



Safety & Security Council

**Wednesday, March 19, 2008
9:45 A.M. – 10:45 A.M.
102 House Office Building, Reed Hall**

**Marco Rubio
Speaker**

**Dick Kravitz
Chair**

Council Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Marco Rubio

Safety & Security Council

Start Date and Time: Wednesday, March 19, 2008 09:45 am

End Date and Time: Wednesday, March 19, 2008 10:45 am

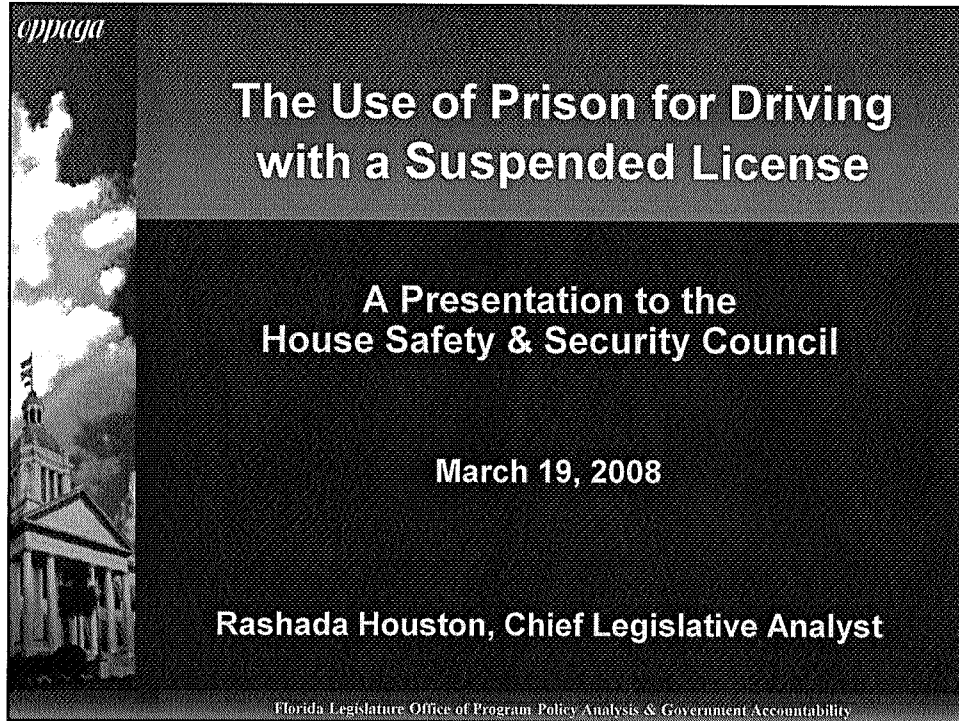
Location: Reed Hall (102 HOB)

Duration: 1.00 hrs

Presentation on OPPAGA Report 08-12 entitled "Several Alternatives Could be Used to Reduce Increasing Imprisonment of Persons Driving with Suspended Licenses"

Budget Workshop

NOTICE FINALIZED on 03/17/2008 16:25 by MCJ



oppaga

The Use of Prison for Driving with a Suspended License

A Presentation to the
House Safety & Security Council

March 19, 2008

Rashada Houston, Chief Legislative Analyst

Florida Legislature Office of Program Policy Analysis & Government Accountability

Background

- **Driver licenses may be suspended for driving and non-driving reasons**
 - **Driving examples: vehicular homicide, driving under the influence, receiving multiple traffic citations, or having medical or vision problems**
 - **Non-driving examples: failure to pay court fines or fees, failure to comply with a court summons, failure to pay child support, or passing worthless checks**

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Background

- **Over 1.8 million driver license suspensions and revocations occurred in FY 2006-07**
 - **Most (92%) were for non-driving reasons; over 1.5 million (82.5%) were levied for failure to comply with a court summons**

