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To: The Honorable Luke H. Clippinger
Chair, House Judiciary Committee

From: University of Baltimore School of Law Legal Data and Design Clinic

Re: HB 280 Vehicle Laws – Suspension of Driver's License or Registration – Unpaid Citations or Judgments (**SUPPORT**)

The University of Baltimore School of Law Legal Data and Design Clinic (LDDC) submits the following written testimony in support of House Bill 280.

The Office of the Attorney General (OAG) sought the LDDC's review of driver's license suspension data the OAG had obtained from the Maryland Vehicle Administration (MVA). After analysis of the data, the LDDC has concluded that driver's license suspensions for failure to pay ("FTP") traffic-related debt is a large problem that has a disproportionate impact against black Marylanders and certain Maryland counties. Given this evidence, summarized in the attached Appendix ("The Need for HB280"), we support the bill's proposal to reform current law in order to end FTP suspensions.

In addition, the LDDC has analyzed the Fiscal Note attached to this bill and found that the Note very aggressively estimates costs and completely fails to estimate savings that will result from enacting the proposed law. Based on research and national experience, it is likely that this bill would improve the economic health of Maryland and its citizens.

Analysis of MVA Data

MVA data show that a total of 292,865 Marylanders had their driver's licenses suspended between 2015 and 2019. Approximately 10% of this total (29,331 people) had their license suspended purely due to failure to pay traffic-related debt. This relatively conservative number does not include anyone who had a driver's license suspended for failure to comply, failure to appear, accumulation of points, or anything other than failure to pay traffic-related debt. However, that is still 29,331 Marylanders who possibly suffered significant economic consequences associated with having their license suspended, such as an inability to drive to work or to take a child to daycare. (*See "Scope" box in Appendix*).

When analyzed through the lens of race, failure to pay traffic-related debt exacerbates inequality. Even though census data show that Maryland is approximately 31% black and 59% white, MVA data show that 61% of all FTP suspensions fell upon black Marylanders (17,821 people) while 30% of the suspensions fell upon white Marylanders (8,754 people). This is severely disproportionate. 1 in 105 black Marylanders suffer FTP suspensions compared to 1 in

408 white Marylanders. This reflects profound inequality and alone would justify ending the practice of FTP suspension. (*See "Race" box in Appendix*).

The LDDC also analyzed FTP suspensions based on county. Using the total number of driver's licenses held by Marylanders in each county (a publicly available MVA dataset) as a baseline, we found that the problem affects approximately half a percent of licensed drivers in most Maryland counties. However, the issue disproportionately affects a handful of counties including St. Mary's (over 6% of licenses suspended), Dorchester (over 3%), Wicomico (2%), and Baltimore City (just under 2%). (*See "County" box in Appendix*).

Finally, the LDDC analyzed FTP suspensions based on legislative district. The majority of districts each account for approximately 2% of suspensions, however the 37th district had by far the highest rate of suspensions at 6.8%. MVA data is presented by zip code, which does not always precisely align with legislative districts, so our estimates are conservative. The data showing how many residents impacted by FTP suspensions in each legislative district are listed in the attached Appendix. This illustration demonstrates that the FTP problem cuts across the state. (*See "Legislative District" box in Appendix*).

Fiscal Note Analysis

The Fiscal Note attached to House Bill 280 outlines a projected increase of $7,794,100 in expenditures in 2021.[1] Our analysis on this Note suggest that it (a) uses very aggressive estimates of costs; and (b) fails to include any estimates of savings introduced by the bill. Because of this, the LDDC concludes that, as currently written, the Fiscal Note does not capture the true economic benefit of the bill.

As the Note recognizes, HB280/SB234 removes the automatic MVA license suspension for failure to pay and instead authorizes the MVA to pursue a civil judgment against a person with unpaid fines. To implement this new enforcement mechanism, the Fiscal Note projects MVA will need to hire 56 permanent new employees with salaries and fringe benefits totaling $4,660,848 and additional start-up costs for a total of at $6,893,359.

