

Article

Debt, Work, and the State

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In every state and the District of Columbia, an individual who owes a debt to the state can lose their license to work. Without the ability to make a living, it is much harder to pay off debt. Although using occupational license restrictions as a debt collection tool appears nonsensical, it has never before been the subject of scholarly debate. This Article thus begins an important conversation about debt, work, and the state.

This Article identifies the pervasive authority that state and local governments have to revoke an individual's occupational license solely because that person owes a debt to the government. Its first contribution is descriptive—proffering a mapping of state statutes and municipal ordinances that give the government the authority to use occupational licensing restrictions as a debt collection tool. And because this debt collection tool is potent, punitive, and disproportionately affects low-income workers, policymakers must better understand and grapple with its benefits and burdens. Therefore, this Article's second contribution is conceptual—proposing a new way for how the state should analyze its debt collection actions. It argues that the state must consider more than the cost-benefit analysis a creditor typically employs in a private arms-length transaction. Governments must also consider moral and public interest factors unique to state action.

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Using debt-based occupational licensing as an example, this Article models both a traditional cost-benefit analysis and the more extensive benefits-burdens model proposed herein, exposing the critical differences in the two analyses. It then concludes with proposals for specific policy changes to debt-based licensing restrictions that better reflect the government's unique interests in protecting individual debtors, families, and the broader public.

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INTRODUCTION

Kahssay Ghebrebrhan emigrated to the United States from Ethiopia in 1975 after experiencing a Marxist coup d'état and a burgeoning civil war.¹ Mr. Ghebrebrhan moved to Washington D.C. in 1990 where, for the next twenty-nine years, he worked as a street vendor.² Prior to the COVID-19 pandemic, Mr. Ghebrebrhan operated a stand outside the D.C. Superior Courthouse, selling hot dogs, chips, soda, and candy.³ He worked five days per week, ten hours per day, year round to support his family.⁴ Because street vendors are regulated by the District of Columbia, Mr. Ghebrebrhan had to apply for a street vendor license and renew that license every two years.⁵

On March 18, 2020, shortly after the world shut down because of the COVID-19 pandemic,⁶ the D.C. Superior Courthouse closed except for “absolutely essential” proceedings.⁷ Mr. Ghebrebrhan shut down too, both for his own safety and because no government workers were in D.C. to purchase his goods.⁸ The District, however, continued to charge him \$375 quarterly for his vendor license.⁹

While COVID-19 was raging, Mr. Ghebrebrhan’s vendor license expired in September of 2020.¹⁰ After some delays due in

1. Declaration of Kahssay Ghebrebrhan ¶ 2, *Ayele v. District of Columbia*, No. 1:23-cv-01785 (D.D.C. June 20, 2023), ECF No. 3-5 [hereinafter Ghebrebrhan Declaration]; see also Assefa Mehretu et al., *Socialist Ethiopia (1974-91)*, BRITANNICA, <https://www.britannica.com/place/Ethiopia/Socialist-Ethiopia-1974-91> [<https://perma.cc/SQQ3-QJ6Q>] (describing the dangerous and fraught situation in Ethiopia in the 1970s and 1980s).

2. Ghebrebrhan Declaration, *supra* note 1, ¶¶ 2–3.

3. *Id.* ¶ 3.

4. *Id.* ¶ 5.

5. *Id.* ¶ 4.

6. On March 11, 2020, the World Health Organization declared COVID-19 a pandemic. *CDC Museum COVID-19 Timeline*, CTRS. FOR DISEASE CONTROL & PREVENTION (last updated Mar. 15, 2023), <https://www.cdc.gov/museum/timeline/covid19.html> [<https://perma.cc/8BL8-6XL5>].

7. Jacqueline Thomsen, *DC Superior Court Shuts Down Except for ‘Absolutely Essential’ Proceedings After Marshal Tests Positive for COVID-19*, NAT’L L.J. (Mar. 18, 2020), <https://www.law.com/nationallawjournal/2020/03/18/dc-superior-court-shuts-down-except-for-absolutely-essential-proceedings-after-marshal-tests-positive-for-covid-19/?slreturn=20231020095254> [<https://perma.cc/ZWT9-W4ZW>].

8. Ghebrebrhan Declaration, *supra* note 1, ¶ 6.

9. *Id.* ¶ 7.

10. *Id.*

part to government closures,¹¹ Mr. Ghebrebrhan applied for his license renewal in September 2022.¹² He found that he was unable to renew his vendor license because he owed the District more than \$1,000.¹³ Mr. Ghebrebrhan's debt arose from the quarterly vendor license fees that had accrued during the COVID-19 shut-down, when being in public was considered unsafe¹⁴ and the streets were empty of customers.¹⁵ Without a vendor license, Mr. Ghebrebrhan could not pay his debt to the District, was unable to find other work, and had to turn to public benefits to survive.¹⁶ He found himself in a Catch-22, asking "I am willing to pay down any debts, but I do not have the ability to pay them without any income. How can I be asked to pay if I am unable to work?"¹⁷

11. *Id.* ¶ 8 (noting that the license desk was closed when he first sought a renewal in 2021).

12. *Id.*

13. *Id.* ¶ 11. Mr. Ghebrebrhan was initially denied his license renewal for failure to pay 2018 taxes, but that was later determined to be an error. *Id.* ¶¶ 8–9.

14. On March 30, 2020, District of Columbia Mayor Muriel Bowser issued a "stay at home order." Off. of the Mayor, Mayor's Ord. 2020-054: Stay at Home Order (Mar. 30, 2020), https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page_content/attachments/Mayor%27s%20Order%202020-054%20Stay%20at%20Home.pdf [<https://perma.cc/EP6Y-WKTZ>].

15. *See id.* (ordering D.C. residents to stay home and therefore off the streets). Even over nineteen months into the pandemic, the District's streets remained largely deserted. Cuneyt Dil, *Downtown D.C. Remains Deserted*, AXIOS D.C. (Oct. 6, 2021), <https://www.axios.com/local/washington-dc/2021/10/06/downtown-dc-deserted-covid> [<https://perma.cc/LTT5-XJWC>].

16. Ghebrebrhan Declaration, *supra* note 1, ¶ 12. Fasika Mehabe, Hiwet Tesfamichael, and Antonia Diaz de Sanchez tell similar stories. *See* Complaint ¶¶ 20–22, *Ayele v. District of Columbia*, No. 1:23-cv-01785 (D.D.C. June 20, 2023), ECF No. 1. Each previously made a living as a street vendor in Washington D.C., fell behind on fees to the District, and, as of the Complaint, was thus prevented from practicing their trade by the Clean Hands Law—D.C. CODE § 47-2862 (2024). Complaint, *supra*, ¶¶ 20–22.

17. Ghebrebrhan Declaration, *supra* note 1, ¶ 13. Mr. Ghebrebrhan is currently awaiting amnesty through a law and related program, the Street Vending Amnesty Program, that went into effect in October 2023. *Street Vending Amnesty Program*, D.C. DEPT OF LICENSING & CONSUMER PROT., <https://dlcp.dc.gov/StreetVendingAmnestyProgramFY24> [<https://perma.cc/9VZU-WUMR>]. As of October 30, 2024, the plaintiffs had voluntarily dismissed their claims, with such dismissal premised on receiving amnesty through the aforementioned law. *See* Notice of Voluntary Dismissal, *Ayele v. District of Columbia*, No. 1:23-cv-01785 (D.D.C. Oct. 30, 2024), ECF No. 43. While the amnesty program does provide relief for street vendors in debt to the District under certain

Mr. Ghebrebrhan's situation is not unique. In every state and in many municipalities, workers can lose their occupational licenses because they owe a debt to the state.¹⁸ These laws allow the state to use occupational licensing restrictions as a debt collection tool, making it illegal for the debtor to work in their licensed trade. Mr. Ghebrebrhan ran afoul of Washington D.C.'s Clean Hands Law, which mandates that the relevant licensing board deny an occupational license or its renewal if the worker owes more than \$100 in outstanding fines, penalties, interest, or taxes to the District.¹⁹ Louisiana and Nevada have similar statutory schemes.²⁰ Several large municipalities have enacted analogous measures. Miami, for example, will deny an occupational license if the "applicant, individual, partnership or other incorporated or unincorporated business entity" is in violation of a municipal code, zoning or city ordinance, or has outstanding related fines owed to the city.²¹

State and local governments also have passed laws that use occupational licensing restrictions to target *specific* kinds of debt, like tax debt, child support debt, or debt related to civil or criminal violations.²² Every state and the District of Columbia

circumstances (debt incurred in a certain time frame and for specified reasons), its targeted relief is insufficient to address the concerns raised in this Article. See *Street Vending Amnesty Program*, *supra*.

18. See *infra* Part II (describing the different ways and localities in which people lose their licenses because of debts that they owe). I use "government" and "state" interchangeably to mean a government actor, inclusive of federal, state, and local governments. When I reference states as political entities, the context should make that clear.

19. D.C. CODE § 47-2862(a)(1) (2024). The occupational license restriction does not apply if the debt is disputed or if the licensee entered into a payment plan. *Id.* § 47-2862(b)–(c).

20. See LA. STAT. ANN. § 47:1676(D)(3)(b)(i) (2024) (originally enacted as Act of June 17, 2013, Act No. 399, § 3, 2013 La. Acts 2325, 2327–30), and NEV. REV. STAT. § 353C.1965(5) (2023) (originally enacted as Act of June 10, 2013, ch. 462, § 4, 2013 Nev. Stat. 2717, 2719), for details on Louisiana and Nevada's former regimes for revoking/not renewing licenses if the applicant has outstanding debts, like D.C.'s Clean Hands Act.

21. MIA., FLA., CHARTER & CODE § 31-35(b)(4) (2024). In Miami, an occupational license is also known as a "Business Tax Receipt" or "BTR." *Get a Business Tax Receipt (BTR)*, CITY OF MIA., <https://www.miami.gov/Business-Licenses/Business-Licensing/Get-a-Business-Tax-Receipt-BTR> [<https://perma.cc/8TVY-7H2L>].

22. Such arrearages may not meet the specific definition of "debt" under certain legislation. See, e.g., ROBERT J. HOBBS & APRIL KUEHNHOFF, FAIR DEBT

rely on occupational license restrictions to incentivize payments on child support debt.²³ At least twenty states and several municipalities restrict occupational licenses when the worker owes a tax debt.²⁴ And interactions with the justice system—civil or criminal—also can lead to occupational license restrictions in certain jurisdictions. In Chicago, for example, the city’s authority to restrict occupational licenses extends to debt owed

COLLECTION § 4.6.3 (10th ed. 2022) (“The [Fair Debt Collection Practices Act] definition of debt applies to obligations arising out of a transaction involving money, property, insurance, or services. Consequently, an obligation is not a FDCPA covered debt if the debt does not arise out of such a transaction.”); Rebecca Vallas & Roopal Patel, *Sentenced to a Life of Criminal Debt: A Barrier to Reentry and Climbing out of Poverty*, 46 CLEARINGHOUSE REV. J. POVERTY L. & POL’Y 131, 133 (2012) (“Many statutes authorizing the imposition and collection of criminal justice-related debts explicitly define them as not ‘debts,’ thereby placing them outside the reach of the Fair Debt Collection Practices Act and other protective laws.”). This Article, however, takes the position that, as soon as the person owing a financial obligation to the state fails to pay, they become indebted to the state. *Cf.* NEV. REV. STAT. § 353C.040 (2023) (defining “debt” as “a tax, fee, fine or other obligation: 1. That is owed to an agency of the State of Nevada; and 2. The payment of which is past due”); CHI., ILL., MUN. CODE § 1-19-010 (2024) (defining “debt due and owing” or “debt” to mean “a specified sum of money owed to the city for fines, penalties, fees, interest, or other types of charges or costs imposed by this code, or administrative or judicial judgments” after certain time has passed); Philip ME Garboden & Eva Rosen, *Serial Filing: How Landlords Use the Threat of Eviction*, 18 CITY & CMTY. 638, 642 (2019) (arguing that “debt” should also include “late or incomplete rental payments”).

23. *See infra* Part II.A.2. Although child support payments are commonly thought to reimburse a custodial parent, for low-income parents receiving welfare benefits, child support payments are regularly captured by the state. Cortney E. Lollar, *Criminalizing (Poor) Fatherhood*, 70 ALA. L. REV. 125, 154 (2018) (“But if [the custodial parent] does receive state assistance, the noncustodial parent’s payment goes directly to the state and federal governments, who subsidize the state child support systems, as reimbursement.”); *see also* Daniel L. Hatcher, *Child Support Harming Children: Subordinating the Best Interests of Children to the Fiscal Interests of the State*, 42 WAKE FOREST L. REV. 1029 (2007) (interrogating the government policy of seeking reimbursement for welfare payments through child support enforcement); Noah D. Zatz, *Get to Work or Go to Jail: State Violence and the Racialized Production of Precarious Work*, 45 L. & SOC. INQUIRY 304, 310 (2020) (describing how the state “acquires a financial stake in nominally ‘private’ obligations between co-parents” (quoting Hatcher, *supra*)).

24. *See infra* Part II.A.3 (discussing numerous state and municipal occupational licensing restrictions based on tax debt).

pursuant to a court order or an order of the department of administrative hearings.²⁵

Through debt collection laws, states have given themselves tremendous power to control debtors' lives. They have extensive and punitive tools to collect state-owned debt, including wage garnishment, driver's license restrictions, and incarceration.²⁶ But while scholars have criticized occupational licensing regimes,²⁷ the rise of modern-day debtors' prisons,²⁸ and debt-based driver's license restrictions,²⁹ debt-based occupational

25. CHI., ILL., MUN. CODE § 4-4-084 (2024) ("If a person fails to pay any fine, assessment of costs or other sum of money owed to the city pursuant to an order of the department, a court order or an order of the department of administrative hearings . . . such person's license may be suspended or revoked."). Similar laws across jurisdictions vary in their application to specific debt and enforcement processes. *See, e.g.*, S.C. CODE ANN. § 63-17-1020(2) (2024) (setting a floor of \$500 in arrearages); MISS. CODE ANN. § 93-11-153(e) (1996) (requiring that the debtor be in arrears for at least two months).