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3

Background

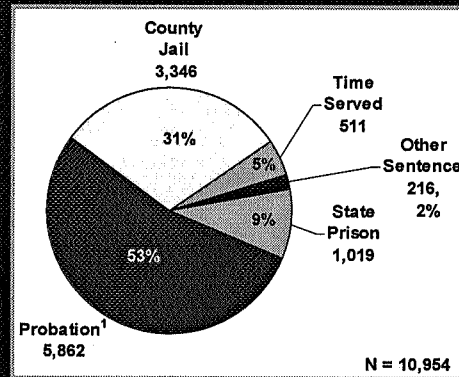
- **Many people continue to drive with suspended licenses**
 - **227,245 citations were issued for driving with a suspended license in FY 2006-07**
- **Penalties:**
 - **1st or 2nd conviction – Misdemeanor**
 - **3rd or subsequent conviction – Felony**
 - ▶ **Punishable by up to 5 years in prison and a \$5,000 fine**

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4

Criminal Sanctions

- **10,954 people received criminal sanctions in FY 2006-07 for this offense (felony offenses only)**



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5

Prison Commitments

- **A small but growing percentage of offenders are sent to prison**
 - From FY 2000-01 to 2006-07, the number of people sentenced to prison for driving with a suspended license increased by 133% compared to a 47% increase in overall prison commitments

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6

Prison Population

- **On November 30, 2007, there were 1,662 offenders in prison for driving with suspended licenses**
 - The average length of sentence was 2.3 years
 - OPPAGA analyzed the driving and criminal records of 904 of the 1,662 inmates

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7

Profile of Offenders

- **Of the 904 offenders analyzed:**
 - 661 (73%) were in prison for suspensions related to financial obligations
 - Virtually all had prior criminal histories; many had multiple suspensions
 - 43% had prior suspensions for driving under the influence
 - 34% had forcible felonies or sex offenses in their criminal histories
 - 17% had less serious criminal and driving histories

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8

Alternatives to Incarceration

- Day Work Camp
- Electronic Monitoring
- Vehicle Impoundment or Immobilization
- Revise statutory eligibility for prison

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9

Alternatives to Incarceration

Day Work Camp

- Community-based alternative
- Offenders do physical labor in a supervised setting
- Used in Florida counties and other states such as North Carolina and Washington

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10

Alternatives to Incarceration

Electronic Monitoring

- Offenders' whereabouts are tracked
- Enables offenders to continue employment
- Already exists within the state corrections system
- Could be used for more risky offenders that are not deemed appropriate for prison

Alternatives to Incarceration

Vehicle Impoundment

- Vehicle seized for a specified period of time
- Helps prevent offenders from driving
- Less costly to the state if offenders pay impoundment costs
- Some statutory authority already exists though not used regularly

Alternatives to Incarceration

Vehicle Immobilization

- Similar to vehicle impoundment
- Vehicle immobilized by a tire boot or steering wheel club for a specified period of time
- As with impoundment, creates a hardship for family members

Alternatives to Incarceration

Revise statutory eligibility for prison

- Less serious offenders would be ineligible for prison
 - For example, those with suspended licenses due to a failure to pay financial obligations and who do not have forcible/violent felonies or sexual offenses
- SB 1988 provides 3rd offense would be a 1st-degree misdemeanor

Impact of Senate Bill 1988

- The Office of Economic and Demographic Research projects that SB 1988 will result in 462 fewer prison beds and save \$61.3 million beds over the next five years

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16

Questions?

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Several Alternatives Could Be Used to Reduce Increasing Imprisonment of Persons Driving with Suspended Licenses

at a glance

More than 1.8 million driver license suspensions and revocations occurred in Fiscal Year 2006-07. Of these, 1.5 million (82%) were imposed for failure to comply with a summons to appear in court and/or pay traffic tickets, court fines and costs. While relatively few offenders are sentenced to prison, the number of prison commitments for suspended licenses has disproportionately increased compared to all new commitments. Between Fiscal Years 2000-01 and 2006-07, the number of people sentenced to prison for driving with a suspended license increased by 133% compared to a 47% increase in overall prison commitments.

