

NORTH CAROLINA
PRO BONO
RESOURCE CENTER

Pursuing Justice Through Service

A Program of the
North Carolina Equal Access to
Justice Commission

Driver's License Suspension and Restoration in NC

July 22, 2020

ncprobono.org | [@ncprobono](https://twitter.com/ncprobono)

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Driver's License Suspension and Restoration in NC

- I. The License Suspension Crisis in NC
- II. The Driver's License Restoration Project
- III. Common License Suspensions
- IV. Advice Letter Drafting
- V. Examples
- VI. Questions

The Issue

§ 20-24.1 (a) Revocation for failure to appear or pay fine, penalty or costs for motor vehicle offenses.

The Division must revoke the driver's license of a person upon receipt of notice from a court that the person was charged with a motor vehicle offense and he:

- (1) failed to appear, after being notified to do so, when the case was called for a trial or hearing; or
- (2) failed to pay a fine, penalty, or court costs ordered by the court.

Revocation orders entered under the authority of this section are effective on the sixtieth day after the order is mailed or personally delivered to the person.

As of 2018, there were **1,225,000** people with active driver's license suspensions in North Carolina relating to **failure to pay** traffic fines and court costs, and **failure to appear** in court for traffic offenses.

- 827,000 for failure to appear
- 263,000 for failure to pay
- 135,000 for both

These suspensions constitute about **15%** of all adult drivers in the state.



According to data from the Administrative Office of the Courts, when a traffic court debt is not paid **within a year, it is not likely to ever be paid.**

The average length of a license suspension for failure to pay is **over 8 ½ years.** The median length is almost 6 years.

A large number of "failure to pay" license suspensions are based on an inability to pay—not a willful refusal to do so.





North Carolina has the
15th highest rate of
poverty in the United
States.

Rising Court Costs in North Carolina

Sample of 2019 Court Costs and Fees

- **General Court of Justice fee (District): \$147.50**
- General Court of Justice fee (Superior): \$154.50
- Jail fee: \$10 per day of pretrial confinement
- Facilities fee (District): \$12
- Facilities fee (Superior): \$30
- Telecommunications and Data fee: \$4
- Law enforcement officer retirement fee: \$7.50
- Community Service fee: \$250
- **Failure to Appear fee: \$200**
- **Failure to Comply fee: \$50**
- State Crime Lab fee: \$600
- **Installment fee: \$20**
- Probation fee: \$40 per month

Additional Fees for Traffic Offenses

- Chapter 20 fee: \$10
- Chapter 20, Improper Equipment fee: \$50
- Seat Belt fee: \$10
- Civil Revocation fee: \$100
- Limited Driving Privilege fee: \$100

In 1995, the General Court of Justice Fee (District) was \$41. In 2019, it is \$147.50.

260% Increase

“Fines and fees are not simply used to fund the court system. Instead, they are often allocated to fund a range of **completely unrelated government programs**. In fiscal year 2016-17, the North Carolina judicial branch remitted nearly **\$263 million to the state’s General Fund.**”

-At All Costs: The Consequences of Rising Court Fines and Fees in North Carolina, ACLU of North Carolina (April 2019).

Pressure on the Court to Deny Fee Waivers = FEWER FEES WAIVED



2017 Report on Criminal Cost Waivers
[G.S. 7A-350]
Research and Planning Division
February 1, 2017

County	Waived	Partially Waived	Not Assessed	Stricken/Entered in Error	Civil Judgment	Ordered (Not Waived)
Greene	173	0	8	30	2	1,734
Guilford	9,497	9	485	1,564	962	41,108
Halifax	519	1	93	132	56	4,554
Harnett	694	1	125	613	296	8,604
Haywood	579	1	140	230	33	8,245
Henderson	135	14	427	97	106	10,907
Hertford	129	0	182	105	14	2,149
Hoke	500	0	95	177	124	3,710
Hyde	20	0	11	4	8	595
Iredell	1,324	4	807	857	239	19,410
Jackson	260	0	20	79	13	4,365
Johnston	981	7	106	786	495	14,935
Jones	62	0	76	90	6	2,409
Lee	553	0	155	252	56	3,789
Lenoir	794	0	5	109	11	6,675
Lincoln	780	0	11	95	71	7,836
Macon	152	0	37	37	1	
Madison	45	0	38	72	28	
Martin	249	0	184	166	15	
McDowell	850	43	70	64	471	
Mecklenburg	12,861	15	2,017	389	486	3
Mitchell	90	0	1	19	1	
Montgomery	111	0	76	67	78	
Moore	63	0	2,910	56	72	
Nash	737	0	60	48	10	1
New Hanover	2,754	0	30	139	203	1
Northampton	152	0	20	28	0	
Onslow	1,450	16	1,080	564	295	2
Orange	1,537	15	129	319	64	1
Pamlico	32	2	29	25	69	
Pasquotank	122	0	60	40	1	
Pender	265	0	88	127	63	