26. *See infra* notes 27–29 and accompanying text.

27. Morris Kleiner is the foremost scholar on occupational licensing, arguing that the rise in regulation is counterproductive, unnecessary for public health and safety, unevenly applied and distributed, that it creates barriers of entry to work, and that it incentivizes anti-competitive behavior. *See, e.g.*, MORRIS M. KLEINER, LICENSING OCCUPATIONS: ENSURING QUALITY OR RESTRICTING COMPETITION? 149 (2006) (displaying a key finding of the book—that increases in occupational licensing do not lead to increases in licensing's hypothesized benefits and rather cause problems). Others have discussed occupational licensing and criminal conduct, arguing for second chance legislation. *See, e.g.*, Lahny R. Silva, *In Search of a Second Chance: Channeling BMW v. Gore and Reconsidering Occupational Licensing Restrictions*, 61 U. KAN. L. REV. 495, 500 (2012) (arguing "for reform of the current occupational licensing policies of the several states on behalf of the nonviolent offender").

28. *See generally, e.g.*, PETER EDELMAN, NOT A CRIME TO BE POOR: THE CRIMINALIZATION OF POVERTY IN AMERICA (2017) (highlighting various policies which disproportionately penalize the poor); TONY MESSENGER, PROFIT AND PUNISHMENT: HOW AMERICA CRIMINALIZES THE POOR IN THE NAME OF JUSTICE (2021) (discussing how debt collection laws punish the poor). *See also* Christopher D. Hampson, *The New American Debtors' Prisons*, 44 AM. J. CRIM. L. 1, 6 (2016) (critiquing the intersection of debt and incarceration, arguing that incarceration for debt violates state constitutions).

29. *See, e.g.*, William E. Crozier & Brandon L. Garrett, *Driven to Failure: An Empirical Analysis of Driver's License Suspension in North Carolina*, 69 DUKE L. J. 1585, 1631 (2020) (critiquing the use of driver's license restrictions to collect debt by arguing that "driver's license suspensions for non-driving related reasons" do not actually ensure payment of fines and instead impose negative consequences on already marginalized groups); Lisa Foster, *The Price of Justice: Fines, Fees and the Criminalization of Poverty in the United States*, 11 U. MIA. RACE & SOC. JUST. L. REV. 1, 19 (2020) ("The consequences of [driver's]

licensing restrictions have completely fallen through the cracks.³⁰ This Article's first contribution is to fill that gap—to map the existence and implementation of state statutes and municipal ordinances that authorize the government to use occupational licensing restrictions as a debt collection tool.

This Article also fills a theoretical gap in the literature. Recognizing the power and potency the state has in its debt collection tools, the Article's second contribution is a conceptual one: it offers a framework for *how* the state should decide whether and by what means to collect debt from its citizens. Rather than limiting its analysis to a traditional cost-benefit analysis focused on dollars collected versus dollars spent, this Article argues that the state must also consider moral and public interest factors unique to the relationship between the state and its citizenry. Although the theory is broadly applicable to any government debt collection analysis, the Article returns to occupational licensing restrictions to illustrate, concretely, how one would apply both a traditional cost-benefit analysis and the more extensive benefits-burdens analysis proposed herein. Finally, it offers pragmatic policy proposals to change the way that governments use debt-based occupational licensing restrictions to better reflect the state's unique moral and public interests.

Part I briefly introduces the concept of occupational licensing, providing scaffolding for the remainder of the Article. It then turns to debt-based occupational license restrictions, setting out the historical context for their rise and exploring how such collection tools expanded within the larger historical context of the Civil Rights Movement, the War on Drugs, and welfare reform.

Part II moves from the past to the present. It details the existence of debt-based occupational license restrictions, finding that every state, the District of Columbia, and many municipalities have given their government authority to restrict a worker's

license suspensions can be catastrophic.”); Kate Sablosky Elengold, *Debt, Race, and Physical Mobility*, 112 CALIF. L. REV. 833, 886–91 (2024) (discussing the racialized and other negative impacts of debt-based driver's license suspension).

30. The most comprehensive accounting to date was done by Tzedek DC, and the relevant appendix (Appendix II), only covers two main questions. *Locked Out: How DC Bans Workers with Unpaid Fines from More than 125 Jobs or Starting a Business, and What We Can Do About It*, TZEDEK DC 29–31 (2023) [hereinafter *Locked Out*], <https://static1.squarespace.com/static/57056a9e0442629a7a43ca60/t/6581e846fd68313c2ea4342b/1703012429020/TZ+-+23+Locked+Out+Report+1.6.pdf> [https://perma.cc/VWL6-KU2X].

occupational license if they owe a debt to the state. Part II also sets out the limited enforcement data publicly available, concluding that despite the scarcity of the data, there is sufficient evidence of enforcement to warrant serious attention.

Part III offers a theory to guide governments in analyzing whether and how to collect debt from their citizens. It contrasts state debt collection for debt (unrelated to credit extended under contract with the individual)³¹ with a company's collection for credit extended, highlighting the state's unique moral and public interest considerations. With that theoretical framing, Part III returns to debt-based occupational licensing restrictions to illustrate the analysis. It first assesses the costs and benefits for using occupational licensing restrictions as a debt collection tool using a traditional cost-benefit analysis—dollars collected versus dollars expended. It then sets out the benefits-burdens analysis proposed herein, including analysis of moral and public interest factors unique to state actors collecting debt from individuals.

Part IV offers prescriptive solutions for righting the imbalance illustrated in Part III. It outlines four possibilities policy-makers may consider alone or in combination, including: (1) implementing mandatory data collection and public disclosure on all debt-based licensing restrictions; (2) requiring robust ability-to-pay hearings that incorporate a willful contempt standard before stripping a worker's occupational license because of debt owed to the state; (3) offering creative alternatives for repayment prior to stripping a debtor's occupational license; and (4) limiting application of debt-based occupational license restrictions to occupations with a mean income higher than a specified threshold amount. While fully articulating these prescriptive possibilities is beyond this Article's scope, the ideas outlined are intended to spark a serious conversation about alternatives to state-owned debt collection that better reflect the government's unique interests in protecting individual debtors, families, and the broader public.

31. In other work, I label this kind of debt "involuntary debt." See Kate Sablosky Elengold, *Involuntary Debtors 1* (unpublished manuscript) (on file with Minnesota Law Review).

I. OCCUPATIONAL LICENSING AND DEBT-BASED RESTRICTIONS

Occupational licensing³² is a kind of government regulation that requires a worker to get permission from the government prior to working in a particular field in that jurisdiction.³³ For most, that means getting a license from a state-created licensing board governed by state law.³⁴ In some jurisdictions, the worker must also be licensed by a municipal licensing board.³⁵ The great majority of occupational licensing schemes require some combination of education, training, experience, exam, continuing education, and fees.³⁶

32. For this Article, I define “occupational licensing” to include any federal-, state-, or municipal-initiated regulation that places educational, experiential, examination, or financial requirements on an individual to practice a specific occupation in the jurisdiction. For ease, I refer to “occupational licenses,” “professional licenses,” and “business licenses” collectively as “occupational licenses.” This is not, and there is not, a universal definition of “occupational license.” See, e.g., Rebecca Haw Allensworth, *Foxes at the Henhouse: Occupational Licensing Boards Up Close*, 105 CALIF. L. REV. 1567, 1572–73 (2017) (defining “occupational licensing” as “the imposition of educational, experiential, or examination requirements as a precondition of lawful provision of a service” and excluding licensing “schemes where workers must merely register with the government and pay a fee”).

33. Dep’t of the Treasury Off. of Econ. Pol’y et al., *Occupational Licensing: A Framework for Policymakers*, THE WHITE HOUSE: PRESIDENT BARACK OBAMA 6 (2015) [hereinafter *Occupational Licensing Framework*], https://obamawhitehouse.archives.gov/sites/default/files/docs/licensing_report_final_nonembargo.pdf [<https://perma.cc/V9LG-JNHG>]; see also Bruce E. May, *The Character Component of Occupational Licensing Laws: A Continuing Barrier to the Ex-Felon’s Employment Opportunities*, 71 N.D. L. REV. 187, 191 (1995) (“Occupational licenses generally are issued and revoked at the discretion of a governmental agency.”).

34. Nick Robinson, *The Multiple Justifications of Occupational Licensing*, 93 WASH. L. REV. 1903, 1906 n.12 (2018) (describing how states largely have control over their licensing boards).

35. See, e.g., *Business Licenses and Permits*, MINN. DEP’T OF EMP. & ECON. DEV., <https://mn.gov/deed/business/starting-business/legal-regulatory> [<https://perma.cc/J8CD-NFSP>] (“In addition to the licensing requirements imposed by the state, many local governments also require licenses for certain kinds of businesses.”).

36. Morris M. Kleiner, *Reforming Occupational Licensing Policies* 5 (The Hamilton Project, Discussion Paper 2015-01, 2015) (on file with Minnesota Law Review) (describing how “would-be-practitioners undergo specific training, pass exams, and complete other requirements”); *The National Occupation Licensing Database*, NAT’L CONF. OF STATE LEGISLATURES (last updated Aug. 12, 2022) [hereinafter NCSL], <https://www.ncsl.org/labor-and-employment/the-national>

In the mid-twentieth century, approximately five percent of the jobs in the United States required an occupational license at the state level.³⁷ By the turn of the century, that number increased to nearly twenty percent³⁸ and today approximately one in four American jobs require a license from at least one government entity.³⁹ The majority of growth is attributable to state laws expanding the number of occupations requiring licensure.⁴⁰ Licensed occupations span every sector of the economy, including plumbing, dentistry, nursing, and law.⁴¹ The National Conference of State Legislatures' national database tracks forty-eight occupations that require licensing in at least thirty states, and includes auctioneer, barber, certified nursing assistant, commercial fisherman, dental hygienist, electrician, HVAC contractor, massage therapist, nursing home administrator,

-occupational-licensing-database [https://perma.cc/4PG6-BWTT] (“Occupational licensing laws require workers to submit verification of training, testing, and education—and often pay associated fees—before beginning a job in their chosen field.”).

37. KLEINER, *supra* note 27, at 1 (“During the early 1950s, only about 4.5 percent of the labor force was covered by licensing laws at the state level.”).

38. *Id.* (drawing on data from the Labor Market Information Survey and the 2000 census).

39. Robinson, *supra* note 34, at 1911 (noting that in 2017, the U.S. Department of Labor found that 22% of American jobs required an occupational license, and recent estimates put that number between 20–29% (citing *Labor Force Statistics from the Current Population Survey: Data on Certifications and Licenses*, U.S. BUREAU OF LAB. STATS. (Feb. 8, 2018), <https://www.bls.gov/cps/certifications-and-licenses.htm> (follow “2017 annual averages” hyperlink, then follow “PDF” hyperlink for the “53. Certification and licensing status of the employed by occupation” annual table) [https://perma.cc/29WZ-7UH7])); *Occupational Licensing Framework*, *supra* note 33, at 6 (“In total, about 25 percent of today’s U.S. workforce is in an occupation licensed at the State level”); Gabriel Scheffler, *Unlocking Access to Health Care: A Federalist Approach to Reforming Occupational Licensing*, 29 HEALTH MATRIX 293, 306 (2019) (discussing a study that found that twenty-nine percent of the workforce was occupationally licensed at the state level (first citing Morris M. Kleiner & Alan B. Krueger, *Analyzing the Extent and Influence of Occupational Licensing on the Labor Market*, 31 J. LAB. ECON. S173, S176 (2013); and then citing Morris M. Kleiner & Alan B. Krueger, *The Prevalence and Effects of Occupational Licensing*, 48 BRIT. J. INDUS. RELS. 676, 677–78 (2010))).

40. David Schleicher, *Stuck! The Law and Economics of Residential Stagnation*, 127 YALE L.J. 78, 118 (2017) (noting that approximately two-thirds of the growth of the population affected by occupational licensing is due to changes in state law).

41. See NCSL, *supra* note 36 (providing a list of licensed occupations that span these different sectors).

pesticide handler, pipe fitter, and unarmed security guard.⁴² And although occupational licensing affects a huge number of American workers, affects almost all consumers, and is a significant driver in the American economy, it has gotten less scholarly and public attention than other labor issues like minimum wage and unionization.⁴³ Giving voice to the importance of occupational licensing, this Part briefly explores the legal structures of licensing schemes, setting out occupational licensing's effects on workers and consumers. It then introduces occupational licensing restriction as a government debt collection tool and contextualizes the rise of debt-based occupational licensing restrictions, from the 1960s to the 1990s, within contemporaneous socio-political movements.

A. THE LEGAL SCAFFOLDING OF OCCUPATIONAL LICENSING

In 1889, in *Dent v. West Virginia*, the Supreme Court held that states had the authority, via their police powers, to regulate work in their jurisdiction through licensing laws.⁴⁴ The Court also recognized that federal law does not preempt the state's authority, and that any regulation must be balanced against one's "right to pursue a lawful vocation."⁴⁵ This has translated into the following: (1) a licensee technically has a property right in their license,⁴⁶ but (2) constitutional challenges to occupational licensing laws and related regulations are evaluated using a rational basis review.⁴⁷ Although entitled to a strong presumption of

42. *Id.*

43. See Schleicher, *supra* note 40, at 118 (explaining that, while occupational licensing affects a larger part of the workforce than other aspects of labor law, it is discussed less). Unlike unions and minimum wages, which have declined during the twentieth and twenty-first centuries, occupational licensing has seen steady growth. KLEINER, *supra* note 27, at 141.

