.

⁷⁶ *Id.* at 519. Dangerous driving behaviors, such as drinking or using drugs before driving, speeding, swerving, crossing the center line, purposely skidding, and running a red light, were strongly associated with the presence of peers in the vehicle according to a survey of 192 high school drivers in 1998. *Id.* at 520.

evidenced by the statistic that “[o]ne-fifth of teen car-occupant fatalities happen on a Friday or Saturday night, compared to roughly one-sixth for all adults.”⁷⁷

B. MICHIGAN’S GRADUATED LICENSING PROGRAM

Michigan’s GDL reflects the generally implemented form of GDL, which includes three stages with specific requirements for each stage.⁷⁸ The Michigan program, like similar programs in most other states, was adopted due to the high number of fatal car accidents among teenagers.⁷⁹ Although the creation of the program was motivated by altruistic objectives, the effect has produced negative consequences in Michigan. Fewer Michigan teenagers have received their licenses, low-income communities have suffered from an increase in driver’s licensing prices due to the hefty restrictions, and the availability of only a few scholarship opportunities that are not easily accessible has led to many teens choosing to wait until their eighteenth birthday in order to side-step these obstacles.⁸⁰

Prior to the implementation of Michigan’s GDL on April 1, 1997, individuals of the age of sixteen and seventeen could obtain a full driver’s license thirty days after completing a driver’s education course and passing a written test.⁸¹ Additionally, the course was offered through the public school system, thus making the course easily accessible and attainable.⁸² Currently, GDL requires drivers younger than eighteen years old to complete a three-level program in order to obtain a driver’s license.⁸³ Michigan law describes the three GDL stages as “Segment 1,” “Segment 2,” and “Segment 3.”⁸⁴ The completion of Segment 1 earns the driver a “Level 1” license; the completion of Segment 2 earns the driver a “Level 2” license; and the completion of Segment 3 earns the driver a “Level 3” license. “Level 1” is the learner’s stage, which requires supervised driving practice; “Level 2” is the intermediate stage, which includes a night driving and passenger restriction; and “Level 3” is full licensure.⁸⁵

⁷⁷ *Id.* at 519–21. Sixteen- and seventeen-year-old driver death rates are almost three times greater per trip between the hours of 10:00 PM and midnight than when driving between the hours of 6:00 AM and 10:00 PM. *Id.* Sixteen- and seventeen-year-old driver death rates between 10:00 PM and midnight are 2.6 times greater when driving alone and 2.9 times greater when driving with a passenger. *Id.*

⁷⁸ Jean T. Shope et al., *Graduated Driver Licensing in Michigan: Early Impact on Motor Vehicle Crashes Among 16-Year-Old Drivers*, 286 J. AM. MED. ASS’N 1593, 1594 (2001).

⁷⁹ *Id.* at 1593.

⁸⁰ *Id.* at 1595; see also Kathi Valeii, *Driver’s Ed Is Becoming Harder for Poor Kids to Afford*, PAC. STANDARD (Jan. 16, 2018), <https://psmag.com/economics/why-poor-people-and-poc-dont-take-drivers-ed>; *All Star Scholarships*, ALL STAR DRIVER EDUC., <https://www.allstardrivereducation.com/about/all-star-scholarships/> (last visited Oct. 1, 2019).

⁸¹ Shope et al., *supra* note 78, at 1594.

⁸² Valeii, *supra* note 80.

⁸³ *Id.*; see also Shope et al., *supra* note 78, at 1594.

⁸⁴ MICH. COMP. LAWS ANN. § 257.310(e) (West 2020).

⁸⁵ Shope et al., *supra* note 78, at 1594.