2018 REPORT ON CRIMINAL COST WAIVERS
G.S. 7A-350

Table 2: Criminal Case Money Statuses by Judge Field, Calendar Year 2017

Judge Name	Waived	Partially Waived	Not Assessed	Stricken/Entered in Error	Civil Judgment	Ordered (Not Waived)
ABERNATHY, G. WAYNE	14	0	0	38	46	112
ABERNETHY, RICHARD, B	121	0	14	21	279	847
ADAMS, GALE, M	55	0	51	8	183	121
ALBRIGHT, R. STUART	39	0	53	29	33	323
ALBRIGHT, STUART, A	0	0	0	0	0	2
ALBRIGHT, WILLIAM, D	0	0	0	0	0	1
ALDRIDGE, THOMAS, V	1	0	3	1	2	93
ALEXANDER, KAREN, A	13	0	42	23	103	801
ALEXANDER, SHONNA, R	1	0	0	0	0	0
ALFORD, BENJAMIN, G	46	0	44	9	36	607
ALLEN, BRADLEY, R	197	0	10	296	54	5,071
ALLEN, CLAUDE, JR.	30	0	5	24	7	126
ALLEN, JASPER, B	1	0	0	0	1	2
ALLEN, STANLEY, L	205	1	53	10	84	302
ALLOWAY, SHERRY, F	123	0	76	5	27	224
AMMONS, JAMES, F. JR.	75	1	73	4	152	204

Year	2016	2017	2018
Total Waivers Statewide	86,006	45,882	28,036

Driver's license
suspensions for failure to
pay often have a
profound negative impact
on entire families.



loss of license
=

loss of employment

high transportation costs and
commute times

less access to medical services

criminal-justice involvement

IMPACT ON PEOPLE AND FAMILIES

- “I get up at 5 am and walk 3 hours to work.”
- “I can’t pick up my kids from school on time. Also, they can’t participate in extracurriculars because I can’t get them there.”
- “Weather makes it extremely hard to catch rides.”
- “I lost my job.”
- “I pay Uber and bus about \$150 weekly.”
- “I have to take jobs that are on the bus route, and I have to live in neighborhoods that have public transportation.”
- “I am unable to take my elderly mother to her doctor appointments.”
- “Limits my ability to make doctor appointments.”
- “I am unable to spend time with my family.”
- “It is harder to find a job because many require a license.”
- “The bus adds 2 hours to my commute each way.”
- “I cannot visit my teenage son in Charlotte.”



