

From: Helena Gardner [HGardner@leg.state.vt.us]
Sent: Thursday, September 03, 2015 1:55 PM
To: Donovan, Barbara; Bartlett, Susan; Boomhower, Michele; Button, Glen; Cahill, David; Curtis, Chris; Farrell, Willa; Laferriere, Deb; Lapointe, Gabrielle; Liese, Chauncey; London, Sarah; Maguire, Jo Ann; Minter, Sue; Pratt, Michael; Riven, Matt; Bartlett, Susan
Subject: DLS Task Force bill outline
Attachments: GENERAL-#310726-v1-DR_16-_DLS_Task_Force;_outline_of_bill.DOCX

Hello all,

I've prepared the attached outline based on David Cahill's initial bill draft; substantive email exchanges among Task Force members; issues and topics discussed at the July meeting as reflected in Barbara's meeting minutes; and some of my own thinking. (Caveat: no provision has yet been approved by any potential sponsors).

As you can see, the outline poses many questions and identifies many policy choices that need to be made; some issues--i.e. items # 9 & 10—I have not yet attempted to flesh out.

I'm sure the attached outline is still incomplete, and I consider it a work in progress. However, my goal at this stage is to identify questions/issues in order to obtain further input as needed to develop the bill.

Feel free to send me comments, so I can incorporate them into a revised outline (to be circulated prior to the Oct. 28 meeting). It would be great if you can send me comments by Oct. 21.

Thank you,
Helena

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From: Donovan, Barbara [mailto:Barbara.Donovan@vermont.gov]
Sent: Wednesday, September 02, 2015 12:55 PM
To: Bartlett, Susan; Boomhower, Michele; Button, Glen; Cahill, David; Curtis, Chris; Farrell, Willa; Helena Gardner; Laferriere, Deb; Lapointe, Gabrielle; Liese, Chauncey; London, Sarah; Maguire, Jo Ann; Minter, Sue; Pratt, Michael; Riven, Matt
Subject: minutes and next meeting

Attached please find the final draft minutes of our July 29th meeting. The next full meeting is set for October 28th from 2-3:30. This will give us time for the following tasks which need to be accomplished. Please note the tasks you volunteered for.

"Next Meeting: It was suggested that the next meeting of the full group be October 28 and in the meantime subgroups meet with the law enforcement communities (Sarah London) and the bill be developed (Helena Gardner) and sent out with a chart with all the elements listed separately so comments for inclusion or not so each element can be addressed and included or removed (Barbara Donovan). This could be sent out by e-mail in advance via a google doc link to get the feedback prior to the next meeting.

Tasks to be completed:

Determine if other states have income sensitized penalties such as Sweden does. (Rob Ide)

Meet with law enforcement, George Merkel, Paul Doucette, Boycheck, Murray Scott (Sarah London, Rob Ide, David Cahill, others?)

Meet with legislative leaders to identify potential sponsors, obtain feedback, generate support for the bill.(Michele, Sue Minter, others)

Meet with the people doing the Valcour updates even though we do not yet know exactly what changes we need for e-ticketing. (Dean Hamel, Information Technology Manager, Vermont Department of Public Safety, Office: 802-241-5484, Cell: 802-498-4098) Glen Button."

Susan Bartlett of AHS will be joining the Task Force and we will plan to brief her in advance of the next meeting.

***Please note new e-mail address (Vermont.gov)
as of 7/27/15***

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DLS Task Force: Outline of Elements of Bill, Outstanding Questions

Draft a bill amending laws related to fines and surcharges arising from traffic violation convictions and to suspension of driver's licenses in order to:

1. Eliminate motor vehicle license suspensions for offenses—other than nonpayment of child support—that do not directly arise from moving violations.
 - Eliminate all or only some such suspensions? See notes in Cahill draft.
 - Amend the child support suspension provision (15 V.S.A. § 798)? Federal law gives flexibility: “[E]ach State must have in effect laws requiring use of the following procedures...: Procedures under which the State has (and uses in appropriate cases) authority to withhold or suspend, or to restrict the use of driver’s licenses...of individuals owing overdue support”. See 42 U.S.C. § 666(a)(16).
2. ***Address pending judgments, matters, and suspensions:***
 - A. For persons who, prior to the effective date of the act:
 - (i) are subject to an unpaid [traffic violation? Or any Judicial Bureau?] judgment (whether or not the judgment is >75 days old or the person is yet under suspension), or
 - (ii) have been issued a ticket for a traffic violation for which there’s no judgment yet,

allow the person, the State’s Attorney, the AG, to move for a reduced judgment or for amendment to waiver fine/surcharge. Also authorize hearing officer/judge to reduce on own motion.