At fourteen years and eight months old, an individual can begin Segment 1 of driver's education in order to obtain their Level 1 license.⁸⁶ After the completion of Segment 1, a teen is able to practice driving as long as they are with a licensed adult that is twenty-one years old or older.⁸⁷ To complete Segment 2 an individual is required to hold a "Segment 1 license for at least three consecutive months, complete [thirty] hours of parent-supervised driving practice, including at least two hours at night and six hours of classroom instruction."⁸⁸ To receive a Level 2 license, an individual must be "sixteen, have completed Segments 1 and 2, and logged an additional fifty hours of driving practice including ten hours at night."⁸⁹ In order to receive an unrestricted Level 3 license, one must be "seventeen and have completed at least six months of safe driving with a [L]evel [2] license."⁹⁰ In contrast, individuals above the age of eighteen need only take a written knowledge-and-driving-skills test and pass the required health examinations in order to obtain their [Level 3] license.⁹¹ High rates of fatal crashes among sixteen-year-old drivers in Michigan motivated the adoption of GDL.⁹² A study conducted by Dr. Jean Shope and others demonstrated that, since the implementation of GDL, fatal crashes among sixteen-year-old drivers in Michigan have dropped by almost 32%.⁹³ However, crash rates used in the study were compared to the population of sixteen-year-olds in Michigan, instead of the number of licensed sixteen-year-old drivers.⁹⁴ Thus, the results do not account for the 22.2% decline in licensed sixteen-year-old drivers between 1996 and 1999.⁹⁵ However, the reduction in crashes exceeded the decrease in licensed drivers, especially in the case of night crashes.⁹⁶ Therefore, although the number of fatal accidents among sixteen-year-old drivers has declined since the implementation of GDL, the cause of this decrease is largely due to the decline in the number of sixteen-year-old drivers.⁹⁷ Said a different way, GDL has been effective at deterring those under the age of eighteen from obtaining their licenses.⁹⁸

⁸⁶ MICH. COMP. LAWS ANN. § 257.310(e)(3) (West 2020). This consists of at least twenty-four hours of classroom learning, six hours of behind-the-wheel instruction, four hours of driving observation, and a written exam on Michigan's traffic laws. *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Age 18 and Over*, THE OFF. OF SEC'Y OF STATE JOCELYN BENSON, https://www.michigan.gov/sos/0,4670,7-127-1640_50050-192748--,00.html (last visited Feb. 1, 2020).

⁹² Shope et al., *supra* note 78, at 1593.

⁹³ *Id.* at 1596.

⁹⁴ *Id.* at 1595. This was done because, before GDL, learner permits were not recorded in the Michigan driver license database; however, after GDL, Level 1 (learner) licenses were included. *Id.*

⁹⁵ *Id.* at 1597.

⁹⁶ *Id.* at 1596.

⁹⁷ *Id.*

⁹⁸ Tim Henderson, *Why Many Teens Don't Want to Get a Driver's License*, PBS NEWS HOUR (Mar. 6, 2017, 4:55 PM), <https://www.pbs.org/newshour/nation/many-teens-dont-want-get-drivers-license>. Critics of the GDL system have argued that delaying licensure merely shifts fatalities to an older age group. See *Essential Facts About Graduated Driver Licenses (GDL)*, *supra* note 68 ("[I]n states where GDLs have been implemented, there are more deaths in the 18-to-19-year-old-group than the 16-to-17-year-old-group."). However, GDL

C. GDL'S INCREASED REQUIREMENTS DISCOURAGE INDIVIDUALS FROM
OBTAINING THEIR LICENSE

Hefty GDL requirements reduce the incentive for individuals under the age of eighteen to obtain their driver's license. Matt Moore, a vice president at the Highway Loss Data Institute, stated that graduated licenses "have been most responsible for the long-term reduction in the share of teen drivers."⁹⁹ GDL imposes increased difficulty in obtaining a license due to the longer waiting periods, high number of required supervised driving hours, and the extra cost of driver's education, since it is no longer offered in high schools.¹⁰⁰ This leads teens to skip the process all together and wait until they turn eighteen. Andrew Bennett, a coordinator for Nevada's Zero Teen Fatalities program, waited until he was eighteen in order to avoid having to document the time spent driving while supervised by his parents.¹⁰¹ Teens who are involved in sports and after-school clubs find it difficult to devote the time to an after-school driver's education program and coordinate with their parents' work schedules to satisfy the required driving hours.¹⁰²