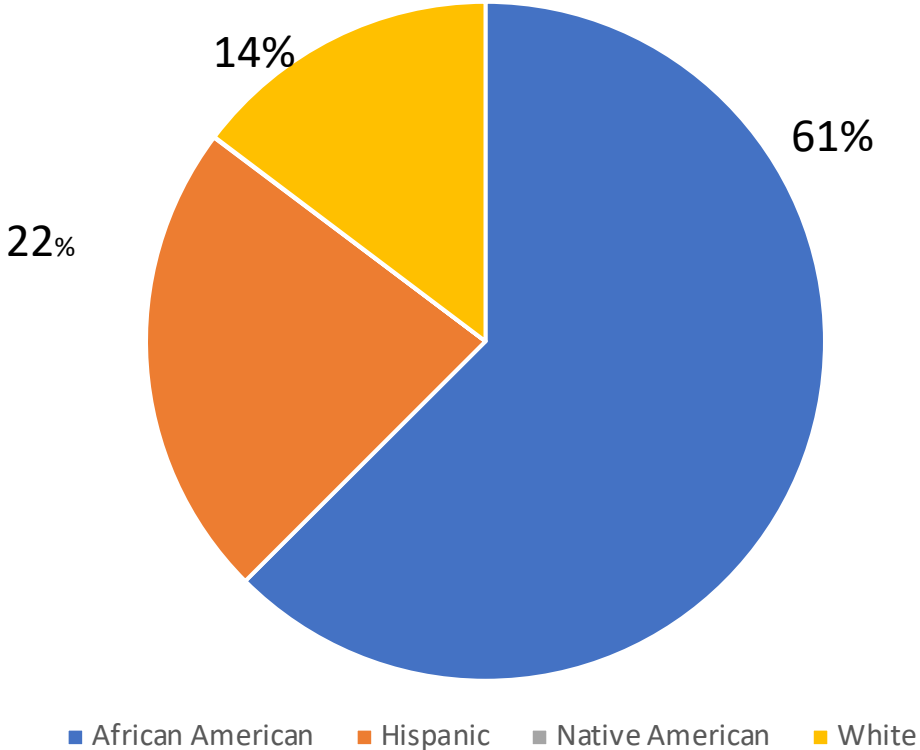
catastrophic racial disparities result in households of color being disproportionately exposed to, and severely impacted by, traffic debt.



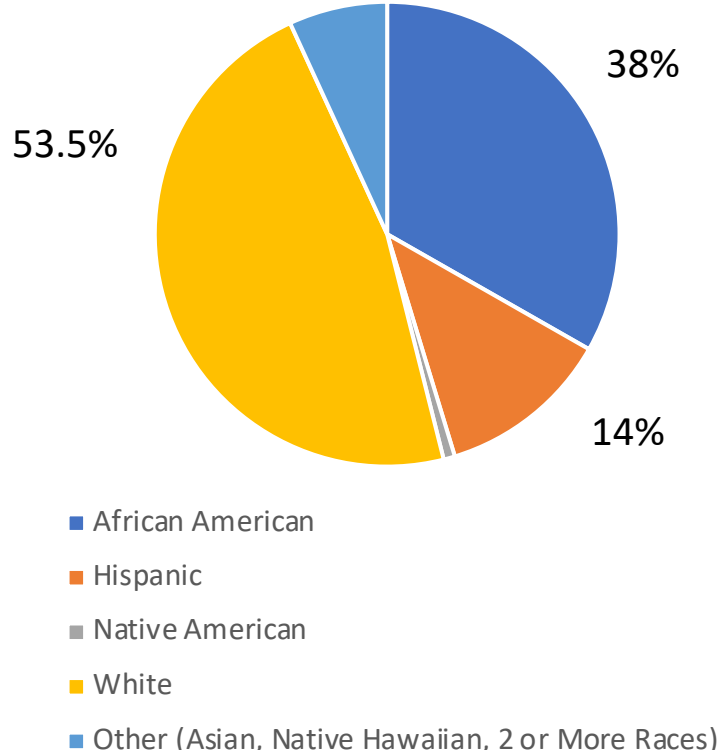
long-term suspensions disproportionately impact people of color.

Durham: License Suspensions by Race

Durham County: License Suspensions for Failure to Pay by Race



Durham County: Overall Population by Race



The Driver's License Restoration Project



Legal Clinics and Individual Representation

Clients are screened for the following relief eligibility-

- ✓ Dismissal of traffic charges where the person failed to appear.
- ✓ Motion to Remit Fine or Cost based on the showing of an inability to pay by the defendant.

§15A-931- Voluntary dismissal of criminal charges by the State.