As of November 30, 2007, there were 1,662 offenders in prison for driving with suspended licenses. Our analysis of 904 of these inmates' driving and criminal histories showed that virtually all had prior criminal histories. However, some of these inmates had committed less serious driving and criminal offenses. Because of competing needs for resources and the limited number of prison beds, the Legislature could consider alternatives to incarceration for less dangerous offenders convicted of driving with suspended licenses. These alternatives include day work camps, electronic monitoring, vehicle impoundment or immobilization, and revising statutory eligibility for prison.

Scope

As directed by the Legislature, this report reviews the use of prison for the offense of

driving with a suspended or revoked license. The report addresses three questions.

- How many people are sentenced to prison for the offense of driving with suspended or revoked licenses?
- What are the driving and criminal histories of those sentenced to prison for driving with suspended or revoked licenses?
- What alternatives to incarceration could judges and the Legislature consider for people who drive with suspended or revoked licenses?

Background

People who violate Florida's laws may be sanctioned through the suspension or revocation of their driver license.¹ Driver licenses may be suspended or revoked for both driving and non-driving reasons. For example, a suspension can result from vehicular homicide, driving under the influence, receiving multiple traffic citations within specified time periods, or having medical or vision problems that affect one's ability to drive safely. A suspension can also result from non-driving reasons such as failure to pay court fines or fees, failure to comply with a court summons, failure to pay child support, or passing worthless checks.

¹ Per s. 322.01, *F. S.*, a revocation means the termination of a licensee's privilege to drive and a suspension means the temporary withdrawal of a licensee's privilege to drive a motor vehicle.

As shown in Exhibit 1, over 1.8 million driver license suspensions/revocations occurred in Fiscal Year 2006-07. Most (92%) were for non-driving reasons; over 1.5 million (82.5%) were levied for failure to comply with a court summons, including offenses such as failure to appear and failure to pay a traffic summons.

**Exhibit 1
Most License Suspensions and Revocations Are for Non-Driving-Related Reasons**

Fiscal Year 2006-07	Number	Percent
Driving-Related Suspensions/Revocations		
Driving Under the Influence or Vehicular Homicide/Manslaughter	47,939	2.6%
Traffic Citation Point System ¹	26,699	1.5%
Habitual Traffic Offender ²	24,228	1.3%
Medical, Vision, and Adjudged Incapacitated	13,605	0.7%
Other Driving Suspensions/Revocations	1,060	0.1%
Driving-Related Suspensions/Revocations	113,531	6.2%
Non-Driving-Related Suspensions/Revocations		
Failure to Comply with Court Summons	1,500,090	82.5%
Child Support	109,583	6.0%
Other Financial Obligations	40,212	2.2%
School Drop Out Prevention	10,978	0.6%
Worthless Checks	4,812	0.3%
Other Non-Driving Suspensions/Revocations	2,981	0.2%
Non-Driving-Related Suspensions/Revocations	1,668,656	91.8%
Unidentified Revocations/Suspensions	36,897	2.0%
Total All Suspensions/Revocations	1,819,084	100.0%

¹ Per s. 322.27, F.S., the point system is used to evaluate convictions of violations of motor vehicle laws or ordinances.

² Section 322.264, F.S., defines habitual traffic offender as any person who has accumulated three or more convictions within a 5-year period for offenses specified in s. 322.264 (1), which include manslaughter resulting from the operation of a motor vehicle, driving a motor vehicle while license is suspended or revoked, or failing to stop and render aid in crash resulting in the death or injury of another; or fifteen convictions for moving traffic offenses.

Source: Department of Highway Safety and Motor Vehicles.

People with suspended licenses can apply for hardship licenses to commute to work. License suspensions and revocations do not result in the automatic loss of all driving privileges. Almost all drivers who receive license suspensions can apply for a hardship license that allows them to drive to work and

school.² These hardship licenses give offenders the opportunity to earn income and pay their financial debts to have their licenses reinstated, but limit their driving privileges. As of June 30, 2007, the Department of Highway Safety and Motor Vehicles granted 41,974 hardship licenses.