Not only have the increased requirements deterred teens from completing driver's education, but also the program has become costly, thus harming low-income communities. The cost of driver's education at All Star Driver, a popular driver's education provider in Michigan, starts at \$369 and ranges to over \$700.¹⁰³ Those costs alone are enough to delay licensing until the teenager reaches the age of eighteen.¹⁰⁴ In Kalamazoo County, Michigan, where 32% of families with children live below the federal poverty line, only 53% of teens obtained their licenses before they turned eighteen.¹⁰⁵ However, Oakland County, Michigan—a more affluent community—has an 11% higher teen driver's license rate than Kalamazoo and a 10% higher rate than the state average.¹⁰⁶ For families that live paycheck to paycheck, the cost of driver's education is simply too high, deterring teens from obtaining their licenses.

Additionally, there are very few scholarship opportunities available for driver's education in Michigan. All Star Driver offers scholarships for their program, but to be considered for the scholarship, parents must provide a written explanation for why the students need the scholarship and provide copies of government forms to

supporters argue that the shift in deaths is due to the older age group driving more miles than those who are sixteen and seventeen years old. *Id.*

⁹⁹ Henderson, *supra* note 98.

¹⁰⁰ *Essential Facts About Graduated Driver Licenses (GDL)*, *supra* note 68. After ten years of GDL, the national rate of licensed sixteen-year-old drivers dropped from 40.6% to 29.8%. *Id.*

¹⁰¹ Henderson, *supra* note 98.

¹⁰² *Id.*

¹⁰³ *Michigan Drivers Ed Classes*, ALL STAR DRIVER EDUC., <https://www.allstardrivereducation.com/state/michigan-drivers-ed/> (last visited Oct. 1, 2019).

¹⁰⁴ Stacie Smith, *Getting a Driver's License Isn't What It Used to Be*, DAILY NEWS (Sept. 24, 2018), <https://thedailynews.cc/articles/getting-a-drivers-license-isnt-what-it-used-to-be/>.

¹⁰⁵ Valeii, *supra* note 80.

¹⁰⁶ *Id.*

prove the family's hardship.¹⁰⁷ Additionally, the students must provide a letter from an administrator of their school indicating why they are deserving of the scholarship.¹⁰⁸ The student must also maintain adequate grades in order to be considered.¹⁰⁹ While it is clear that All Star Driver aims to provide scholarships for those who are successful in school, academic success does not necessarily correlate with an individual's need for a driver's license. For example, one who may not be academically successful may have a stronger need to maintain employment. Further, parents who do not maintain a strong role in their child's life may not write the required explanation or obtain copies of the government forms needed to acquire the scholarship. These two common scenarios would result in a child not obtaining a driver's license due to the cost of the program.

In sum, Michigan's GDL has increased the cost of driver's education and has successfully deterred teens from receiving their licenses.¹¹⁰ Low-income families are impacted the greatest by the increased requirements of GDL, which can be seen in the lower licensing rate of teens located in low-income areas.¹¹¹ Although there has been a decrease in the number of teen driving fatalities, this is not necessarily because GDL has successfully created better drivers, but instead because it has discouraged teens from driving at all.¹¹²

I. ALTERNATIVES TO MICHIGAN'S GRADUATED LICENSING PROGRAM

Although all states have adopted a form of GDL, Connecticut and Alabama have both created successful programs that allow for flexibility in completing the requirements that encourages more individuals to obtain their license. Both programs have alternatives to attending in-person driver's license education, such as an option for parents or guardians to complete the training on their own, leading private companies to offer driver's training for much less than the cost to complete the GDL requirements in Michigan.¹¹³ This has resulted in more residents obtaining their driver's license in both Alabama and Connecticut than in Michigan.¹¹⁴

While containing requirements that are very similar to those in Michigan's GDL program, Connecticut's driver's education program allows for alternatives to a

¹⁰⁷ *All Star Scholarship Questionnaire*, ALL STAR DRIVER EDUC., <https://www.allstardrivereducation.com/wp-content/uploads/2018/06/MI001-AllStarScholarship.pdf> (last visited Oct. 1, 2019).

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Essential Facts About Graduated Driver Licenses (GDL)*, *supra* note 68.

¹¹¹ Valeii, *supra* note 80.