(a) Except as provided in G.S. 20-138.4, the prosecutor may dismiss any charges stated in a criminal pleading including those deferred for prosecution by entering an oral dismissal in open court before or during the trial, or by filing a written dismissal with the clerk at any time. The clerk must record the dismissal entered by the prosecutor and note in the case file whether a jury has been impaneled or evidence has been introduced

§ 20-24.1(b) Revocation for failure to appear or pay fine, penalty or costs for motor vehicle offenses

- (b) A license revoked under this section remains revoked until the person whose license has been revoked:
- (1) disposes of the charge in the trial division in which he failed to appear when the case was last called for trial or hearing; or
 - (2) demonstrates to the court that he is not the person charged with the offense; or
 - (3) pays the penalty, fine, or costs ordered by the court; or
 - (4) demonstrates to the court that his failure to pay the penalty, fine, or costs was not willful and that he is making a good faith effort to pay or that the penalty, fine, or costs should be remitted.

Upon receipt of notice from the court that the person has satisfied the conditions of this subsection applicable to his case, the Division must restore the person's license as provided in subsection (c). In addition, if the person whose license is revoked is not a resident of this State, the Division may notify the driver licensing agency in the person's state of residence that the person's license to drive in this State has been revoked.

Mass Relief



Rely on

District Attorney
partners willing to
motion for relief



Utilize

Data from the AOC
to identify who
qualifies based on
the DA's criteria



Engage

Pro Bono Attorneys
to screen records,
prepare motions,
and draft advice
letters

1. § 15A-1363. Remission of a fine or costs.

A defendant who has been required to pay a fine or costs, including a requirement to pay fine or costs as a condition of probation, or a **prosecutor**, may at any time petition the sentencing court for a **remission or revocation of the fine or costs** or any unpaid portion of it. If it appears to the satisfaction of the court that the circumstances which warranted the imposition of the fine or costs no longer exist, that it would otherwise be unjust to require payment, or that **the proper administration of justice requires resolution of the case**, the court **may remit or revoke the fine or costs** or the unpaid portion in whole or in part or may modify the method of payment.

- **Mass Relief Debt Remittance: An Effective Strategy for Relief**
- District Attorneys in Pitt, Durham, Vance, and Mecklenburg counties have presented fee remittance motions to the court on behalf of thousands of people with long term license suspensions pursuant to NCGS § 15A-1363.
- In 2019, \$2.57 million in traffic court debt was eliminated on behalf of 9,168 people with license suspensions in Durham, Guilford, Mecklenburg, and Vance counties.
- This spring, Pitt County remitted court costs and fines for 4,285 traffic cases that had been causing long-term, indefinite driver's license suspensions for over 3,200 people.

NC Fair Chance



Getting you safely back on the road and back to work!



"Grace and redemption are key components of any just society. In North Carolina, one out of every five people have a criminal record. One criminal charge, even when ultimately dismissed or found not guilty, can start a cycle of poverty and hardship that have lasting impacts on the person charged, their family, and their entire community. By clearing dismissed and not guilty charges through expungement and restoring driver's licenses, we can help our neighbors get back to work, find housing, and take care of their families. Everyone deserves grace and a fair chance, and we are committed to helping all North Carolinians reach their full potential."

Notification
and Relief

Common License Suspensions

LIMITED TERM SUSPENSIONS

- Driving While Impaired
 - 1st Conviction: 1 year
 - 2nd conviction: 4 years
 - Refused Chemical Analysis: 1 year
- Driving While License Revoked-Impaired Rev
 - 1st conviction: 1 year
 - 2nd conviction: 2 years
- Moving Violation While License is Revoked
- Accumulation of Points
- Speed over 55 mph AND exceeding limit by more than 15 mph
- Death by Motor Vehicle

INDEFINITE TERM SUSPENSIONS

- Failure to Appear
- Failure to Pay
- Unsatisfied Judgment
- Failure to Deposit Security
- DWI
 - 30-day Civil Revocation for DWI becomes indefinite unless a \$100 restoration fee is paid
 - Treatment and Assessment

PERMANENT SUSPENSIONS

- 3rd or subsequent conviction of a DWI
- 3rd or subsequent conviction of Driving While License Revoked-Impaired Rev
- 3rd or subsequent conviction of a moving violation while license revoked
- Habitual Drunk Driving

DWLR-NOT IMPAIRED REV

- [Session Law 2015-186](#)
- A conviction for Driving While License Revoked-Not Impaired Rev is now a Class 3 misdemeanor and does not trigger a collateral driving license suspension.
- The change was not retroactive and many people have permanent suspensions for 3 or more DWLR for convictions that occurred before 2016.