44. 129 U.S. 114, 122 (1889); see also KLEINER, *supra* note 27, at 21 ("The major Supreme Court case that established the right of states to grant licenses was *Dent v. West Virginia* (1888) [sic]. The decision . . . was justified . . . under the police power banner.").

45. *Dent*, 129 U.S. at 122; see also *Barry v. Barchi*, 443 U.S. 55, 56 (1979) (balancing the person's property interest in their license and "interest in avoiding suspension" with the State's interest in ensuring "integrity").

46. See, e.g., *Craigsmiles v. Giles*, No. 1:99-CV-304, 2000 WL 33964772, at *4 (E.D. Tenn. July 18, 2000) (ruling that an occupational license is a "protected liberty interest").

47. *Schwartz v. Bd. of Bar Exam'rs*, 353 U.S. 232, 239 (1957) (holding that state licensing requirements "must have a rational connection with the

validity,⁴⁸ a licensing scheme must realize some public value without being unreasonable, arbitrary, or capricious.⁴⁹

Dent's general approval of state licensing schemes carried the day until the late 1990s, when courts began to increase their scrutiny of specific occupational licensing laws facing constitutional and antitrust challenges.⁵⁰ This timing coincides both with an increased interest in a free-market economy⁵¹ and the dramatic rise in occupational licensing laws.⁵² Since then, while the state's general right to regulate occupations through licensing has persisted, a fact-specific and erratic jurisprudence has developed around the validity and application of some licensing requirements.

While Fourteenth Amendment challenges to occupational licensing laws are fact-specific and difficult to interpret beyond the facts of the specific statute, implementing regulations, and details of plaintiff's occupation,⁵³ antitrust decisions are more

[professional's] fitness or capacity" to work in their chosen occupation (first citing *Douglas v. Noble*, 261 U.S. 165 (1923); then citing *Cummings v. Missouri*, 71 U.S. (4 Wall.) 277, 319–20 (1867); and then citing *Nebbia v. New York*, 291 U.S. 502 (1933)); *Cornwell v. Hamilton*, 80 F. Supp. 2d 1101, 1105 (S.D. Cal. 1999) ("A state can require high standards of qualification when regulating a profession but any qualification must have a rational connection with the applicant's fitness or capacity to engage in the chosen profession."); *see also* *Robinson*, *supra* note 34, at 1953 (noting how courts have rejected the "protectionism" justification for occupational licensing requirements).

48. *See, e.g.*, *Craigsmiles v. Giles*, 312 F.3d 220, 224 (6th Cir. 2002) ("[A] statute is subject to a 'strong presumption of validity' under rational basis review" (quoting *Walker v. Bain*, 257 F.3d 660, 668 (6th Cir. 2001))).

49. *Robinson*, *supra* note 34, at 1953 ("To survive scrutiny from the Fourteenth Amendment's Equal Protection and Due Process Clauses, government action must not be unreasonable, arbitrary, or capricious. In other words, it simply has to fulfill some public value.").

50. *Id.* at 1933–35 (describing federal jurisprudence scrutinizing state occupational licensing requirements beginning in the 1990s).

51. *Id.* at 1933 (noting that organizations like the Institute for Justice have pushed constitutional theories to challenge occupational licensing laws under the theory that there is a "right to earn a living").

52. *See supra* notes 36–41 (recognizing a dramatic increase in jobs requiring licensing between 1950 and 2000).

53. *Compare Craigsmiles*, 312 F.3d at 225 (finding that Tennessee's Funeral Directors and Embalmers Act's limiting sale of caskets and funeral supplies to licensed funeral directors violated retail casket store owners' constitutional rights), *with Powers v. Harris*, 379 F.3d 1208, 1222 (10th Cir. 2004) (finding Oklahoma's Funeral Services Licensing Act, which limited retail casket sales to licensed funeral directors operating out of a funeral establishment, constitutional as applied to several internet casket retailers).

cohesive. Because licensing boards are regularly comprised of regulated practitioners,⁵⁴ courts recognize that licensing creates an opportunity for self-dealing to the detriment of market entrants.⁵⁵ Antitrust challenges require courts to (1) determine whether the board is a state entity entitled to antitrust immunity, and if not, (2) consider whether the licensing board's actions violate the Sherman Act.⁵⁶ The first step requires the board seeking the benefit of "state-action immunity" to show (1) a clear articulation of policy by the state to allow the anticompetitive conduct, and (2) active supervision of that conduct by the state.⁵⁷ The most recent, and doctrine-altering, case is *North Carolina State Board of Dental Examiners v. Federal Trade Commission*, where the Court held that an occupational licensing board controlled by active market participants not actively supervised by the state was not entitled to state-action immunity.⁵⁸ Since 2015, *North Carolina Dental's* most profound effects are visible in governments' decisions to exert greater control in creating and overseeing licensing boards.⁵⁹

54. Eighty-five percent of licensing boards are, by statute, required to be controlled by currently licensed and regulated workers and, in practice, that number is significantly higher. Allensworth, *supra* note 32, at 1570.

55. *Id.* at 1570–71 (describing the Supreme Court's ruling in *North Carolina Board of Dental Examiners v. Federal Trade Commission*, which acknowledged that occupational licensing boards require state oversight or else risk antitrust liability).

56. See *Parker v. Brown*, 317 U.S. 341, 344, 351 (1943) (holding that the Sherman Act only applies to private, rather than state, actions).

57. *Cal. Retail Liquor Dealers Ass'n v. Midcal Aluminum, Inc.*, 445 U.S. 97, 105 (1980) ("First, the challenged restraint must be 'one clearly articulated and affirmatively expressed as state policy'; second, the policy must be 'actively supervised' by the State itself." (quoting *City of Lafayette v. La. Power & Light Co.*, 435 U.S. 389, 410 (1978))). This analysis follows from several Supreme Court cases that created the doctrine known as "antitrust federalism." See Allensworth, *supra* note 32, at 1582.

58. See *N.C. Bd. of Dental Exam'rs v. Fed. Trade Comm'n*, 574 U.S. 494, 511–12 (2015) ("The Court holds today that a state board on which a controlling number of decisionmakers are active market participants in the occupation the board regulates must satisfy *Midcal's* active supervision requirement in order to invoke state-action antitrust immunity.").

59. See Kathleen Foote, *Immune No Longer: State Professional Boards Consider Their Options*, ANTITRUST, Fall 2015, 55, 56 (indicating that in 2015, "[a]lmost all states expect to enact some kind of legislation to address the liability threat that *NC Dental* has opened up"); FED. TRADE COMM'N, FTC STAFF GUIDELINES ON ACTIVE SUPERVISION OF STATE REGULATORY BOARDS CONTROLLED BY MARKET 3 (2015) (identifying, in 2015, "certain overarching legal

To create occupational licensing regulatory schemes, states and municipalities pass laws that set the process by which a worker seeks and can lose a license. The state legislation then creates occupation-specific licensing boards, usually comprised of individuals in the regulated industry, with the authority to regulate their specific licensure process.⁶⁰ Among other activities, regulatory boards process licensing applications and renewals, set rules and standards for the occupation, and enforce those rules and standards.⁶¹ As of 2017, 1,790 occupational licensing boards across the country controlled “whether and how” approximately thirty percent of Americans work.⁶² Prior to *North Carolina Dental*, the boards generally acted with little to no government oversight.⁶³ And even after, the public remains largely unaware of these entities or their influence on work and commerce.⁶⁴ Information about the boards and their activities is

principles governing when and how a state may provide active supervision for a regulatory board” post-*NC Dental*).

60. See KLEINER, *supra* note 27, at 65 (“The task of licensing is generally placed with state licensing boards, which usually consist of individuals in the occupation. . . .”). Further, occupational licensing is “a fractured system of regulation,” with varying schemes and requirements. Allensworth, *supra* note 32, at 1607; see also Robinson, *supra* note 34, at 1914 (“Occupational licensing requirements . . . significantly vary by State.”). Other countries, such as France, regulate occupations at the national level. KLEINER, *supra* note 27, at 98.

61. Robinson, *supra* note 34, at 1918 (“[S]tate governments generally still decide what activities to license and then frequently delegate the actual implementation of licensing requirements to volunteer, or quasi-volunteer, boards of practitioners operating at the state level.”). Regulatory boards’ activities are subject to state administrative procedure acts; there must be adequate notice and comment for new regulations, and boards must give notice and hearing prior to license suspension or revocation. *Id.*

62. Allensworth, *supra* note 32, at 1569. For a comprehensive survey of all 1,790 boards, including their statutory composition, see *id.* See also Drew DeSilver, *10 Facts About American Workers*, PEW RSCH. CTR. (Aug. 29, 2019), <https://www.pewresearch.org/short-reads/2019/08/29/facts-about-american-workers> [https://perma.cc/ES6S-MLMF] (noting that there are approximately 157 million workers in the American economy).

63. Allensworth, *supra* note 32, at 1570 (“Thin or nonexistent supervision from the states [has meant] that the licensed sector of the American workforce is almost entirely self-regulating.”).

64. *Id.* at 1569 (“[Licensing boards] are invisible because they are so numerous—most states have several dozen boards, some have more—and because the public impact of any single board is relatively small. Their power to raise price[s], to create service scarcity, and to limit gainful employment is apparent only in the aggregate . . .”).

difficult to parse, and the boards lack the will or obligation to provide transparent information about their processes or effects.⁶⁵

B. EFFECTS ON WORKERS AND CONSUMERS

In addition to raising legal concerns, there is heated debate about whether occupational licensing is even necessary or productive. Proponents of occupational licensing argue that it protects the public from harm, improves the quality of services, fosters knowledgeable and competent communities, develops relationships of trust, and buffers producers from a volatile market.⁶⁶ Opponents argue that licensing's costs are steep and that its benefits to both workers and consumers are elusive.⁶⁷ They demonstrate that occupational licensing operates as a supply constraint by limiting occupation entrants and thus drives down employment, leading to increased wages and consumer prices.⁶⁸ Licensing restrictions, in the aggregate, limit millions of jobs and increase consumer expenses by over one hundred billion dollars nationwide.⁶⁹

65. C. Jarrett Dieterle et al., *How States Use Occupational Licensing to Punish Student Loan Defaults*, R ST. 3 (June 2018), <https://www.rstreet.org/wp-content/uploads/2018/06/Final-148-for-posting.pdf> [<https://perma.cc/M2FU-2CKE>] (“[S]tate licensing boards are often notoriously opaque entities that disclose little information about license renewals or revocations.”).

66. See, e.g., KLEINER, *supra* note 27, at 7 (“The main benefit usually cited for occupational licensing is improving the quality of services received.”); Robinson, *supra* note 34, at 1907 (identifying some justifications of occupational licensing as “(1) fostering communities of knowledge and competence; (2) developing relationships of trust; and (3) buffering producers from the market”); see also *Occupational Licensing Framework*, *supra* note 33, at 3 (“When designed and implemented carefully, licensing can benefit consumers through higher-quality services and improved health and safety standards.”).

67. See, e.g., Lisa Knepper et al., *License to Work: A National Study of Burdens from Occupational Licensing*, INST. FOR JUST. 7 (Nov. 2022), <https://ij-org-re.s3.amazonaws.com/ijdevsitestage/wp-content/uploads/2022/09/LTW3-11-22-2022.pdf> [<https://perma.cc/GV6T-4XQ9>] (“[L]icensing has steep costs, while the benefits to consumers are often elusive.”).

68. See Schleicher, *supra* note 40, at 119 (explaining that many licensing regimes are designed to restrict competition and increase wages); see also Knepper et al., *supra* note 67, at 46–49 (summarizing their findings, which include licensing’s effect of restricting the labor supply and increasing costs for labor and services).

69. *Occupational Licensing Framework*, *supra* note 33, at 5 (“By one estimate, licensing restrictions cost millions of jobs nationwide and raise consumer expenses by over one hundred billion dollars.”).

Licensed workers generally make more money, enjoy more benefits, and experience greater job security than workers in unregulated industries.⁷⁰ One study showed that licensed workers enjoyed hourly earnings ten percent higher than unregulated workers.⁷¹ Yet regulated workers face limits on their interstate mobility and occupational fluidity.⁷² And the costs of accessing a license can be prohibitive for many; even workers in lower-income occupations face onerous and expensive licensing requirements.⁷³ On average, lower-income occupational licenses require nearly a year of education and experience, at least one exam, and fees costing nearly \$300.⁷⁴ Concerns for workers cross political lines: libertarians worry about licensing schemes' limitations on economic freedom,⁷⁵ and progressives are troubled by their

70. See Robinson, *supra* note 34, at 1943 (“Like union jobs, these better-paid, more secure positions may provide broader positive externalities to society, such as creating a stable environment for families to prosper.”).

71. KLEINER, *supra* note 27, at 76 (“The results show that being in a licensed occupation enhances the hourly earnings of the regulated occupations by about 10.0 percent.”).

72. See Schleicher, *supra* note 40, at 120 (“[L]icensed professions tend to have similar within-state mobility rates as compared to non-licensed professions, but far lower rates of interstate mobility.” (citing Janna E. Johnson & Morris M. Kleiner, *Is Occupational Licensing a Barrier to Interstate Migration?* 12 AM. ECON. J. 347 (2020))); Morris M. Kleiner & Ming Xu, *Occupational Licensing and Labor Market Fluidity*, RSCH. BRIEFS ECON. POL’Y, Nov. 4, 2020, at 1, 2 (“[L]icensing can account for at least 7.7 percent of the total decline in occupational mobility over the past two decades.”).