¹¹² See Shope et al., *supra* note 78, at 1598.

¹¹³ See *Driver Training Requirements*, STATE OF CONN. DEP'T OF MOTOR VEHICLES, <https://portal.ct.gov/DMV/Licenses/Teens/Driver-Training-Options---16-and-17-Year-Olds> (last visited Nov. 3, 2019); see also *Private High School Driver & Traffic Safety Education Program*, ALA. L. ENF'T AGENCY, <https://www.alea.gov/dps/driver-license/private-high-school-driver-traffic-safety-education-program> (last visited Nov. 9, 2019).

¹¹⁴ *Highway Finance Data Collection*, U.S. DEP'T OF TRANSP.: FED. HIGHWAY ADMIN., <https://www.fhwa.dot.gov/policyinformation/pubs/hf/pl11028/chapter4.cfm> (last visited Nov. 10, 2019).

commercial driver's education program, including an option to receive one's license through home training.¹¹⁵ Similarly, Alabama's program allows for an individual to opt out of the driver's education requirements by completing a required amount of hours of behind-the-wheel practice with a parent.¹¹⁶ Exceptions such as these allow for greater flexibility for parents and teens, while encouraging individuals to receive their license.

A. CONNECTICUT

In order to begin driver's education in Connecticut, an individual must be at least sixteen years of age.¹¹⁷ Connecticut requires thirty hours of classroom training at a commercial or secondary driving school, which includes a "Safe Driving Practices" course and two hours of parent training.¹¹⁸ In addition, forty hours of practice driving is required, which may be given by any combination of commercial, secondary, or parent instruction.¹¹⁹

The requirements to receive a driver's license through home training include twenty-two hours of classroom training along with eight hours of driving at a Safe Driving Practices course at a commercial or secondary school in addition to the two hours of parent or legal guardian training.¹²⁰ Forty hours of practice driving is also required under the same conditions at a commercial or secondary school.¹²¹

¹¹⁵ *Driver Training Requirements*, STATE OF CONN. DEP'T OF MOTOR VEHICLES, <https://portal.ct.gov/DMV/Licenses/Teens/Driver-Training-Options---16-and-17-Year-Olds> (last visited Nov. 3, 2019).

¹¹⁶ *Private High School Driver & Traffic Safety Education Program*, ALA. L. ENF'T AGENCY, <https://www.alea.gov/dps/driver-license/private-high-school-driver-traffic-safety-education-program> (last visited Nov. 9, 2019).

¹¹⁷ See *Driver Training Requirements*, *supra* note 113. In order to participate in driver's education in Connecticut, a teen must hold a learner's permit, which can be obtained if the individual is sixteen years old and has the permission of a parent or guardian. If a teen elected to complete driver's education through a commercial or secondary school, to receive a license, the individual must hold his learner's permit for at least 120 days before he is eligible to take the road test for a driver's license. If he obtained his driver's training at home, then a learner's permit must be held for at least 180 days before he is eligible to take the final driver's license exam. A driver's training program created by The Next Street, a popular company for driver's education in Connecticut, offers flexible programs that allow an individual to complete the required classes in any order she chooses while providing the option of enrolling in an accelerated eight-hour class or a full driver's education program. *Driving School Classes*, THE NEXT STREET, <https://www.thenextstreet.com/ct-driving-schools-services/classroom-training> (last visited Nov. 4, 2019). The full driver's education class allows the individual to test for their license after four months, while the eight-hour course requires an individual to hold their permit for at least six months. The eight-hour class can be completed within a day and only costs \$199. Although the full program starts at \$599, Connecticut insurance companies offer up to a 40% insurance discount up until the age of 25 if this program is completed. *Id.*

¹¹⁸ *Id.* If a parent or legal guardian is unable to attend the two-hour parent training, the individual will not be eligible for a Connecticut driver's license until the individual reaches the age of eighteen. *Id.*

¹¹⁹ *Id.* In order to qualify to receive driver's education from a secondary school, "[s]tudents who enroll must be a resident of the town or school district or their parent, parents or legal guardian must own property taxable in such town or school district." *Id.*