Many people continue to drive with suspended or revoked licenses. Although drivers whose licenses have been suspended or revoked may not legally operate a motor vehicle, many continue to drive. In 2006, Florida law enforcement officers issued 227,245 traffic citations for driving with a suspended license. In addition, 170,006 citations were issued for driving without a license or with an improper or expired license.

Questions and Answers –

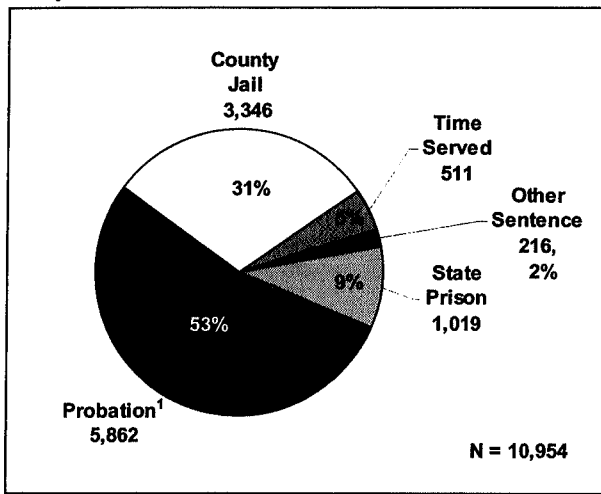
How many people are sentenced to prison for the offense of driving with suspended or revoked licenses?

Any person who knowingly drives with a canceled, suspended, or revoked license commits a misdemeanor on the first two convictions. On the third or subsequent conviction, the person commits a felony of the third degree, which is punishable by five years in prison and a \$5,000 fine.

A small but increasing percentage of offenders are sentenced to prison. Relatively few people receive criminal sanctions for continuing to drive while their licenses are suspended or revoked. As shown in Exhibit 2, in Fiscal Year 2006-07, a total of 10,954 people received criminal sanctions for their third or subsequent conviction. Slightly over half (53%) of these offenders were sentenced to probation, and 31% were sentenced to county jail for up to one year. Nine percent (1,019) were sentenced to prison.

² Persons convicted of four or more driving under the influence (DUI) offenses or one DUI manslaughter offense are ineligible for hardship licenses.

**Exhibit 2
Most Offenders Sanctioned for Driving with a
Suspended License Were Sentenced to Probation**



¹ Includes community control.

Source: Florida Legislature’s Office of Economic and Demographic Research, July 2007.

While relatively few offenders are sentenced to prison, the Florida Legislature’s Office of Economic and Demographic Research reports that the number of prison commitments for suspended licenses has disproportionately increased compared to all new commitments. Between Fiscal Years 2000-01 and 2006-07, the number of people sentenced to prison for the primary offense of driving with a suspended license increased by 133% (from 631 to 1,472 persons) compared to a 46.9% increase in overall prison commitments. As of November 30, 2007, there were 1,662 offenders in prison for this offense, with an average sentence length of 2.3 years.

What are the driving and criminal histories of people imprisoned for driving with suspended or revoked licenses?

Our analysis of people incarcerated for the primary offense of driving while their license was suspended or revoked showed that most were in prison for the underlying offense of driving while their license had been suspended for failure to meet court-ordered financial obligations.

The Florida Department of Highway Safety and Motor Vehicles provided the driving records of 904 of the 1,662 inmates in prison for the primary offense of driving while their license was suspended or revoked.³ Almost three-quarters (661 or 73%) had failed to meet court-ordered financial obligations.

These obligations most commonly involved failure to pay traffic summons, parking tickets, or other court fines or fees, including non-waivable court costs in criminal cases. Another common reason for financial suspension of driver licenses was failure to pay child support. As required by the 1996 Federal Welfare Reform Act, states must have laws granting agencies or courts authority to withhold, suspend or restrict driver’s, professional, occupational and recreational licenses of individuals who owe overdue child support or who fail, after receiving notice, to comply with subpoenas or warrants in such cases. Florida suspended 109,583 licenses in Fiscal Year 2006-07 for failure to comply with their child support obligations (an 84% increase from the prior fiscal year). Fifty of the 904 offenders we analyzed were in prison for driving while their licenses were suspended for failure to pay child support.