73. See Knepper et al., *supra* note 67, at 27 (“[H]igher [licensing] fees can present real hurdles, especially for aspiring workers of modest means . . .”).

74. *Id.* at 17 (“On average, the 2,749 licenses we observe require 362 days—nearly a year—of education and experience, at least one exam, and \$295 in fees.”).

75. Robinson, *supra* note 34, at 1915 (“[L]ibertarians have criticized occupational licensing for restricting economic freedom.”).

perpetuation of social hierarchy.⁷⁶ Recent reform efforts have been largely bipartisan.⁷⁷

The effects of occupational licensing on consumers are inconclusive. Research fails to confirm the assertion that occupational licensing improves public health.⁷⁸ Nor is there significant evidence establishing that licensed workers provide substantially higher quality service to consumers.⁷⁹ Rather, the research suggests that higher quality due to licensing requirements is largely limited to high socioeconomic status consumers.⁸⁰ Poorer families face, for example, child care shortages because licensing requirements drive up prices, leaving only higher income families with access to high-quality, accredited centers.⁸¹ Occupational licensing restrictions also may increase costs of basic

76. *Id.* (“[S]ome progressive advocates have criticized it for perpetuating social hierarchy.”). Occupational licensing requirements have been used to exclude historically marginalized workers from certain occupations. *Id.* at 1915–16. The overall effects of licensing requirements on those racialized as Black or Brown today, however, are mixed. Compare Peter Blair & Bobby Chung, *Occupational Licensing Reduces Racial and Gender Wage Gaps: Evidence from the Survey of Income and Program Participation* 5 (Hum. Cap. & Econ. Opportunity Working Grp., Working Paper No. 2017-050, 2017) (finding a return on licenses for Black men and White women), with Tyler Boesch et al., *Occupational Licensing Requirements Can Limit Employment Options for Immigrants*, FED. RESRV. BANK OF MINNEAPOLIS (Aug. 30, 2022), <https://www.minneapolisfed.org/article/2022/occupational-licensing-requirements-can-limit-employment-options-for-immigrants> [<https://perma.cc/4NBR-GFM8>] (finding that workers of color are less likely to be licensed than White workers and that occupational licensing schemes limit employment options for immigrants).

77. See *infra* note 83 (discussing reform efforts).

78. See Knepper et al., *supra* note 67, at 42 (noting that seventy-one occupations face higher average burdens for licensure than entry-level emergency medical technicians, which undermines the claim that occupational licensing is necessary for public well-being).

79. KLEINER, *supra* note 27, at 56 (compiling studies showing, at most, modest increase in the quality of services for licensed occupations).

80. *Id.* at 51–52 (“Although the net impacts of occupational licensing may be negative for all users of the service, for certain segments of the population, namely those individuals with higher incomes or insurance coverage, this form of regulation results in higher quality.”).

81. Knepper et al., *supra* note 67, at 48 (“[R]esearchers have found that certain types of child care center licensing may reduce access to care for poorer families as it leads to fewer establishments in lower-income markets. Meanwhile, families in higher-income markets who can afford higher costs have access to higher-quality establishments, including more accredited child care centers.”).

needs like health care.⁸² And rent-seeking behavior can lead to increased prices for consumers without an increase in quality;⁸³ licensing laws increase prices anywhere from four to thirty-five percent.⁸⁴

C. THE RISE OF DEBT-BASED OCCUPATIONAL LICENSING RESTRICTIONS

While the debate about occupational licensing schemes rages on, workers in regulated fields must be licensed. In all states and many municipalities, however, workers can lose their licenses if they owe debt to the state. I call these “debt-based occupational licensing restrictions.” As individuals in the United States eternally owe money to federal, state, and municipal governments—for example, income, property and other taxes, minor and major legal infractions, services and fees related to court involvement, child support, and higher education loans—they are perpetually at risk of becoming indebted to the state.⁸⁵ At that

82. See Scheffler, *supra* note 39, at 298 (arguing that licensing restrictions obstruct access to health care without ensuring quality).

83. See Robinson, *supra* note 34, at 1915 (“Perhaps the most widespread criticism is that such [licensing] restrictions are anticompetitive, creating barriers that drive up the price of labor and generate higher costs for consumers.”); *Occupational Licensing Framework*, *supra* note 33, at 4 (“[I]n a number of other studies, licensing did not increase the quality of goods and services, suggesting that consumers are sometimes paying higher prices without getting improved goods or services.”); Allensworth, *supra* note 32, at 1570, 1574 (finding that eighty-five percent of licensing boards are comprised of currently regulated professionals, but that such a figure “likely understate[s]—perhaps dramatically—the amount of self-regulation that passes as state occupational licensing”).

84. See KLEINER, *supra* note 27, at 59 (“The impact of licensing-related practices on prices ranges from 4 to 35 percent, depending on the type of commercial practice and location.”). *But see Occupational Licensing Framework*, *supra* note 33, at 4 (citing research showing licensing’s effects on pricing to be an increase of three to sixteen percent). There has been recent support for reforming licensing schemes by reducing barriers to licensure or eliminating licensing for certain occupations. Knepper et al., *supra* note 67, at 56; see also *2022 Occupational Licensing Trends*, NAT’L CONF. OF STATE LEGISLATURES (Mar. 17, 2023), <https://www.ncsl.org/labor-and-employment/2022-occupational-licensing-trends> [<https://perma.cc/QM7F-C6PT>] (noting that 2022 legislative trends prioritized accessibility of licensing to “bolster the workforce and integrate new employees”).

85. See *Targeted Fines and Fees Against Communities of Color: Civil Rights & Constitutional Implications*, U.S. COMM’N ON C.R. 1 (2017) [hereinafter *Targeted Fines and Fees*], https://www.usccr.gov/files/pubs/2017/Statutory_Enforcement_Report2017.pdf [<https://perma.cc/WB28-Z76G>] (documenting

point, the government entity has certain collection tools available to them by statute.⁸⁶ One such tool is the authority to suspend, revoke, or refuse to renew the debtor's occupational license(s).⁸⁷ This Section sheds light on the rise of this powerful, yet largely unstudied and opaque, collection tool.

Punitive elements of key movements beginning in the 1960s shaped the rise of debt-based occupational licensing restrictions. This form of state-owned debt collection gained traction in the period that spanned the waning moments of the Civil Rights Movement of the 1960s, the War on Drugs in the 1980s, and welfare reform of the mid-1990s.⁸⁸ During that time, information about this collection tool passed between states,⁸⁹ the federal

finances assessed for infractions as minor as a parking ticket or painting a residential fence the wrong color); Peter Edelman, *The Criminalization of Poverty and the People Who Fight Back*, 26 GEO. J. POVERTY L. & POL'Y 213, 218 (2019) (noting that 10 million people owe \$50 billion in "accumulated fines, costs, fees, charges for room and board in jails and prisons, and other impositions"); Lollar, *supra* note 23, at 154 (describing how the state may recoup child support payments from low-income custodial parents receiving state benefits).

86. See, e.g., Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, § 31001(b)(1), 110 Stat. 1321-358, 1321-358 (giving the federal government additional debt collection tools "[t]o maximize collections of delinquent debts owed to the Government by ensuring quick action to enforce recovery of debts"); LA. STAT. ANN. § 47:1676(A)(1) (2024) ("It shall be the public policy of this state to aggressively pursue the collection of accounts or claims due and payable to the state of Louisiana through all reasonable means.").

87. See, e.g., MASS. GEN. LAWS ch. 62C, § 47A(d) (2024) (originally enacted as Act of July 1, 1983, ch. 233, § 35, 1983 Mass. Acts 212) ("Upon the written request of the commissioner, and after a hearing and notice to the licensee . . . such agency . . . shall revoke or suspend such license or certificate of authority if such agency finds that the returns and taxes required under this chapter have not been filed or paid."); DENVER, COLO., REV. MUN. CODE § 32-11(a)(2) (2024) ("No license authorized under this Code shall be issued or renewed if: . . . (2) The applicant or licensee has not paid or is in arrears in any administrative or court fines, assessments, or fees owed the City and County of Denver, including any required application fees, licensing fees, or bond.").

88. DEP'T OF HEALTH & HUM. SERVS., OFF. OF INSPECTOR GEN., A-01-96-02502, REVIEW OF STATES' LICENSE SUSPENSION PROCESSES 1 (1997) [hereinafter 1997 HHS REPORT] (noting that the Child Support Enforcement Program was federally enacted in 1975); *id.* ("As of March 1996, 40 of 54 States and territories had enacted legislation directing State licensing authorities to suspend drivers (37 States), occupational (30 States), and professional (33 States) licenses to improve the collection of overdue child support.").

89. See, e.g., *id.* at 6 (explaining that, in 1993, Florida reviewed data from Maine's administrative suspension/revocation process prior to enacting its own judicial process).

government disseminated guidance on debt collection,⁹⁰ and federal law and policy incentivized debt-based occupational license restrictions.⁹¹

Although the Civil Rights Movement made significant strides with respect to *de jure* legal and political rights, the movement's successes resulted in a backlash that both "spawned a new system of control through the criminal justice system"⁹² and were used to quash claims for economic equity.⁹³ In the decades after the Civil Rights Movement, as federal politicians took increasingly punitive measures to deal with delinquency, crime, and social welfare,⁹⁴ so too did government bodies seek increasingly punitive measures to deal with debt.⁹⁵ That punitive approach made its way into state collection policies, influencing and influenced by relevant federal legislation.

Beginning in the Nixon era and extending into the Reagan Administration, the drug war in America created new mechanisms for punishment that were later reflected in debt collection. The War Against Drugs produced federal legislation like the Comprehensive Crime Control Act of 1984 and the Omnibus

90. *See, e.g., id.* at ii ("Our review disclosed that the more successful license suspension programs we reviewed provided the IV-D agency with the administrative authority to suspend licenses.").

91. *See, e.g.,* Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, § 369, 110 Stat. 2105, 2251 (1996) (granting the State the "authority to withhold or suspend, or to restrict the use of . . . professional or occupational licenses" for individuals owing overdue debt); *see also* Scheffler, *supra* note 39, at 298–99 (describing a federalist approach to occupational licensing).

92. MEHRSA BARADARAN, *THE COLOR OF MONEY: BLACK BANKS AND THE RACIAL WEALTH GAP* 163 (2017).

93. *See id.* ("[M]any white Americans saw legislative and Supreme Court victories as a *fait accompli* and excused policymakers from pressing for more meaningful and necessary reforms.").

94. ELIZABETH HINTON, *FROM THE WAR ON POVERTY TO THE WAR ON CRIME: THE MAKING OF MASS INCARCERATION IN AMERICA* 10–26 (2016) (describing the War on Crime era and its contribution to the criminalization of Black individuals).

95. *See generally* Elengold, *supra* note 29 (describing the evolution of punitive debt-collection measures); Crozier & Garrett, *supra* note 29 (framing non-driving-related driver's license suspensions as punitive). *See also* HINTON, *supra* note 94, at 10–26 (pointing to the War on Drugs and the War on Crime as part of a larger government effort to "control and contain troublesome groups with patrol, surveillance, and penal strategies [that] produced a new and historically distinct phenomenon in the post-civil rights era: the criminalization of social programs").

Anti-Drug Abuse Act of 1988.⁹⁶ It also gave the federal government a mechanism to assert greater control in the states.⁹⁷ These laws denied “drug traffickers” and “drug possessors” eligibility for certain benefits, including professional or commercial licenses provided by a U.S. agency or created by appropriated funds of the United States.⁹⁸

As the carceral system grew, so did its punishment tools. President Clinton’s 1994 Violent Crime Control and Law Enforcement Act increased police funding, increased sentencing standards, and funded new prisons.⁹⁹ Because many state statutes restricted occupational licenses for those convicted of general crimes like moral turpitude and specific crimes like drug possession or child abuse, increased policing meant increased occupational license restrictions.¹⁰⁰

The 1990s “get tough” approach to public policy added restrictions on convicted felons, including by expanding occupational license restrictions that were initiated in the 1970s.¹⁰¹ By

96. See LISA N. SACCO, CONG. RSCH. SERV., DRUG ENFORCEMENT IN THE UNITED STATES: HISTORY, POLICY, AND TRENDS 7–10 (2014) (discussing rising enforcement in the 1980s and associated bills). See generally Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, § 5301, 102 Stat. 4181, 4310 (codified as amended at 21 U.S.C. § 862) (denying federal benefits to drug traffickers and possessors).

97. See, e.g., HINTON, *supra* note 94, at 203 (“[N]arcotics enforcement provided Nixon a means through which the federal government could claim jurisdiction in local matters.”).

98. See 21 U.S.C. § 862(a)–(b) (originally enacted as Anti-Drug Abuse Act § 5301(a)–(b)).

99. See MESSENGER, *supra* note 28, at xviii (“The massive bill known as the Violent Crime Control and Law Enforcement Act, passed in 1994 with bipartisan support.”). See generally Violent Crime and Law Enforcement Act of 1994, Pub. L. 103-322, 108 Stat. 1796 (codified as amended in scattered sections of 18 and 34 U.S.C.).

100. See, e.g., May, *supra* note 33, at 193–94 (noting a study which found, in the 1970s, that “forty-six states had statutory restrictions impacting the licensing of ex-felons as barbers, twenty-six jurisdictions denied a beautician license to an applicant convicted of a felony, twenty-four jurisdictions denied a practical nurse license to anyone convicted of a felony, and ten jurisdictions had restrictions impacting the licensing of ex-felons as hearing aid dealers”).