¹²⁰ *Id.*

¹²¹ *Id.* If an individual elects to receive home training, the driving practice must be given by a qualified trainer. *Id.* Qualified trainers must be twenty years or older, have held a driver's license for at least four years with no suspensions during the past four years, must be a spouse of a married minor applicant or a parent,

B. ALABAMA

Alabama has implemented an even more deconstructed driver's education program than both Connecticut and Michigan. In Alabama, a fifteen-year-old may obtain a restricted learner's license for the purpose of learning to operate a vehicle, after completion of a required examination.¹²² This license is valid for four years.¹²³ Alabama offers all driver's licensing education through the private and public school system to sophomores who are at least fifteen years of age.¹²⁴ However, Alabama does not require an individual to participate in a state-approved driver's education course. A teen can elect to complete thirty hours of behind-the-wheel practice with a parent in order to be eligible to take the driver's license exam.¹²⁵ The only additional requirement is that this individual must hold her learner's permit for at least six months prior to taking the exam.¹²⁶ After passing this exam, a teen obtains her "Stage II license," which comes with certain restrictions, such as not being able to drive between midnight and 6:00 a.m. unless the teen is with a parent or guardian who is at least twenty-one years old, or is driving to or from specifically designated locations due to an emergency.¹²⁷ Once a teen reaches the age of seventeen and has held her Stage II license for at least six months, she can apply for an unrestricted "Stage III" driver's license.¹²⁸ In the alternative, individuals who are eighteen years old or older may apply immediately for a Stage III license as long as they have completed the road skills exam.¹²⁹

grandparent, foster parent, or legal guardian, or if applicant has no spouse, parent, grandparents, foster parent, or guardian who is qualified and available, a step-parent, brother, sister, uncle, or aunt by blood or marriage can qualify. *Id.*

¹²² *Driver License Information*, ALA. L. ENF'T AGENCY, <https://www.alea.gov/dps/driver-license/driver-license-information> (last visited Nov. 9, 2019). With this license, a fifteen-year-old may operate a motor vehicle while accompanied by a person who is twenty-one years old or older and who is licensed in Alabama or a driving instructor. *Id.*

¹²³ *Id.* The exam fee is \$5 and the "Stage I license" fee is \$36.25. *Synopsis of Graduated Driver License*, ALA. L. ENF'T AGENCY, <https://www.alea.gov/dps/driver-license/license-and-id-cards/graduated-driver-license> (last visited Nov. 9, 2019). The information that one needs in order to pass the learner's permit examination can be found in the Alabama Driver Manual, which is available for download on the Alabama Law Enforcement Agency website. *Id.* Because the learner's permit exam cost and license fee are minimal, and because no formal education is required to obtain a learner's permit, low-income families are able to begin the licensing process as early as possible with their teens. *See id.*

¹²⁴ *Driver License Information*, *supra* note 122. This program includes a minimum of seventy hours, or one semester, of classroom education. *Id.*

¹²⁵ *Synopsis of Graduated Driver License*, *supra* note 123.

¹²⁶ *Id.*

¹²⁷ *Id.* The Stage II license fee is, again, \$36.25. In addition, an individual holding a Stage II license may only have one passenger other than an immediate family member, and the teen may not use a cell phone or any other handheld device while behind the wheel.

¹²⁸ *Id.*

¹²⁹ *Id.* The fee for a Stage III license is \$31.25 for those who present a Stage II license and receive a restriction-fee duplicate. The fee is \$36.25 for those who did not obtain a Stage II license prior to turning eighteen. Violations of the graduated driver's licensing requirements are not subjected to any criminal penalties or court costs. In addition, no violation will be issued unless the licensee is stopped for a separate violation of