Many offenders sentenced to prison have serious driving or criminal histories. Our analysis of the 904 inmates’ driving and criminal histories showed that virtually all had criminal histories in addition to their offense of driving with a suspended or revoked license. In our analysis, we identified each offender’s most serious driving and criminal offenses. As shown in Exhibit 3, slightly under half of the inmates (44.5%) had suspensions for driving under the influence or vehicular homicide/manslaughter in their driving histories. The exhibit also shows that 310 of the 904 inmates had forcible felonies or sex offenses in their criminal histories.

³ The Department of Corrections provided 923 verified social security numbers for the 1,662 inmates, of which 904 were matched to driver records from the Department of Highway Safety and Motor Vehicles.

Exhibit 3

Most Offenders Incarcerated for Driving with Suspended or Revoked Licenses Had Prior Criminal Histories

Suspension History	Criminal History						TOTAL	TOTAL Percentage
	Forcible felony or sex offense	DUI-related or vehicular	Drug offense	Driving while license suspended	Property offense	Other non-forcible felony		
Manslaughter/homicide (DUI or vehicular)	4	3	1	0	0	2	10	1.1%
Driving under the influence	120	47	62	68	42	53	392	43.4%
Excessive tickets/other driving-related reasons	138	4	99	32	42	40	355	39.3%
Failure to pay or comply with court order	43	0	55	13	17	13	141	15.6%
Other (unrelated to driving)	5	0	1	0	0	0	6	0.7%
Total Number	310	54	218	113	101	108	904	100.0%
Total Percentage	34.3%	6.0%	24.1%	12.5%	11.2%	11.9%	100.0%	

Note: Forcible felonies include murder, manslaughter, sexual battery, carjacking, robbery, burglary, arson, kidnapping, aggravated assault, aggravated battery, and aggravated stalking.

Source: OPPAGA analysis of data obtained from the Department of Corrections and Department of Highway Safety and Motor Vehicles.

As shown by the shaded part of the exhibit, 157 inmates had only histories of excessive tickets or failure to pay and relatively less serious criminal histories (driving with suspended license, property, or non-forcible felonies). Forty-five inmates had only prior suspensions for excessive tickets/other driving-related reasons and failure to pay in addition to the criminal offense of driving with a suspended license.

What alternatives to incarceration could judges and the Legislature consider for people imprisoned for driving with suspended or revoked licenses?

There are benefits to incarcerating some offenders for driving while their license is suspended. This action prevents offenders from repeating the violation while incarcerated, thereby temporarily protecting public safety.

However, incarceration is an expensive sanction. It costs the state approximately \$19,300 per year to incarcerate an inmate in a state prison, or \$32.1 million per year to house the 1,662 offenders imprisoned for driving with suspended licenses. Because of competing needs for resources and the limited number of prison beds, the Legislature could consider alternatives to incarceration for less dangerous

offenders convicted of driving with a suspended license. We analyzed five policy alternatives that could divert offenders from prison while maintaining offender accountability.

Day Work Camp Program. A day work camp is a community-based alternative to prison in which offenders do physical labor in a supervised setting. In lieu of a prison sentence, a judge would sentence an offender to a term of community supervision with a day work camp sanction. Along with standard conditions of supervision, these offenders would be required to report daily to corrections officials and complete job assignments in the community, such as cleaning or painting public facilities.⁴ Similar programs are used in Florida counties and in other states, such as Washington and North Carolina. North Carolina reports that its work program costs less than \$1 per offender day to supervise.

This alternative would be more punitive than regular community supervision which typically requires offenders to report periodically to their probation officers and comply with laws. It also would be substantially less costly than

⁴Standards of supervision include reporting to the probation office as directed; living without violating the law; paying the costs of supervision, restitution, court costs, fines, or other fees; and submitting to random urinalysis, breathalyzer, or blood tests.

prison. Because these offenders would remain in the community and work in the general public, this alternative would be most appropriate for those who have had their license suspended for reasons that do not pose a threat to public safety.