101. See generally Nora V. Demleitner, *Preventing Internal Exile: The Need for Restrictions on Collateral Sentencing Consequences*, 11 STAN. L. & POLY REV. 153, 155 (1999) (examining collateral consequences tied to individuals with criminal records). Occupational licensing restrictions as punishments for drug crimes proliferated in the 1990s. See, e.g., IND. CODE § 25-1-1.1-2 (2024) (originally enacted as Act of Mar. 19, 1990, Pub. L. No. 67-1990, § 7, 1990 Ind. Acts

1995, occupational licensing restrictions for ex-felons were “prevalent nationwide.”¹⁰² Relatedly, as more people were arrested and inmates flooded new jails and prisons, court fines and fees exploded.¹⁰³

Civil enforcement tools also tracked a “tough on crime” mentality. Many states passed legislation allowing occupational license restrictions for overdue tax debt in the 1980s.¹⁰⁴ After a rush of such legislation in the 1980s and 1990s, additional states continued to pass similar legislation for the following two decades.¹⁰⁵ In the 1980s, states also stepped up their efforts to collect outstanding student debt, invoking a cluster of collection

1555, 1561); OHIO REV. CODE ANN. § 2925.38 (West 2023–24) (originally enacted as Act effective Aug. 22, 1990, File 277, 1990 Ohio Laws 1308); GA. CODE ANN. § 16-13-111 (1990) (originally enacted as Act of Apr. 16, 1990, No. 1437, § 1, 1990 Ga. Laws 2009). Pennsylvania’s 1972 statute suspended licenses for felony drug convictions; in 1993, the legislature amended it to include misdemeanor drug convictions. *Compare* Act of Apr. 14, 1972, No. 64, § 23, 1972 Pa. Laws 233, 259 (codified as amended at 35 PA. CONS. STAT. § 780-123 (2024)), *with* Act of July 2, 1993, Act No. 1993-53, § 2, 1993 Pa. Laws 377 (codified at 35 PA. CONS. STAT. § 780-123 (2024)).

102. May, *supra* note 33, at 193.

103. MESSENGER, *supra* note 28, at xvii.

104. *See, e.g.*, MASS. GEN. LAWS ch. 62C § 49A (2024) (originally enacted as Act of July 1, 1983, ch. 233, § 36, 1983 Mass. Acts 212); ME. STAT. tit. 36, § 175 (2024) (originally enacted as Act effective July 16, 1986, ch. 678, 1985 Me. Laws 3058); VT. STAT. ANN. tit. 32, § 3113 (West 2023–24) (originally enacted as Act of June 4, 1986, Pub. Act No. 263, 1986 Vt. Acts & Resolves 807); IND. CODE § 27-10-3-8 (2024) (originally enacted as Act of Mar. 19, 1990, Pub. L. No. 67-1990, § 7, 1990 Ind. Acts 1555); OR. REV. STAT. § 305.385 (2024) (originally enacted as Act of July 8, 1987, ch. 843, § 7, 1987 Or. Laws 1725); MD. CODE ANN., BUS. OCC. & PROF. § 1-204 (West 2024) (originally enacted as Act of Apr. 10, 1992, ch. 1, § 5, 1992 Md. Laws 3); WIS. STAT. § 73.0301 (2023) (originally enacted as Act of Apr. 18, 1996, No. 233, §§ 2, 11, 1995 Wis. Sess. Laws 1805). Oklahoma, however, passed its relevant legislation in 1965. *See* OKLA. STAT. tit. 68 § 212 (2024) (originally enacted as Act of July 7, 1965, ch. 414, § 2, 1965 Okla. Sess. Laws 802).

105. *See, e.g.*, MO. REV. STAT. § 324.010 (2024) (originally enacted as Act of July 1, 2003, H.B. No. 600, § 2, 2003 Mo. Laws 650); 20 ILL. COMP. STAT. 2105/2105-15 (2024) (originally enacted as Act of Aug. 4, 2005, Pub. Act No. 94-0463, § 5, 2005 Ill. Laws 3445); MINN. STAT. § 270C.72 (2023) (originally enacted as Act of June 2, 2005, ch. 151, § 87, 2005 Minn. Laws 1352); IOWA CODE § 272D.1 (2024) (originally enacted as Act of May 15, 2008, ch. 1172, § 7, 2008 Iowa Acts 713); CAL. BUS. & PROF. CODE § 494.5 (West 2024) (originally enacted as Act of Oct. 4, 2011, ch. 455, § 3, 2011 Cal. Stat. 4413); DEL. CODE ANN. tit. 30, § 547 (2012) (originally enacted as Act of June 19, 2012, ch. 265, § 3, 78 Del. Laws (2012)).

tools, including occupational license restrictions.¹⁰⁶ Guided by the U.S. Department of Justice, states like Texas and Illinois enacted legislation punishing student loan borrowers with overdue balances by refusing to renew occupational licenses for those who defaulted.¹⁰⁷ By the mid-2010s, at least twenty-one states took up the call, tying occupational licenses to unpaid student debt.¹⁰⁸

As federal policies shifted from the drug war to welfare reform, the punitive policies of the former influenced the latter. Legislation inserted occupational license restrictions into child support policies in the late 1980s and expanded those restrictions through the 1990s.¹⁰⁹ The Family Support Act of 1988 (FSA) increased punitive collection tools for overdue child support and required states to implement an automated statewide

106. Nicole Livanos, *In Debt and Out of Work*, J. NURSING REGUL., Oct. 2018, at 70, 70 (“In the 1980s, states used a host of tactics to collect on [student loan] defaulters, including wage garnishments, liens on borrowers’ possessions, and suspension or revocation of occupational licensure.”); Dieterle et al., *supra* note 65, at 2 (“[S]tate agencies began stepping up their collection efforts in the 1980s.”).

107. Livanos, *supra* note 106, at 70 (“Texas and Illinois were the first to address student loan defaulters by taking action on professional licenses. Both states administered the action at renewal, refusing to renew professional licenses for those licensees who had defaulted.”). “[I]n 1990, the Department of Education issued a handbook highlighting tools for curbing loan defaults and nonpayment, recommending that states ‘[d]eny professional licenses to defaulters until they take steps to repayment.’” Dieterle et al., *supra* note 65, at 2 (quoting MARY FARRELL, REDUCING STUDENT LOAN DEFAULTS: A PLAN FOR ACTION 63 (1990)).

108. Natalie Kitroeff, *These States Will Take Your License for Not Paying Student Loans*, BLOOMBERG (Mar. 25, 2015), <https://www.bloomberg.com/news/articles/2015-03-25/these-states-will-take-your-license-for-not-paying-student-loans> [<https://perma.cc/Y5YJ-A2HM>] (noting that twenty-two states tied occupational and driver’s licenses to unpaid student debt); *Occupational Licensing Framework*, *supra* note 33, at 38 (noting that, as of 2014, “[i]n 21 States, defaulting on student loan debt can result in the suspension or revocation of a worker’s occupational license” (citing *State Laws and Statutes That Suspend Professional Licenses and Certificates*, NAT’L CONSUMER L. CTR. (2014), <https://www.jwj.org/wp-content/uploads/2015/02/State-Laws-and-Statutes-That-Suspend-Professional-Licenses-and-Certificates.pdf> [<https://perma.cc/N48G-J4NV>])).

109. See *infra* notes 110–14 (describing federal child support debt collection reforms).

tracking and monitoring tool.¹¹⁰ The centerpiece of President Bill Clinton's promise to "end welfare as we know it,"¹¹¹ the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), required that all states create and implement a process by which they can revoke driver's, professional, occupational, and recreational licenses for child support nonpayment.¹¹² After PRWORA's passage, the federal government continued to pressure states to use license restrictions as a child support collection tool.¹¹³

As policymakers across the country embedded occupational licensing restrictions into a variety of debt collection statutes, courts considered their legality. As a threshold matter, courts have repeatedly held that occupational licenses, once issued, create property interests entitled to due process protections,¹¹⁴ and the Supreme Court has recognized that pursuing an occupation is a liberty interest protected by the Fourteenth Amendment.¹¹⁵

110. Mark R. Fondacaro & Dennis P. Stolle, *Revoking Motor Vehicle and Professional Licenses for Purposes of Child Support Enforcement: Constitutional Challenges and Policy Implications*, 5 CORNELL J.L. & PUB. POL'Y 355, 362 (1996) (stating the reforms established by the Family Support Act of 1988).

111. See Clinton/Gore '92 Comm., *Bill Clinton in 1992 Ad: 'A Plan to End Welfare as We Know It,'* WASH. POST (Aug. 30, 2016), https://www.washingtonpost.com/video/politics/bill-clinton-in-1992-ad-a-plan-to-end-welfare-as-we-know-it/2016/08/30/9e6350f8-6ee0-11e6-993f-73c693a89820_video.html [<https://perma.cc/VP8P-YTQU>] (featuring a 1992 campaign ad in which then-presidential candidate Bill Clinton spoke about his plans to "break the cycle of welfare dependency").

112. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, § 369, 110 Stat. 2105, 2251 (1996) (codified at 42 U.S.C. 666(a)(16)) (granting the State the "authority to withhold or suspend, or to restrict the use of driver's licenses, professional and occupational licenses, and recreational licenses of individuals owing overdue support"). By this time, more than half the states had laws directing licensing bodies to suspend occupational licenses for overdue child support. See, e.g., 1997 HHS REPORT, *supra* note 88, at 1.

113. 1997 HHS REPORT, *supra* note 88, at i (noting that "states with license suspension programs have enacted either an administrative, judicial, or a combination of both processes" after PRWORA's passage).

114. See, e.g., *Barry v. Barchi*, 443 U.S. 55, 64 n.11 (1979) (noting substantive due process issues); *Bell v. Burson*, 402 U.S. 535, 539 (1971) (noting procedural due process issues).

115. See, e.g., *Conn v. Gabbert*, 526 U.S. 286, 291–92 (1999) ("[T]his Court has indicated that the liberty component of the Fourteenth Amendment's Due Process Clause includes some generalized due process right to choose one's field of private employment . . ."); *Bd. of Regents of State Colls. v. Roth*, 408 U.S.

In application, however, courts have largely found that clearly articulated state policy gives licensing boards the authority to discipline licensees, including by restricting occupational licenses.¹¹⁶

This authority extends to upholding licensing boards' authority to suspend or revoke licenses based on debt owed to the state.¹¹⁷ As early as 1976, one state court upheld the revocation of a dental license because the licensee evaded state income taxes.¹¹⁸ Another court made a similar ruling with respect to a medical license four years later.¹¹⁹ An Illinois court upheld revocation of a medical license for student loan debt delinquency.¹²⁰ Alaska and Washington courts upheld occupational license restrictions based on child support arrearages.¹²¹ Unsurprisingly,

564, 572 (1972) ("Without doubt, [the Fourteenth Amendment] denotes not merely freedom from bodily restraint but also the right of the individual . . . to engage in any of the common occupations of life" (quoting *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923))).

116. See, e.g., *Colo. Real Est. Comm'n v. Vizzi*, 488 P.3d 470, 480 (Colo. App. 2019) (finding that the Real Estate Commission of Colorado acted within its statutory authority by imposing a sanction on a broker); *Earles v. State Bd. of Certified Pub. Accts.*, 139 F.3d 1033, 1042–44 (5th Cir. 1998) (noting that the Board of Certified Public Accountants of Louisiana has broad statutory authority).

117. *Fondacaro & Stolle*, *supra* note 110, at 386–87 ("[S]tate courts and federal district courts have upheld professional license revocations for conduct unrelated to the professional activity across a variety of contexts.").

118. *Bills v. Weaver*, 544 P.2d 690, 693 (Ariz. Ct. App. 1976) (upholding the appellee's license revocation for state income tax evasion by denying his due process claims).

119. *Windham v. Bd. of Med. Quality Assurance*, 163 Cal. Rptr. 566, 573 (Cal. Ct. App. 1980) (affirming the California Board of Medical Quality Assurance's decision to revoke respondent's license based on a state income tax evasion conviction).

120. *People v. Cully*, 675 N.E.2d 1017, 1028 (Ill. App. Ct. 1997) (denying defendant's claims that the statute revoking his medical license on student debt delinquency grounds is unconstitutional on due process and equal protection grounds).

121. *State v. Beans*, 965 P.2d 725, 726, 732 (Alaska 1998) (finding that the relevant statute which allows the Child Support Enforcement Division "to take adverse action against a delinquent child support obligor's driver's license" has a rational basis); *Amunrud v. Bd. of Appeals*, 143 P.3d 571, 582 (Wash. 2006) (holding that "the enforcement of child support obligations is a legitimate state interest" and that the statute authorizing license suspensions on child support delinquency "is rationally related to that interest"), *abrogated by Yim v. City of Seattle*, 451 P.3d 694 (Wash. 2019). Both courts rejected substantive and procedural due process challenges, finding that pre-deprivation hearings and a rational

when applying a rational basis test, plaintiffs' affirmative constitutional challenges have also largely been unsuccessful.¹²² So long as there is a meaningful opportunity to be heard and the statute passes rational basis review, debt-based occupational licensing laws have survived.¹²³

Although some scholars have argued that debt-based occupational license restriction laws should be held to heightened scrutiny,¹²⁴ the jurisprudence does not currently bend in that direction. A 2023 action filed in Washington, D.C. sought to upend that history. In June of 2023, a group of workers filed suit in the U.S. District Court for the District of Columbia challenging the District's Clean Hands Before Receiving a License or Permit Law of 1996 (Clean Hands Law),¹²⁵ which disqualifies individuals from obtaining or renewing an occupational license or starting a small business if they owe more than \$100 to the District in fines, penalties, or interest.¹²⁶ The complaint asserted that the District's law was unconstitutional because it violated plaintiffs' Fifth Amendment procedural due process, substantive due process, and equal protection rights, as well as their Eighth

basis were sufficient to meet due process requirements. *See Beans*, 965 P.2d at 727–29, 732; *Amunrud*, 143 P.3d at 572–73, 582.