C. CONNECTICUT AND ALABAMA'S GDL ENCOURAGE RESIDENTS TO BECOME LICENSED

Connecticut and Alabama's driver's education requirements allow for more individuals to receive their licenses due to the flexibility of the programs. Although Connecticut's GDL is similar to Michigan's in regard to the amount of required classroom and practice hours, the Connecticut program allows parents to conduct their child's education alone, providing families with the opportunity to complete the program when it is most convenient for them.¹³⁰ Connecticut's program also provides incentives for privately owned driver's education services to offer more flexible and inexpensive programs due to the alternative of parents teaching their children to drive on their own time and without the high cost of a formal driver's education. Connecticut's laws encourage individuals to choose the driver's education program that fits their needs in order to become safe drivers, since most insurance companies offer discounts for completing a formal driver's education program, and teens who enroll in driver's education programs need only hold their learner's permit for three months fewer than those who learn to drive by parental education instead.¹³¹ It is important to note that Connecticut teens cannot participate in the licensing process until a year later than Michigan residents; however, Connecticut's program takes less time to complete, thus teens in both states receive their licenses at about the same time.¹³² There are benefits to completing a parental education, and there are benefits to completing a formal driver's education. The most important aspect of Connecticut's program is that it provides parents with a choice while still encouraging individuals to complete the licensing process.

Alabama offers an even more flexible program by not requiring individuals to complete formal driver's education.¹³³ Giving parents the option of completing thirty hours of behind-the-wheel practice with their teen provides them with the ability to choose the best time to complete driver's education. Parents of teens who prefer formal driver's education can easily enroll them in a course offered by the teen's school. This places control into the hands of parents and guardians, who better understand their individual families' needs.

D. MICHIGAN'S GDL INCREASES COSTS AND DECREASES FLEXIBILITY

Michigan residents do not have an alternative option to a formal driver's education program. Instead, the government creates an opportunity for private companies to charge high prices in order to comply with the costly licensing

the law and issued a citation or warrant for the separate violation. However, if the licensee is convicted of a second moving violation, their license will be suspended for sixty days. *Id.*

¹³⁰ *Driver Training Requirements*, *supra* note 113.

¹³¹ *Driving School Classes*, *supra* note 117.

¹³² *See Driver Training Requirements*, *supra* note 113.

¹³³ *Private High School Driver & Traffic Safety Education Program*, *supra* note 113.

requirements that the State of Michigan mandates the companies offer.¹³⁴ In addition, because there are no alternatives other than privately operated driver's education, Michigan parents and guardians cannot choose the less costly option of teaching their children how to drive on their own, for free. This discourages companies from offering scholarships or decreasing the cost of their programs.¹³⁵ It encourages the few companies that can provide the required services to offer monopoly-maximizing prices.¹³⁶ If Michigan wanted to lower the cost of driver's education, and in turn raise the number of licensed drivers, the legislature should decrease the licensing requirements or provide options for parents and guardians to complete portions of the licensing requirements on their own.¹³⁷ Decreasing licensing requirements would lower the costs of complying with the requirements for both the customer and the education providers. Even if a teen's parent did not have the ability to provide at-home education, allowing this option would provide incentives for private companies to decrease their costs and increase the flexibility of their programs in order to compete with the cost-saving alternative of receiving a license without participating in a formal driver's education program.

It is evident that allowing parents to complete portions of the driver's education requirements decreases the cost of driver's education, demonstrated by the difference between driver's education prices in Connecticut and Michigan. In Michigan, it costs at least \$400 to participate in the minimum amount of driver's education training; in Connecticut, it costs merely \$99 to meet the minimum education requirements.¹³⁸ Thus, Michigan's driver's education requirements increase the cost of driver's education by four times the cost of such education in Connecticut. Practices like Michigan's exclude an entire class of individuals from receiving their driver's licenses and can lead to a continuous cycle of unlicensed families.

As an alternative to lowering the licensing requirements, the Michigan Legislature could create a maximum price that private driver's education companies can charge. However, it would not be advantageous for the legislature to cap the cost of driver's education. If, instead of lowering the licensing requirements, legislators decided to restrict the amount that a private company can charge for driver's education, this would decrease the quality and quantity of services offered.¹³⁹ A driver's education company would simply make up the cost of complying with Michigan's regulation in other ways, such as by closing offices or offering fewer programs.¹⁴⁰ Private companies would most likely close locations where they receive

¹³⁴ See Gary Wolfram, *The Role of Government in Regulation of Monopoly*, ADMIN. L. Q., Summer 1998, at 3.