NORTH CAROLINA DIVISION OF MOTOR VEHICLES
RDLSI/DRIVING RECORD

REPORT TYPE: CERTIFIED REPORT PAGE NO: 1
NAME: [REDACTED] DATE: 04-15-19
ADDRESS: BUILDING 13 APT C WABASH
CITY: DURHAM STATE: NC ZIP: 277010013 TOTAL POINTS: 4
DOB: 04-07-95 HEIGHT: 6 FT 01 IN SEX: M EYES: BRO HAIR: BLK RACE: B
PRIMARY LICENSE NO: [REDACTED]
SECONDARY LICENSE NO: NON-RESIDENT MILITARY: N REAL ID:
ORG. ISS.DT: - - OS DL NO: OS STATE:

*** DRIVER LICENSE STATUS: INDEF SUSPENDED ***

CLASS	GRP	TYP	ISSUE DT	EXPIR DT	CDL	DISQ	PROB	PRIV	RESTR	STATUS
I	D	05-24-16	04-07-22	N	N	N	N	N	N	ID CARD

ENDORS:

OCCUR/ BEG DATE	CONV/ END DATE	NATURE OF RECORD OR DIVISION ACTION	POINTS
		SCHBUS: NOT ELIG FOR SCHOOL BUS DRIVER CERTIFICATION	
01-28-19	INDEF	SUSP: FAILURE TO PAY FINE	
09-01-18	11-28-18	CONV: (635)FAIL TO PAY COURT: WAKE COUNTY COURT, NC COURT: AOC #: 2018CR 749032	
09-01-18	10-17-18	CONV: (663)DRV WHILE LIC REVOKED-NO ACTION COURT: WAKE COUNTY COURT, NC COURT: AOC #: 2018CR 749032	2
06-26-18	INDEF	SUSP: FAILURE TO PAY FINE	
02-27-17	04-26-18	CONV: (635)FAIL TO PAY COURT: DURHAM COUNTY COURT, NC COURT: AOC #: 2017CR 701506	
02-14-18		ACDNT: DURHAM COUNTY, NC ACDNT: CASE ID:105381552	
01-06-18	03-26-19	CONV: (311)STOP SIGN VIOLATION COURT: DURHAM COUNTY COURT, NC COURT: AOC #: 2018IF 700081	PJC CITATION ID: 008G0356
10-14-17	03-02-18	SUSP: FAILURE TO APPEAR	
02-27-17	08-14-17	CONV: (634)FAIL TO APPEAR COURT: DURHAM COUNTY COURT, NC	

**** CONTINUE ON TO PAGE 2 ****

I certify that the foregoing is a true copy of the driver's license record of the within named person on the file in the Driver License Section of the N.C. Division of Motor Vehicles.