Electronic Monitoring. With electronic monitoring, offenders wear a device that monitors their whereabouts while they are in the community. This alternative sanction enables offenders to continue in regular employment and fulfill financial responsibilities that resulted in their license suspension. This sanction already exists within the state corrections system; however, it is not commonly used by judges at sentencing. The Department of Corrections has not used its full appropriation for electronic monitoring in the past; this funding could be reallocated to offenders who drive with suspended licenses.⁵

Electronic monitoring costs approximately \$10 per day, which is substantially less than prison.⁶ It also enables offenders who have their licenses suspended for financial reasons to maintain employment, which would assist with fulfilling their financial obligation. This alternative is suitable for offenders whom the judge has deemed to need more punitive sanctions but not appropriate for prison.

Vehicle Impoundment. Under this option, vehicles registered to offenders who are convicted of driving with a suspended or revoked license are seized for a specified period of time. This option is used by Ohio and California, which seize the vehicles that the offenders are apprehended in, regardless of ownership.⁷ The advantage of this option is

⁵ The Department of Corrections received \$8 million in Fiscal Year 2006-07 to electronically monitor certain sex offenders, of which it returned \$4.5 million. The department reported that the funds were unused because of several reasons, including fewer eligible sex offenders than projected and limited authority to put offenders on electronic monitoring.

⁶ This figure does not include the cost of supervision to the state, which the Department of Corrections states that it cannot calculate. Offenders pay for the electronic monitoring device and a portion of the supervision cost, which can range from \$30 to \$103 per month as ordered by the judge.

⁷ Florida statutes authorize the vehicle impoundment or

that it can help prevent persons from continuing to drive by seizing their vehicles for the period of suspension. It is less costly to the state than incarceration; impoundment reportedly costs up to \$1,000 for a 30-day period in California. This cost could be assessed to the offenders, although it could be burdensome to some with low incomes. This alternative could also have the effect of penalizing other people in the offenders' families that also may use the vehicles. Also, the state would be responsible for the storage of impounded vehicles.

Vehicle Immobilization. Under this option, the vehicles registered to people with suspended or revoked licenses are immobilized through tire boots and/or steering wheel locks. This alternative sanction would prevent offenders from operating their vehicles, but would not require the state to seize and store the vehicles. Other states including California and Ohio use vehicle immobilization. Ohio reports a cost of \$30 for steering wheel locks and \$200 for tire boots, which are paid by the offender.

The disadvantage of this option is similar to vehicle impound in that it could cause hardship to other family members who rely on the vehicles for transportation. Additionally, vehicle immobilization equipment could be tampered with and removed; the state would need to devise a process to monitor compliance with the sanction.

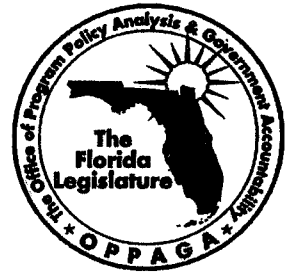
Revise statutory eligibility for prison. Florida law currently provides that an offender convicted of driving with a suspended license for a third time is eligible for prison. If the Legislature determined that prison is not the most appropriate sanction for less serious offenders convicted of a third offense, it could revise Florida law making a selected group of these offenders ineligible for prison. For example, the Legislature may wish to exclude those who drive while their licenses are

immobilization of offenders convicted of driving under the influence or offenders arrested for driving with a suspended license. However, this sanction is not commonly used by felony judges.

suspended due to a failure to pay financial obligations and who do not have violent, forcible, or sexual offenses.⁸ This option would divert less serious offenders from prison. However, this option would limit judicial discretion to order imprisonment for offenders who have specific criminal histories or case circumstances that are judged to pose a risk to public safety.

⁸ Senate Bill 1988, which has been filed for consideration by the 2008 Legislature, provides that it would be a 1st-degree misdemeanor, rather than a felony, for this group of offenders who commit two or more offenses of driving with a suspended license.

The Florida Legislature
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