122. *See, e.g., Amunrud*, 143 P.3d at 572 (applying a rational basis test as “consistent with long-standing law” and rejecting plaintiff's constitutional claims); *Thompson v. Ellenbecker*, 935 F. Supp. 1037, 1041 (D.S.D. 1995) (rejecting plaintiffs' allegation that South Dakota's driver licensing restriction scheme for unpaid child support was unconstitutional on due process and equal protection grounds).

123. *See, e.g., Amunrud*, 143 P.3d. at 572 (noting “long-standing” debt-based occupational licensing laws).

124. *See, e.g., Holly Noyes, Higher Penalties for Failing to Pay Child Support: A Look at Medical License Revocation*, 19 J. LEGAL MED. 127, 127, 137–38, 141 (1998) (challenging the idea that a patient's right to the physician-patient relationship should be a factor in whether the state can suspend or revoke a physician's license for something unrelated to the practice of medicine, like child support debt).

125. *See generally* Clean Hands Before Receiving a License or Permit Act of 1996, D.C. Law 11-118 (1996) (codified at D.C. CODE §§ 47-2861 to -2866 (1996)).

126. Complaint, *supra* note 16, ¶ 54 (citing D.C. CODE § 47-2862(a) (2024)) (“In order to obtain a vending license, District law also requires street vendors to obtain a Certificate of Clean Hands verifying that they do not owe any the District any outstanding debts or fines greater than \$100.”); *id.* ¶¶ 99–132 (outlining plaintiffs' challenges to the Clean Hands Law).

Amendment right to be free from excessive fines.¹²⁷ As of June 2024, that case was stayed prior to deciding Defendant’s motion to dismiss¹²⁸ and plaintiffs represented to the court that they would voluntarily dismiss their claims upon receiving amnesty under the District’s later-enacted Street Vending Amnesty Program.¹²⁹

The rise of “tough on crime” policies bled into debt collection laws, which have since proliferated. In fact, every state, the District of Columbia, and many municipalities now have enacted laws allowing or mandating occupational license restrictions when the worker owes a debt to the state.¹³⁰ The following Section maps their existence across the country and catalogs existing data about their enforcement.

II. EXISTENCE AND ENFORCEMENT

Although debt-based occupational license restrictions are ubiquitous in the United States, the specifics of the laws vary. Some laws broadly define debt, allowing the government wide latitude in restricting occupational licenses for any debt owed to the state.¹³¹ Some are more targeted, using occupational license restrictions as a collection tool for specific state-owned debts like child support, taxes, or fines and fees.¹³² This Part organizes and catalogues debt-collection statutes permitting occupational license restrictions. It first discusses and offers illustrative examples of statutes that give states or municipalities broad power to use occupational licensing restrictions as a debt collection tool

127. *Id.* ¶ 12 (arguing that the Clean Hands Law’s application to plaintiffs’ circumstances violates the Fifth and Eighth Amendments in “at least five ways”); *see also Locked Out*, *supra* note 30, at 16 (“By punishing residents with unpaid fines and fees by automatically disqualifying them from occupational and small business licenses, the Clean Hands Law . . . undermines [D.C.] residents’ constitutional rights.”).

128. Minute Order, *Ayele v. District of Columbia*, No. 1:23-cv-01785 (D.D.C. Mar. 22, 2024), ECF No. 35 (“The case will be STAYED for two months, and not indefinitely, with the expectation that the plaintiffs are going to apply for amnesty promptly.”).

129. Plaintiff’s Motion and Points of Authority to Stay Consideration of Defendants’ Motion to Dismiss at 1, *Ayele v. District of Columbia*, 1:23-cv-01785 (D.D.C. Mar. 19, 2024), ECF No. 34 (“If they obtain occupational licenses despite their still-extant debt, each Plaintiff would voluntarily dismiss their claims.”).

130. *See infra* Part II.

131. *See infra* Part II.A.1.

132. *See infra* Parts II.A.2–A.4.

for any or nearly any debt owed to the government. It then details and offers examples of three statutory categories that authorize the government to restrict occupational licensing when the debtor owes a particular kind of debt to the government—child support debt, tax debt, and fines and fees debt. Next it turns to student loan debt to offer an example counter to the ones preceding it. Because many state governments have amended or repealed statutes authorizing occupational licensing restrictions for collecting student loan debt, this Subsection gives insight into how and why a government might alter or dispose of using such tools to collect debt from its citizens. Attached as appendices are convenient charts identifying and aggregating each type of debt collection statute across the United States. The final Section of this Part addresses enforcement, collecting and analyzing the limited available data on how the laws identified above are enforced on the ground.

A. UNIVERSAL YET VARIED: EXISTENCE OF DEBT-BASED OCCUPATIONAL LICENSE RESTRICTIONS

Debt-based occupational licensing restrictions are authorized by statute all around the country, at the state and local level.¹³³ While these restrictions universally exist, the mechanisms by which occupational licenses are affected vary widely by jurisdiction and triggering debt. Some laws call for automatic license suspension,¹³⁴ while others are initiated only at the discretion of a government actor.¹³⁵ Where statutes delegate power to initiate action against a licensee, the individual or entity to whom that power is delegated differs across jurisdictions.¹³⁶

133. See *infra* Part II.C.

134. See, e.g., D.C. CODE § 47-2862 (2024) (authorizing automatic occupational licensing restrictions in D.C. under a variety of debt-related circumstances).

135. See, e.g., *Special Audit: Arizona Department of Economic Security—Division of Child Support Enforcement, Report No. 07-10*, ARIZ. OFF. OF THE AUDITOR GEN. 32 (2007) [hereinafter *Arizona Special Audit*], <https://azmemory.azlibrary.gov/nodes/view/196548?lsk=5eaabcf5007e8f7c4a8126f39c0a04e1> [https://perma.cc/DD4Z-SENV] (noting that thirteen enforcement mechanisms with respect to overdue child support are automatically initiated once a certain time has elapsed, but three—including professional license suspension—are left to the discretion of a caseworker).

136. See, e.g., FLA. STAT. § 409.2598(2) (1993) (endowing the state's Department of Revenue with authority to restrict occupational licenses for

Which licenses are subject to suspension, revocation, or non-renewal also varies state to state.¹³⁷ This Section categorizes and identifies the varied kinds of debt-based occupational license restriction laws across the country.

1. “Debt” Broadly Defined¹³⁸

Some statutes define “debt” broadly to give extensive authority to restrict occupational licenses for any debt owed to the state or collectible by a governmental agency.¹³⁹ These statutes afford the government sweeping powers to use occupational licensing restrictions to collect a wide variety of state-owned debts.

Louisiana’s “public policy of [the] state,” for example, is to “aggressively pursue the collection of accounts or claims due and payable to the state of Louisiana through all reasonable means.”¹⁴⁰ The state implements that policy through the Office of Debt Recovery, which shares debt collection authority with the state’s attorney general.¹⁴¹ “Debt” is broadly defined to include any sum due to a state agency, collectible by a state agency, or pursuant to a judgment of the court or court-ordered penalty; only specific debts like liquidated recovery under Social Security or unpaid school fees for certain students are exempt.¹⁴² The law affords the state broad collection powers, including the authority

overdue child support); N.H. REV. STAT. ANN. § 161-B:2 (Supp. 1977); N.H. REV. STAT. ANN. § 161-B:11 (1995) (giving the same authority to the state’s Department of Health and Human Services); NEV. REV. STAT. § 425.500 (1997); NEV. REV. STAT. § 425.3837 (1995) (current version at § 425.510) (giving the same authority to the district attorney).

137. Compare LA. STAT. ANN. § 9:315.31(5) (1995) (defining “license” broadly), with ALASKA STAT. § 25.27.244(q)(2) (1996) (defining “license” more narrowly and including exceptions).

138. See *infra* Appendix, Table 1.

139. These statutes also tend to define “license” broadly. See, e.g., NEV. REV. STAT. § 353C.1965(10)(a) (2023) (originally enacted as Act of June 10, 2013, ch. 462, § 4, 2013 Nev. Stat. 2717, 2719) (defining “license” to include licenses, certificates, registrations, permits and other authorizations related to engaging in a particular occupation).

140. LA. REV. STAT. § 47:1676(A)(1) (2024) (originally enacted as Act of June 17, 2013, Act No. 399, § 3, 2013 La. Acts 2325, 2327).

141. *Id.*

142. *Id.* § (B)(3).

to seek suspension, revocation, or denial of occupational licenses, broadly defined.¹⁴³

Nevada, Iowa, and Minnesota state laws create similarly broad debt collection regimes.¹⁴⁴ Nevada's State Controller is responsible for ensuring that an occupational license is suspended or not renewed if the license holder "does not pay the debt that has been assigned to the State Controller for collection"¹⁴⁵ Because the State Controller collects for all debts due to any "agency, bureau, board, commission, department or division of the executive department of state government,"¹⁴⁶ the law mandates occupational license restrictions for nonpayment of a multitude of state-owned debts. And because the Nevada statute also broadly construes the term "license," the effects have the potential to be wide-ranging.¹⁴⁷ Iowa permits the suspension, revocation, or non-renewal of a professional license when the state's Central Collections Unit (CCU) finds that a licensee owes at least \$1,000 in debt to the state.¹⁴⁸ The CCU collects unpaid taxes, overdue child support, Medicaid overpayments, judicially-

143. *Id.* § (D)(3)(b)(i).

144. See NEV. REV. STAT. §§ 353C.020, .040–.060, .1965 (2023); IOWA CODE §§ 272D.1–.9 (2024); MINN. STAT. §§ 16D.02(3), .04(2)(a), .08(1)–(2)(a), 270C.72(1)(a)–(c) (2023).

145. NEV. REV. STAT. § 353C.1965(5) (2023) (originally enacted as Act of June 10, 2013, ch. 462, § 4, 2013 Nev. Stat. 2717, 2719); see also *Frequently Asked Questions Regarding NRS 353C.1965*, NEV. STATE CONTROLLER'S OFF., https://controller.nv.gov/uploadedFiles/controller2022nv.gov/content/Debt/FAQs_NRS353C-1965.pdf [<https://perma.cc/7JMS-9MM6>] ("NRS 353C.1965 applies to debts that have been assigned to the State Controller for collection."). This statute limits debt-based occupational license restriction if the licensee enters into an agreement with the state controller to pay the debt or demonstrates that the debt is not valid. NEV. REV. STAT. § 353C.1965(5) (2023) (originally enacted as Act of June 10, 2013, ch. 462, § 4, 2013 Nev. Stat. 2717, 2719).

146. NEV. REV. STAT. § 353C.020 (2023) (originally enacted as Act of June 11, 1999, ch. 623, § 3, 1999 Nev. Stat. 3442) (defining "agency" within the context of the collection of state-collected debts).

147. *Id.* § 353C.1965(10) (originally enacted as Act of June 10, 2013, ch. 462, § 4, 2013 Nev. Stat. 2717, 2719) (defining "license" to include "any license, certification, registration, permit or other authorization that grants a person the authority to engage in a profession or occupation in this State").

148. *License Sanction for Debt Collection*, IOWA DEP'T OF REVENUE, <https://tax.iowa.gov/license-sanction-debt-collection> [<https://perma.cc/HVW9-ER5Z>] ("If an individual owes at least \$1,000 in debt being collected by the Central Collections Unit (CCU) of the Iowa Department of Revenue, the CCU can request that the professional license of the individual be [s]uspended[,] [r]evoked[,] [d]enied issuance[, or] [d]enied renewal.").

created fines and fees, and state college aid.¹⁴⁹ In Minnesota, the Department of Revenue acts as a central debt collection agency which, pursuant to service level agreements, can collect debt on behalf of state courts, colleges and universities, and other state, local, and county agencies, including by restricting occupational licenses.¹⁵⁰

Washington D.C.’s Clean Hands Law is the law that caught Kahssay Ghebrebrhan in its crosshairs. The law directs the District government to refuse to issue or reissue an occupational license if the worker owes more than \$100 in outstanding fines, penalties, interest, or taxes.¹⁵¹ The law also kicks in if a worker owes fines to car dealers, owes parking fines or penalties assessed by another jurisdiction in a reciprocity agreement with the District, owes charges or fees to the water and sewer authority, owes a vehicle convenience fee, or owes the District past due fines, penalties, or restitution on behalf of an employee.¹⁵² The law applies regardless of the circumstances of the debt, which may include a parking ticket, traffic ticket, late payment fine, tax arrearages, or a civil or criminal fine or fee.¹⁵³ If the threshold debt is met, license non-renewal and disqualification are automatically triggered.¹⁵⁴ The Clean Hands Law affects more than 48,000 District workers across 125 occupations.¹⁵⁵ These debt collection schemes create situations where almost any

149. *Id.* (defining the types of debt collected by the CCU).

150. MINN. STAT. § 16D.02(2), (6) (2023) (defining “Commissioner” as the commissioner of revenue and defining “Referring agency” as “a state agency, local government unit, Minnesota state colleges and universities governed by the Board of Trustees of the Minnesota State Colleges and Universities, University of Minnesota, or a court, that has entered into an agreement with the commissioner to refer debts to the commissioner for collection”). For an explanation of the process, see *infra* notes 187–89 and their accompanying text.