Here, it is worth noting that the bill does not require the MVA to undertake such a massive expansion. The Note does not provide what its estimated annual number of new civil judgment actions is but *Exhibit 1* appears to suggest that the number is based on the Fiscal 2019 deferred payments (25,577). This is an unnecessarily high estimate. Nothing in the bill requires that *every deferred payment* automatically lead to a new civil judgment action. A far more modest enforcement regime could still accomplish reasonable compliance goals.

The Note also analyzes the impact of the bill's new payment plan scheme. The Fiscal Note expects an increase in installment plan requests and a parallel increase in Judiciary

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[1] It bears emphasis that this Fiscal Note was based on a prior version of SB234/HB280 that has since been amended. When addressing the Note during the Senate hearings on February 4, the Attorney General testified that that Note would need to change due to misunderstandings that were being cleared up. However, as of the date of this testimony, there is no new Fiscal Note. We therefore offer this analysis knowing that a new Note may be issued that offers different calculations.

personnel to accommodate additional volume. Here, the Note projects a need for 13 additional clerks and estimates a total additional cost of $900,717 from the general fund to pay for salaries, operating expenses, and revisions to the current traffic citation form.

Once again, the Note does not explicitly state what its projected total increase in annual payment plans is. *Exhibit 2* indicates that the current annual number of payment plans is somewhere around 2,000 with a default rate between 57% and 78%. The number of clerks employed to handle current volume is also not set out in the Note. Given the Note's MVA numbers, its estimates for additional Judiciary personnel may also be aggressively high.

More importantly, the Fiscal Note makes no attempt to deal with the other side of the ledger – the savings that would ensure from decriminalizing traffic-related debt. In other words, the Note tabulates projected costs but does not calculate *any* projected savings. While it is true that a new civil enforcement schema will cost money, it is also inherently true that relaxing the current (overly punitive) criminal enforcement scheme will save money.

Under Md. Transportation Article § 16-303(c), driving on a suspended license is a criminal offense; it stands to reason that the State currently incurs substantial costs from prosecuting and jailing persons who would no longer be criminal offenders under the new law. Indeed, data provided by the Administrative Office of the Courts show that between 2014-2018, there were 319,599 *criminal filings* for driving on a suspended or revoked license in district court alone, resulting in 16,510 convictions. While the precise number of these criminal filings or convictions based on solely failure to pay traffic debt is not disaggregated, our analysis above shows that significant numbers of Marylanders have their license suspended for failure to pay. The volume of *criminal prosecutions* under the new law is thus certain to drop – as would associated costs.

Nationally recognized research confirms this conclusion. In a recent report entitled *The Steep Costs of Fines and Fees*, researchers at NYU's Brennan Center noted that "among the costs that often go unmeasured [by States] are those of jailing, time spent by police and sheriffs on warrant enforcement or driver's license suspensions, and probation and parole resources devoted to fee and fine enforcement."[2] Beyond these costs, the Brennan Center researchers urge consideration of other economic benefits of eliminating traffic-related debt: "When debt leads to incarceration or license suspension, it becomes even harder to find a job or housing to pay child support."[3]

Traffic-related debt harms Marylanders' ability to work, pay taxes, and contribute economically to society. The fiscal benefits of eliminating this debt should not be ignored as they are a true part of the impact of the proposed law on Maryland's economy.

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[2] Matthew Menendez et al., *The Steep Costs of Criminal Justice Fees and Fines*, Brennan Center for Justice 5 (Nov. 21, 2019), https://www.brennancenter.org/sites/default/files/2019-11/2019_10_Fees%26Fines_Final5.pdf
[3] *Id*.

Conclusion

For the reasons stated above, the LDDC urges a favorable review of SB280. Since the LDDC believes in evidence-based reasoning and open data. We will therefore share the data underpinning our analysis upon request.

Sincerely,

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cc: Members of the House Judiciary Committee