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ See *id.*

¹³⁸ See *Michigan Drivers Ed Classes*, *supra* note 103; *Driving School Classes*, *supra* note 117.

¹³⁹ See Will Kenton & Troy Segal, *Price Ceiling*, INVESTOPEDIA, <https://www.investopedia.com/terms/p/price-ceiling.asp> (last updated Nov. 13, 2020).

¹⁴⁰ *Id.*

either low enrollment or face greater price inelasticity.¹⁴¹ These locations are ultimately likely to be low-income cities. Therefore, the same class of individuals that is already excluded from receiving driver's education due to the high cost and strict requirements would similarly be excluded from driver's licenses if Michigan chose to cap the amount a private company could charge for its program instead of lowering the licensing requirements.

It is further evident that Michigan's licensing requirements have resulted in fewer licensed individuals as compared to the number of licensed individuals in Alabama and Connecticut. In 2009, the federal Office of Highway Policy Information conducted a study that revealed that out of 1,000 Michigan residents, only 710 were licensed drivers.¹⁴² However, both Alabama and Connecticut had a significantly greater number of licensed drivers per 1,000 residents: 803 and 829 respectively.¹⁴³

In order to make driver's licenses more accessible to Michigan residents, it is necessary that Michigan reform its GDL requirements into a more flexible system similar to Connecticut's and Alabama's GDL. Both Connecticut and Alabama allow for alternatives to a formal driver's education program, such as at-home training, which gives parents and guardians greater opportunities to complete driver's education with their children.¹⁴⁴ Many Connecticut car insurance agencies also offer a discount for completing formal driver's education, thus obtaining a driver's license is less expensive in Connecticut than it is in Michigan.¹⁴⁵

Further, the strict licensing requirements that Michigan maintains encourage private driver's education companies to offer the monopoly-maximizing price with few opportunities for scholarships, since these commercial providers are the only option for teens seeking to obtain their licenses. Because of Michigan's GDL regulations, Michigan has almost one hundred fewer licensed individuals per 1,000 residents than both Alabama and Connecticut.¹⁴⁶ By lowering the licensing requirements and offering alternatives to a commercial driver's education program, the cost of obtaining a license will fall, and more Michigan families will enroll their teens in driver's education classes. In the long run, this will lead to fewer unlicensed drivers on the road.

CONCLUSION

Driving while not properly educated on the rules of the road is dangerous to the driver and others. However, the lack of public transit in Michigan makes it necessary to drive in order to maintain one's employment and livelihood. Current Michigan laws discourage teens from participating in the driver's licensing program

¹⁴¹ *Id.*

¹⁴² *Highway Finance Data Collection, supra note 114.*

¹⁴³ *Id.* However, Alabama does require all teens under the age of nineteen to be enrolled in secondary school or have graduated from secondary school in order to obtain their licenses, and this may account for why there is not a higher number of licensed drivers in Alabama. See *Driver License Information, supra note 122.*

¹⁴⁴ *Driver Training Requirements, supra note 113; Private High School Driver & Traffic Safety Education Program, supra note 113.*

¹⁴⁵ *Driving School Classes, supra note 117.*

¹⁴⁶ *Highway Finance Data Collection, supra note 114.*

from the outset, leaving them unlicensed later in life. Once it becomes necessary to have a license for employment, those individuals take to the road without completing the necessary steps to become educated. After two moving violations, individuals have to wait a minimum of three years to obtain their driver's license under section 257.303(1)(g) of the Michigan Compiled Laws.

Currently, Michigan drivers are punished twice for driving without a license—first under section 257.904(3)(a) of the Michigan Compiled Laws, under which a driver whose license is suspended will face up to ninety-three days in jail or up to a \$500 fine. Then, this individual will be suspended from even applying for a license for up to another three years under section 257.303(1)(g). Once an individual is turned away from the licensing process by these laws, he is discouraged from obtaining a license. For someone who chose to drive without a license in the first place, it is unlikely that a suspension of three years will discourage him from driving again. This result is exacerbated when there is a lack of enforcement. Like Renee Lashon Beavers and Ahmed Abdul Malik, many individuals continue to drive despite having their license suspended.