Signed _____

Commissioner of Motor Vehicles



NORTH CAROLINA DIVISION OF MOTOR VEHICLES
RDLSI/DRIVING RECORD

CUST ID: [REDACTED] PAGE NO: 3
DATE: 04-15-19

OCCUR/ BEG DATE	CONV/ END DATE	NATURE OF RECORD OR DIVISION ACTION	POINTS
07-15-12	11-29-12	CONV: (634)FAIL TO APPEAR COURT: CUMBERLAND COUNTY COURT, NC COURT: AOC #: 2012CR 720647	operate vehicle no insuran CITATION ID: 0F714106
01-29-13	INDEF	SUSP: FAILURE TO APPEAR	no operators license
07-15-12	11-29-12	CONV: (634)FAIL TO APPEAR COURT: CUMBERLAND COUNTY COURT, NC COURT: AOC #: 2012CR 720647	CITATION ID: 0F714106
01-29-13	INDEF	SUSP: FAILURE TO APPEAR	expired registration card/tag
07-15-12	11-29-12	CONV: (634)FAIL TO APPEAR COURT: CUMBERLAND COUNTY COURT, NC COURT: AOC #: 2012CR 720646	CITATION ID: 0F714105
01-29-13	INDEF	SUSP: FAILURE TO APPEAR	operate vehicle no insurance ; speeding (75mph in a 55 mph zone)
07-15-12	11-29-12	CONV: (634)FAIL TO APPEAR COURT: CUMBERLAND COUNTY COURT, NC COURT: AOC #: 2012CR 720648	CITATION ID: 0F714107
11-17-12	12-02-15	SUSP: FAILURE TO APPEAR	
06-23-12	09-17-12	CONV: (634)FAIL TO APPEAR COURT: DURHAM COUNTY COURT, NC COURT: AOC #: 2012CR 707095	CITATION ID: 0F626316
11-17-12	12-02-15	SUSP: FAILURE TO APPEAR	
06-23-12	09-17-12	CONV: (634)FAIL TO APPEAR COURT: DURHAM COUNTY COURT, NC COURT: AOC #: 2012CR 707096	CITATION ID: 0F626317
11-17-12	12-02-15	SUSP: FAILURE TO APPEAR	
06-23-12	09-17-12	CONV: (634)FAIL TO APPEAR COURT: DURHAM COUNTY COURT, NC COURT: AOC #: 2012CR 707096	CITATION ID: 0F626317
11-17-12	12-02-15	SUSP: FAILURE TO APPEAR	
06-23-12	09-17-12	CONV: (634)FAIL TO APPEAR COURT: DURHAM COUNTY COURT, NC COURT: AOC #: 2012CR 707095	CITATION ID: 0F626316

**** CONTINUE ON TO PAGE 4 ****

I certify that the foregoing is a true copy of the driver's license record of the within named person on the file in the Driver License Section of the N.C. Division of Motor Vehicles.

Signed _____

Commissioner of Motor Vehicles

Reading a Driving Record to Identify Active Driver's License Suspensions

There is an entry on a person's driving record for each time the NCDMV was notified by a court the driver failed to pay traffic court costs/fines or failed to appear in court to resolve a traffic ticket. Upon notice of noncompliance from the NCDMV, a person has 60 days to resolve the issue before the suspension goes into effect.

Each entry for a suspension for failure to pay and failure to appear—whether the suspension is active or expired—is labeled "FAILURE TO PAY FINE" or "FAILURE TO APPEAR". The entry identifies the citation and file number for the relevant traffic charge as well as the relevant court. The entry also identifies the following dates in two columns and two rows:

START DATE OF SUSPENSION
OFFENSE DATE

END DATE OF SUSPENSION
DATE OF NONCOMPLIANCE

All active indefinite suspensions will say
"INDEF" in the end date field.

All resolved indefinite suspensions will have
an actual end date (ex. **10-29-07**)

03-17-08	INDEF	SUSP: FAILURE TO PAY FINE
06-21-04	01-16-08	CONV: (635) FAIL TO PAY COURT: DURHAM COUNTY COURT, NC COURT: AOC #: 2004CR 0092 [] CITATION ID: [] .85

12-21-04	10-29-07	SUSP: FAILURE TO APPEAR
06-21-04	10-21-04	CONV: (634) FAIL TO APPEAR COURT: DURHAM COUNTY COURT, NC COURT: AOC #: 04CR 0092 [] CITATION ID: [] .85

Steps for Drafting the Driver's License Restoration Advice Letter

MATERIALS:

In order to do this project, you will need the following-

Material	Where can I find it?
Volunteer Agreement to sign	<i>Emailed</i>
Training Documents- Steps for Drafting (this doc), Common Driver's License Suspensions, and Reading a Driving Record	<i>In the Alston & Bird file transfer program</i>
Partner and Group Number List	<i>In the Alston & Bird file transfer program (will be added during CLE)</i>
DMV records (organized by Group #)	<i>In the Alston & Bird file transfer program</i>
Advice Letter Template	<i>In the Alston & Bird file transfer program</i>
Pitt County Case List	<i>In the Alston & Bird file transfer program</i>

HOW YOU WILL HELP:

1. Make sure you have signed the volunteer agreement and emailed it to leigh@ncprobono.org.
2. After the training, you will be assigned a group number and placed in a Zoom break-out room with your pro bono partner.
3. Locate the DMV record folder with your group number. These are the records that you

Steps for Today

Advice Letter Template & Examples

Questions?

leigh@ncprobono.org

(c) 336-407-6394