 - In the case of pending tickets that have not become judgments, accomplish this via mass ticket amendment under § 1106?
 - Assuming that proof of inability to pay is required in order for a person to be eligible for a reduced amount due, what is the eligibility threshold, and what proof should be required?
 - Should amount due be reduced by (a) a fractional amount; (b) one specific reduced amount (e.g., \$20 per ticket); or (c) on a sliding scale basis?
 - Specify that no reduction in “amount due” will result in a refund of amounts previously paid.
 - B. For persons suspended prior to the effective date of the act solely for nonpayment of a [traffic violation? Or any Judicial Bureau?] judgment, administratively reinstate their licenses en masse [without payment of reinstatement fee?]
 - What effect would these provisions have on existing participants of the DLS Diversion Program? Will those under existing DLS Diversion contracts qualify for reduced judgments and get out of their Diversion contract obligations? (Also see below re need to amend DLS Diversion law, 2012 Acts and Resolves No. 147, Sec. 2, as amended by 2013 Acts and Resolves No. 18, Sec. 1a).

3. Establish income sensitized traffic violation waiver penalties, and income-sensitized surcharges.
 - What proof of ability to pay should be required, and how should this information be collected? Self-declaration to police officer during traffic stop? How would this work for nonresidents?
 - What is the income/ability to pay threshold to be eligible for reduced fines and surcharges?
 - Will reduction be fractional, at two specific waiver levels, or sliding scale?
 - Will defendant be eligible for income-based reduction if the “amount due” is stipulated, or established after a hearing? Should Judicial Bureau hearing officers have ongoing authority to establish mitigation remedies under 23 V.S.A. § 2307, if default judgments are already income-sensitized? ***As indicated above, bill will need to address cases pending and judgments outstanding at the effective date of the act via a clear transition provision.***
 - Judge Pratt raised the point that the Judicial Bureau has jurisdiction over many offenses other than traffic violations (see 4 V.S.A. § 1102). If only fines/surcharges arising from traffic violation convictions are income sensitized, this should be a deliberate choice. ***What about income sensitization of municipal waiver penalties, for violations of municipal traffic-related ordinances? See 4 V.S.A. § 1102(d)(1).***
4. Eliminate most license reinstatement fees; keep reinstatement fees for DUI [keep them for any other underlying offense?]
 - Include income sensitive reinstatement surcharge in initial fine? Does this get us back to the same problem of unaffordable fines/surcharges?
 - Relevant Background Info:*** Estimate the systemwide savings relating to fewer DLS prosecutions, to see if these savings likely to offset loss in reinstatement fee and other fine/surcharge revenues.
5. Increase DUI fines. Establish income-sensitive fees for driver alcohol education programs. Specify that a portion of DUI fines will be used to fund reduced cost driver alcohol education programs.
6. Repeal 23 V.S.A. § 305a, which provides: “The Commissioner shall not renew the registration of a person who is the sole registrant after receiving notice from the Judicial Bureau that the person has not paid a judgment for a traffic violation.”
7. Authorize restricted driver licenses for persons whose licenses are suspended [other than for points accumulation, DUI, or violation of terms of an ignition interlock RDL], to allow such persons to drive [to work, classes, medical or treatment appointments? Any other purpose?].
 - Leave untouched the laws authorizing ignition interlock RDLs for those under suspension for a DUI?
 - Should all persons under suspension [other than for DUI, points accumulation] qualify for the restricted license? Or only for some categories of suspensions?

→ What should the penalties be for violating the terms of the restriction? Should a single violation of the restricted license result in permanent revocation of the restricted license? Or a time-limited suspension?

8. Repeal civil suspension provision, 23 V.S.A. § 676, and amend criminal suspension provision? See Cahill proposal.
9. SR 22 insurance - narrow the group of offenses for which it is required?
10. In light of above changes, how should the DLS Diversion Program as currently conceived be changed? Make appropriate conforming changes to DLS Diversion Program law, 2012 Acts and Resolves No. 147, Sec. 2, as amended by 2013 Acts and Resolves No. 18, Sec. 1a.