Michigan residents face a unique situation because of the state's lack of public transportation. Due to Detroit's urban sprawl, the most valuable jobs for low-income households are located outside of the city; however, many low-income families live within Detroit. This means that without a car or driver's license, individuals must rely on public transportation. The metro Detroit area is known for its lack of reliable and available public transportation, leaving individuals with no other choice but to drive, whether or not they possess a valid driver's license. If Michigan refuses to change its statutory laws, it must provide a better alternative to driving. The Michigan Legislature must create a transportation system that allows inner-city individuals to reach neighboring suburbs that is both cost-effective for the taxpayers and those who use the transportation.

Michigan currently offers no relief for indigent persons from driver's licensing laws. Beavers and Malik are evidence that high fines are no deterrent to their criminal conduct. A fine that an individual physically cannot pay only turns that individual away from the court system and from complying with Michigan's laws. If that individual chooses to take jail time instead of paying the fines he owes, he will likely lose his job in the process, furthering his inability to pay. If the Michigan Legislature chooses to retain its high fines and punishments, it must offer some sort of relief for truly indigent persons. Although Judge Meinecke of Michigan's 44th District Court has achieved a temporary solution to the damaging effects of Michigan's statutory laws that encourages individuals to pay their fines and receive their licenses, it is necessary for Michigan's legislature to take action as well. One judge cannot undo the effects of a state-wide problem. Instead, there must be a state-wide resolution.

Fewer individuals will face section 257.303(1)(g) if more individuals obtain their licenses as teenagers.¹⁴⁷ Therefore, it is necessary for Michigan to reform GDL

¹⁴⁷ Section 257.303(1)(g) was enacted prior to 1988, at least nine years before Michigan's GDL took effect, and during a time when driver's education still took place in schools and had fewer requirements. 1988 Mich.

to make it easier for individuals to obtain their licenses initially. By adopting requirements that are similar to those in Connecticut and Alabama's GDL, Michigan can ensure that the drivers who take to the roads are knowledgeable about driving. Specifically, Michigan should implement an option for parents to give driving instruction to their children. With the knowledge that individuals can complete driver's education without using their services, the few private driver's education companies that offer their services in Michigan will be forced to lower their prices in order to compete with the much more convenient and less costly option of at-home driver's training. By relaxing the GDL requirements and thus decreasing the cost of driver's education, Michigan will open the door for many low-income families to receive driver's training. Even those who are unlikely to take advantage of the at-home education will benefit from the lower prices that this option will produce. This will also encourage teens who are busy with after-school activities to obtain their driver's licenses since they will have the ability to complete driver's education on their own timeline and schedule. It is more valuable for Michigan to have a greater percentage of drivers educated on the rules of the road than to have strict licensing laws that may only marginally increase a teen's ability to drive and that discourage teens from obtaining their licenses.

In sum, Michigan's statutory laws should encourage individuals to obtain their licenses, making the roads safer for all drivers. When an individual chooses not to obtain a license, but drives anyway, the law should encourage this person to complete the licensing process and become educated on safe driving, instead of suspending his ability to receive a license for three more years under section 257.303(1)(g). Fines and jail time have proven not to deter this criminal conduct. For the safety of all Michigan drivers, it is imperative that Michigan reform its driver's license and traffic legislation.¹⁴⁸

Pub. Acts 346. Thus, it is improbable that this statute was enacted with the foresight that receiving a driver's license would be significantly more difficult to obtain in the future.

¹⁴⁸ The Michigan Joint Task Force on Jail and Pretrial Incarceration made recommendations to reduce the number of driver's license suspensions that would lead to a fewer number of individuals who are sentenced to jail due to driving with an invalid driver's license. MICH. JOINT TASK FORCE ON JAIL & PRETRIAL INCARCERATION, REPORT AND RECOMMENDATIONS 19 (2020), <https://courts.michigan.gov/News-Events/Documents/final/Jails%20Task%20Force%20Final%20Report%20and%20Recommendations.pdf>. However, if these recommendations were implemented, they would fail to encourage individuals to obtain their licenses initially.