151. D.C. CODE § 47-2862(a)(1) (2024). The occupational license restriction does not apply if the debt is under dispute or the licensee has entered into a payment plan with the District. *Id.* § 47-2862(c).

152. *Id.* § 47-2862(a)(2)–(7), (9).

153. *Id.*

154. *Id.* § 47-2862(a) (noting that “the District government *shall not* issue or reissue a license or permit” if any of the previously mentioned debt-related conditions are met (emphasis added)).

155. *Locked Out*, *supra* note 30, at 1 (“Under the Clean Hands Law, residents seeking to operate a business, or to work in more than 125 distinct occupations—over 48,000 workers—can be denied the critical occupational and small business licenses to do so if they owe the District of Columbia more than \$100.”).

unpaid debt to the state could result in loss of almost any kind of license that allows one to work in their chosen profession.

2. Child Support Debt¹⁵⁶

Although many consider child support a private debt paid to custodial parents, the state is intimately involved because it sets the process, the application, and the enforcement of child support collection.¹⁵⁷ And because the state seizes child support payments to recoup costs paid to custodial parents receiving public benefits, the child support debtor is sometimes indebted directly to the state.¹⁵⁸ Either way, the state is heavily incentivized to collect because the federal government requires it to set and meet collection goals.¹⁵⁹ Every state and the District of Columbia have statutory authority to use occupational licensing

156. See *infra* Appendix, Table 2.

157. Allison Tait, *Debt Governance, Wealth Management, and the Uneven Burdens of Child Support*, 117 NW. L. REV. 305, 306 (2022) (“On the low-income end of the spectrum, child support debt is a sophisticated and adaptive governance technology that disciplines and penalizes those living in or near poverty.”); see also Tonya L. Brito, *Producing Justice in Poor People’s Courts: Four Models of State Legal Actors*, 24 LEWIS & CLARK L. REV. 145, 148 (2020) (categorizing judges and government attorneys in state child support cases as navigators, bureaucrats, zealots, or reformers).

158. Tonya L. Brito et al., *Racial Capitalism in the Civil Courts*, 122 COLUM. L. REV. 1243, 1251 (2022) (“Child support is less about transferring funds to custodial parents than it is about the state seizing pennies from Black fathers as payback for public benefits received by the custodial parent.”); see also Mackenzie Mays, *Why Flush California Still Takes Child Support from Low-Income Families*, L.A. TIMES (Feb. 28, 2022), <https://www.latimes.com/california/story/2022-02-28/some-california-families-have-to-pay-back-government-aid-rules-could-change> [<https://perma.cc/7FFA-5VY6>] (“People think that the reason we have a harsh child support system is so we can get money to kids, but actually it’s to get money to the government.” (quoting Mike Herald, Dir. of Pol’y Advoc. for the W. Ctr. on L. & Poverty)); Yvonne Wenger, *At What Cost? For Baltimore’s Poorest Families, the Child Support System Exacts a Heavy Price—And It’s Hurting Whole Communities*, BALT. SUN (Mar. 5, 2020), <https://www.baltimoresun.com/2020/03/05/at-what-cost-for-baltimores-poorest-families-the-child-support-system-exacts-a-heavy-price-and-its-hurting-whole-communities> [<https://perma.cc/64BL-EZC8>] (highlighting Cecil Burton, who is \$60,000 in child support debt, but any money paid on that debt will largely go to the government “for welfare the children and their mother received over the years”).

159. Maureen Pao, *How America’s Child Support System Failed to Keep Up with the Times*, NPR (Nov. 19, 2015), <https://www.npr.org/2015/11/19/456632896/how-u-s-parents-racked-up-113-billion-in-child-support-debt> [<https://perma.cc/HP76-85RM>] (describing the U.S. child support collection system).

restrictions to collect overdue child support.¹⁶⁰ This kind of collection power is contained in the broadly defined statutes identified above, but also in separate laws around the country.¹⁶¹

The specifics of state statutes restricting occupational licenses for overdue child support are varied, differing in when the restriction is triggered,¹⁶² whether the restriction is mandatory or discretionary,¹⁶³ and the process by which the government decides to restrict an occupational license. State processes can be administrative, judicial, or mixed.¹⁶⁴ Today, a minority of states, including Kansas and New York, have purely judicial

160. See, e.g., *supra* notes 121–24 (showing how courts have affirmed state regulatory authority to suspend occupational licenses on the basis of child support delinquency).

161. See, e.g., 23 PA. CONS. STAT. § 4355(a)(1) (West 2024); UTAH CODE ANN. § 78B-6-315(4) (LexisNexis 2024); TEX. FAM. CODE ANN. § 232.003(a)(1) (West 2023); CAL. FAM. CODE § 17520(e)(1) (West 2024) (establishing distinct procedures for which occupational licenses may be suspended as a result of unpaid child support).

162. Compare S.C. CODE ANN. § 63-17-1020(2) (2024) (restricting occupational licenses when arrearages exceed \$500), with MISS. CODE ANN. § 93-11-153(e) (2024) (restricting occupational licenses when obligor is at least thirty days delinquent in making full child support payments), and OR. REV. STAT. § 25.750(1)(a) (2024) (restricting occupational licenses when the parent is either three months or at least \$2,500 overdue, whichever is the higher amount), and MINN. STAT. § 518A.66(a) (2023) (restricting licenses when the parent is behind by more than three times the monthly amount due).

163. Compare, e.g., S.C. CODE ANN. § 63-17-1030 (2024) (“If a licensee is out of compliance with an order for support, the licensee’s license must be revoked . . .”), with N.H. REV. STAT. ANN. § 161-B:11(II)–(III) (2024) (providing that notice to the licensee is mandatory, but allowing for discretion for initiating process to actually revoke or suspend the licensee’s license), and N.J. STAT. ANN. § 2A:17-56.41(a) (West 2024) (providing that action against a license should be initiated only if “all appropriate enforcement methods to collect the child support arrearage have been exhausted”), and W. VA. CODE § 48-15-203 (2024) (“In the case of overdue child support or noncompliance with a medical support order, notice of an action against a license shall be served only if other statutory enforcement methods to collect the support arrearage have been exhausted or are not available.”).

164. 1997 HHS REPORT, *supra* note 88, at i (“States with license suspension programs have enacted either an administrative, judicial, or a combination of both processes.”). An administrative process gives the state child support agency direct authority to identify and pursue cases for license suspension, a judicial process requires a judge or magistrate to authorize the license restriction, and a mixed process allows for administrative action in some circumstances and judicial intervention in others. *Id.* at 1–2 (defining the types of occupational licensing suspension processes).

processes;¹⁶⁵ a plurality like Illinois utilize administrative processes;¹⁶⁶ and some states, including Arizona and Wyoming, use mixed processes.¹⁶⁷

3. Tax Debt¹⁶⁸

At least twenty-seven states and the District of Columbia empower a state agency to restrict occupational licenses for overdue tax debt.¹⁶⁹ Depending on the state, tax debt may include income tax debt, personal property tax debt, and/or real property

165. See KAN. STAT. ANN. § 20-1204a (2023); N.Y. DOM. REL. LAW § 244-c (McKinney 2024) (authorizing the court exclusively to restrict occupational licenses).

166. See 305 ILL. COMP. STAT. ANN. 5/10-17.6(a) (West 2024) (“The Illinois Department may provide by rule for certification to any State licensing agency to suspend, revoke, or deny issuance or renewal of licenses.”).

167. See ARIZ. REV. STAT. ANN. §§ 25-517 to -518 (2024); 23 PA. CONS. STAT. § 4355 (West 2024); WYO. STAT. ANN. §§ 20-6-111 to -112 (2023) (authorizing both courts and administrative agencies to implement occupational licensing restriction measures).

168. See *infra* Appendix, Table 3.

169. Some provisions are imbued in the broad-based collection authority set out in *supra* Part II.A.1. See, e.g., LA. STAT. ANN. § 47:1676 (2024); NEV. REV. STAT. §§ 76.173, 353C.1965 (2023); IOWA CODE § 272D.1–9 (2024); *License Sanction for Debt Collection*, *supra* note 148; MINN. STAT. § 270C.72 (2023); D.C. CODE § 47-2862 (2024). Others are stand-alone laws, some of which are in the same statute as the broad-based collection. See, e.g., MASS. GEN. LAWS ch. 62C, § 47A (2024); ME. STAT. ANN. tit. 36, § 175 (2024); VT. STAT. ANN. tit. 32, § 3113 (2023–24); IND. CODE ANN. § 25-1-1-1 (West 2023); OR. REV. STAT. § 305.385 (2024); MD. CODE ANN. BUS. OCC. & PROF. § 1-204 (West 2023); WIS. STAT. ANN. §§ 73.0301–.0302, 440.12 (West 2024); OKLA. STAT. tit. 68, § 212 (2023); MO. REV. STAT. § 324.010 (2023); 20 ILL. COMP. STAT. ANN. 2105/2105-15(g) (West 2024); MINN. STAT. § 270C.72 (2023); IOWA CODE § 272D.1–9 (2024); CAL. BUS. & PROF. CODE § 494.5 (West 2024); DEL. CODE ANN. tit. 30, § 547 (West 2023–24). None of these laws include occupational licensing restrictions for non-payment of the fee or tax that is part of the application and/or maintenance requirements of the license. Compare KY. REV. STAT. ANN. § 131.1817 (West 2024) (providing for administrative revocation of the license(s) of a “delinquent taxpayer,” defined broadly as “a taxpayer with an overdue state tax liability” or a taxpayer who “has not filed a required tax return within ninety (90) days following the due date of the return”) (included in our count), with N.M. STAT. ANN. § 61-6-26(B), (F) (West 2023) (providing that “[a]ll licensed physicians shall pay a triennial renewal fee” and “the board may, in its discretion, summarily suspend for nonpayment of fees the license of a physician who has failed to renew his license”) (excluded in our count). We only excluded the latter from our count of twenty-seven states. *But see Locked Out*, *supra* note 30, at 29–31 (noting that twenty-three states plus the District of Columbia restrict occupational licenses for overdue taxes).

tax debt. In Wisconsin, for example, overdue tax obligations and unemployment insurance contributions automatically lead to occupational license restrictions,¹⁷⁰ which “covers virtually all credentials and occupational licenses in the state.”¹⁷¹ The same is true in Illinois.¹⁷² Brad Keller, for example, lost his Illinois security guard license because he owed state tax debt.¹⁷³ The Illinois Department of Financial and Professional Regulation, the entity that suspended Keller’s license, explained that “it had no discretion under state law to do otherwise.”¹⁷⁴ West Virginia and Arkansas have similar statutes, although the license restrictions are discretionary rather than mandatory.¹⁷⁵

State tax debt collection is particularly efficient and has long tentacles. Unlike the Federal Internal Revenue Service, which can only collect tax debt for ten years,¹⁷⁶ at least ten states can collect on old tax debt for more than a decade and at least nine

170. WIS. STAT. ANN. §§ 73.0301(2), 440.12 (West 2024) (mandating the supreme court and licensing department to implement occupational licensing restrictions under certain debt-related circumstances).

171. *Revocation, Denial, or Suspension of Occupational Licenses and Credentials*, WIS. DEPT. OF REVENUE ¶ 5 (Oct. 15, 2024) <https://www.revenue.wi.gov/Pages/FAQS/ise-occupa.aspx> [<https://perma.cc/GE6J-8W5N>].

172. See 20 ILL. COMP. STAT. ANN. 2105/2105-15(g) (West 2024) (requiring denial of “any license application or renewal authorized under any licensing Act administered by the Department [of Financial and Professional Regulation]”).

173. Maya Srikrishnan & Ashley Clarke, *State Tax Collectors Push Struggling People Deeper into Hardship*, CTR. FOR PUB. INTEGRITY (Dec. 13, 2023), <https://publicintegrity.org/inequality-poverty-opportunity/taxes/unequal-burden/state-tax-collectors-push-struggling-people-deeper-into-hardship> [<https://perma.cc/T7G7-XSYC>].

174. *Id.*

175. W. VA. CODE § 11-12-5 (2023) (giving the Tax Commissioner discretion to “cancel, revoke or suspend a business registration or license” for overdue income or personal property taxes); ARK. CODE ANN. § 26-18-601 (2024) (giving the Secretary of the Department of Finance and Administration the discretion to “cancel or refuse to issue, extend, or reinstate a license, permit, or registration under any state tax law to a person or taxpayer who has within the last three (3) years failed to comply with a state law concerning the timely reporting and payment of a state tax”).

176. *Time IRS Can Collect Tax*, INTERNAL. REV. SERV. (last updated Aug. 20, 2024), <https://www.irs.gov/filing/time-irs-can-collect-tax> [<https://perma.cc/6FM9-TW5R>] (“The IRS generally has 10 years—from the date your tax was assessed—to collect the tax and any associated penalties and interest from you.”).

states have no statute of limitations at all.¹⁷⁷ And, unlike collection actions in child support matters, states restrict occupational licenses for tax debt largely through an administrative process, with only a handful requiring any judicial intervention.¹⁷⁸

Municipalities also use occupational licensing restrictions as a municipal tax collection tool. In Chicago, Los Angeles, Miami, Detroit, and Salt Lake City, municipal code permits or mandates that occupational licenses be restricted if the licensee has an outstanding tax debt to the city.¹⁷⁹ Because municipal regulation of occupational licenses generally stacks on state regulation of the same, the licensee risks losing their license if they have outstanding debt to either the state or the municipality.¹⁸⁰

4. Fines and Fees¹⁸¹

In several jurisdictions, statutes provide authority for state actors to restrict someone's occupational license if they owe fines or fees for civil or criminal infractions or for services related to court involvement.¹⁸² This "backdoor tax" often funds municipal

177. Srikrishnan & Clarke, *supra* note 173 ("The IRS has a decade to collect federal income tax debt, after which it's considered forgiven. At least 10 states set longer limits And at least nine others can pursue state tax debt indefinitely.").

178. See, e.g., ARK. CODE ANN. § 26-18-601 (2024) (providing only administrative processes for license revocation through the Department of Finance and Administration); MASS. GEN. LAWS ch. 62C, § 47A (2023) (providing administrative procedures for license revocation and only including judicial intervention in cases of licensee appeals).

179. CHI., ILL., MUN. CODE §§ 4-4-084, 3-4-020 (2024); L.A., CAL., MUN. CODE ch. II, art. 1.1, § 21.12 (2024); *id.* art. 2, § 22.04.1; MIA., FLA., CHARTER & CODE §§ 31-26, -35(b)(4) (2024); DETROIT, MICH., CODE OF ORDINANCES § 28-1-14 (2023); SALT LAKE CNTY. MUN. CODE tit. 5, §§ 5.02.140, .07.020(D) (2024).

180. For an illustration, see *infra* Part III.A (the second Mr. Woods example).

181. See *infra* Appendix, Table 4.

182. Fines are monetary penalties associated with legal violations, from a minimal fee for a traffic infraction to a large penalty for a felony. Foster, *supra* note 29, at 5–6. Fees are "costs, surcharges, or assessments" that "are imposed to access services or to fund the justice system or other government programs." *Id.* at 6; see also Ann Cammett, *Shadow Citizens: Felony Disenfranchisement and the Criminalization of Debt*, 117 PENN ST. L. REV. 349, 378 (2012) (explaining that fines, penalties, and assessments are three types of criminal justice-related debt). Fines and fees are sometimes called "legal financial obligations" or "LFOs." Brandon L. Garrett et al., Foreword, *Fees, Fines, Bail, and the Detritation Pipeline*, 69 DUKE L. J. 1463, 1464 (2020). Others call such fines and fees "carceral debt." Cammett, *supra*, at 353. For a thorough look at LFOs, see

costs and services and has ensnared approximately one in three Americans in the last ten years.¹⁸³ At least nine states and municipalities have laws that restrict occupational licenses when the licensee owes a fine or fee to the state.¹⁸⁴ While the fine or fee might be connected to an underlying criminal or civil violation of law, the occupational licensing restriction is not; it is only because of a failure to pay a debt to the government.¹⁸⁵

All of the government entities that punish debtors with occupational license restrictions under a broad umbrella policy allow or require occupational licensing boards to restrict licenses when the applicant or licensee owes a court debt.¹⁸⁶ In Minnesota, for example, the Department of Revenue has collection authority to collect debts owed to state courts, along with state, local, and county agencies, including through occupational license restrictions.¹⁸⁷ The same is true in Washington, D.C.

ALEXES HARRIS, *A POUND OF FLESH: MONETARY SANCTIONS AS PUNISHMENT FOR THE POOR*, at xxii (2016).

183. MESSENGER, *supra* note 28, at 24 (describing fines and fees as a “back-door tax” that “happens when you need to raise capital for local spending but refuse to increase taxes on the local residents”); *see also* Wilson Ctr. for Sci. & Just. & Fines & Fees Just. Ctr., *Debt Sentence: How Fines and Fees Hurt Working Families*, FINES & FEES JUST. CTR. 11 (May 2023), <https://finesandfeesjusticecenter.org/articles/debt-sentence-how-fines-and-fees-hurt-working-families> [<https://perma.cc/C57V-4ZUW>] (utilizing a nationally representative sample to find that approximately thirty-six percent of people received a court-related fine or fee in the last decade). For a more complete explanation of the history, existence, and effects of criminal fines and fees, *see* MESSENGER, *supra* note 28, at 22–38.

184. *See, e.g.*, IOWA CODE § 272D.1–.9 (2024); LA. STAT. ANN. § 47:1676(B)(3), (D)(3)(b)(i) (2024); MINN. STAT. § 16D.08 (2023); D.C. CODE §§ 47-2862, -2853.17 (2024); CHI., ILL., MUN. CODE §§ 4-4-084, -150(a) (2024); DENVER, COLO., REV. MUN. CODE ch. 32, §§ 32-10(g), -11(a)(2), -15(a) (2024); MIA., FLA., CHARTER & CODE § 31-35(b)(4) (2024).

185. Some consider these repercussions collateral consequences or “civil disabilities,” assessed by the state as a downstream consequence of a crime. *See, e.g.*, Cammett, *supra* note 182, at 370–71.

186. *See supra* Part II.A.1.

187. MINN. STAT. § 16D.08 (2023); *see also* *Debts We Collect for Other Agencies*, MINN. DEP’T OF REVENUE (last updated May 31, 2023), <https://www.revenue.state.mn.us/debts-we-collect-other-agencies> [<https://perma.cc/V5KC-PWWN>] (“The Minnesota Department of Revenue has the authority to collect debts owed to Minnesota state courts, colleges and universities, and other state, local, and county agencies.”).

under the Clean Hands Law.¹⁸⁸ A separate section of the D.C. Code also gives licensing boards the authority to suspend or revoke occupational licenses if the licensee “[f]ails to pay a civil fine imposed by the Mayor, a board, other administrative officer, or court.”¹⁸⁹

Large municipalities have also implemented debt-based occupational licensing restrictions for overdue fines and fees. In Chicago, for example, a licensee can lose their city-granted license if they fail to “pay any fine, assessment of costs or other sum of money owed to the city” arising from a court or administrative order within thirty days of the order.¹⁹⁰ This includes parking tickets, any money owed to Cook County, and restitution owed to a third party.¹⁹¹ New York City, likewise, gives licensing boards the authority to revoke or suspend an occupational license if the licensee fails to “timely pay civil penalties imposed by a tribunal of the New York City Office of Administrative Trials and Hearings.”¹⁹² Denver and Miami have similar ordinances.¹⁹³

B. STUDENT LOAN DEBT: A COUNTER STORY

As of 2017, nearly half of states had statutes allowing or mandating debt-based occupational licensing restrictions for

188. See D.C. CODE § 47-2862(a) (2024) (allowing the District government to restrict occupational licenses when the licensee owes debts to any of a variety of parties).

189. *Id.* § 47-2853.17(a)(15).

190. CHI., ILL., MUN. CODE § 4-4-084 (2024).

191. *Id.* § 4-4-150(a). In Chicago in the first six months of 2022, motorists were fined \$36 million for speeding infractions as low as six miles over the speed limit. Patrick Andriesen, *IM Chicago Speed Camera Tickets Fail to Stop Record Traffic Deaths*, ILL. POL'Y (July 18, 2022), <https://www.illinoispolicy.org/1m-chicago-speed-camera-tickets-fail-to-stop-record-traffic-deaths> [https://perma.cc/UX8U-26KE]. Speeding tickets are one of thousands of infractions that lead to fines and fees. Current Chicago Mayor Brandon Johnson's proposed 2024 budget anticipates \$348 million in revenue from “parking tickets, red-light and speed enforcement fines, moving violations, booting fees, sanitation code violations and housing court fines.” A.D. Quig, *Mayor Johnson's Budget Relies on Tens of Millions in Additional Fines*, CHI. TRIB. (Nov. 20, 2023), <https://www.chicagotribune.com/politics/ct-johnson-2024-budget-fines-and-fees-20231120-6sh2rv3kdjc4dlsd7hh42nmgeu-story.html> [https://perma.cc/YH2C-M5H3].

192. N.Y.C., N.Y., THE RULES OF THE CITY OF N.Y., tit. 6 § 1-20 (2024).

193. See DENVER, COLO., REV. MUN. CODE §§ 32-10(g), -11(a)(2), -15(a) (2024); MIA., FLA., CHARTER & CODE § 31-35(b)(4) (2024).

government-owned student loan debt.¹⁹⁴ Since that time, however, the majority of those statutes have either been repealed or replaced with a law expressly prohibiting using such a collection technique for student loan debt.¹⁹⁵ This Subsection explains the rationale for the change.

After a burst of media attention between 2015 and 2019,¹⁹⁶ states began making changes to these laws. In largely bipartisan

194. See ALASKA STAT. § 14.43.148 (2018), *repealed by* Act effective Jan. 1, 2019, Alaska Sess. Laws 2018, ch. 23 § 34 (permissive); ARK. CODE ANN. §§ 17-2-101 to -105 (2024) (prohibition); CAL. BUS. & PROF. CODE § 685 (2017), *repealed by* Act effective Jan. 1, 2018, ch. 195, 2017 Cal. Stat. 2114 (permissive); FLA. STAT. § 120.82 (2024) (prohibition); 110 ILL. COMP. STAT. 921/1, 921/5 (2024) (prohibition); GA. CODE ANN. § 43-1-29 (2024) (prohibition); HAW. REV. STAT. § 436B-19.6 (2018), *repealed by* Act effective July 9, 2019, ch. 279, § 9, 2019 Haw. Sess. Laws 765, 772 (permissive); IOWA CODE § 272C.4 (2024) (prohibition); KY. REV. STAT. ANN. § 335B.090 (West 2024) (prohibition); LA. STAT. ANN. §§ 6:1411–:1413 (2024) (prohibition); MINN. STAT. §§ 147.091(1)(y), 214.105 (2023) (permissive); MASS. GEN. LAWS ch. 30A, § 13 (2024) (permissive); MISS. CODE ANN. § 73-77-11 (2024) (prohibition); MONT. CODE ANN. §§ 20-26-1115 to -1121 (2014), *repealed by* Act effective Apr. 10, 2015, ch. 227, § 2, 2015 Mont. Laws 913, 914; N.J. STAT. ANN. § 18A:71C-19 (2024), *partially repealed by* N.J. STAT. ANN. § 18A:71C-29 (West 2024) (permissive); N.M. STAT. ANN. § 61-17A-21(A)(7) (West 2024) (permissive); N.D. CENT. CODE § 28-25-11(2) (2023) (permissive); OKLA. STAT. tit. 70, § 623.1 (2016), *repealed by* Act effective July 1, 2017, ch. 104, § 2, 2017 Okla. Sess. Laws 333, 334 (permissive); TENN. CODE ANN. § 49-5-108(d)(2) (2022), *repealed by* Act effective Mar. 31, 2023, ch. 93, § 1, 2023 Tenn. Code Ann. Adv. Legis. Serv. 93 (LexisNexis) (permissive); TEX. OCC. CODE ANN. § 56.003 (West 2023) (prohibition); VA. CODE ANN. § 54.1-104.1 (2024) (prohibition); WASH. REV. CODE §§ 2.48.165, 18.04.420, .08.470, .11.270, .16.230, .27.360, .39.465, .43.160 (2017), *repealed by* Act of Mar. 22, 2028, ch. 199, § 101, 2018 Wash. Sess. Laws 1022, 1025 (permissive).

195. See sources cited *supra* note 194.

196. See, e.g., Jessica Silver-Greenberg et al., *When Unpaid Student Loan Bills Mean You Can No Longer Work*, N.Y. TIMES (Nov. 18, 2017), <https://www.nytimes.com/2017/11/18/business/student-loans-licenses.html> [<https://perma.cc/93QN-BNVP>] (“Twenty states suspend people’s professional or driver’s licenses if they fall behind on loan payments, according to records obtained by The New York Times.”); Emily Bregel, *Loan Defaults Sting Tennessee Nurses*, CHATTANOOGA TIMES FREE PRESS (Jan. 18, 2011), <https://www.timesfreepress.com/news/story/2011/jan/18/loan-defaults-sting-nurses/39644> [<https://perma.cc/F2QZ-U76F>] (“Dozens of Tennessee nurses have had their licenses suspended for ignoring their student loans under new enforcement of a decade-old statute, state officials said.”); Shannon Najmabadi, *In Texas, Falling Behind on Your Student Loan Payments Can Cost You Your License to Work*, TEX. TRIB. (Mar. 20, 2018), https://www.texastribune.org/2018/03/20/texas-defaulting-student-loans-can-lo/?utm_campaign=trib-social&utm_medium=social&utm_source=twitter&utm_content=1905166288 [<https://>

efforts,¹⁹⁷ at least fifteen states repealed their occupational licensing restriction laws for student debt or passed laws prohibiting such a collection technique.¹⁹⁸ State officials explained the

perma.cc/9PPP-F5Z4] (“Texas is among several states that will bar teachers, dentists, nurses and other professional license holders from renewing their licenses if they are in default on their student loans.”); David M. Gettings et al., *Many States Can Revoke Professional and Other Licenses as Means of Collecting Unpaid Student Loans*, TROUTMAN PEPPER: CONSUMER FIN. SERVS. L. MONITOR (Mar. 26, 2018), <https://www.consumerfinancialserviceslawmonitor.com/2018/03/many-states-can-revoke-professional-and-other-licenses-as-means-of-collecting-unpaid-student-loans> [https://perma.cc/B5P8-35P7] (“As of March 23, at least 19 states hold or revoke the state-issued licenses of teachers and/or other professionals if the borrower is in default on their student loans.”); Kitroeff, *supra* note 108 (“Legislators in two states are trying to repeal laws that let authorities revoke driver’s licenses or professional licenses when people fall severely behind on their student loan payments.”); Courtney Nagle, *Student Loan Debt Could Affect Your Job in 13 States*, U.S. NEWS & WORLD REP. (Apr. 10, 2019), <https://www.usnews.com/education/blogs/student-loan-ranger/articles/2019-04-10/these-states-could-revoke-your-professional-license-over-student-loan-debt> [https://perma.cc/U9PX-XAH6] (“A real Catch-22 of student loan debt exists in the 13 states with the ability to revoke a professional license in the case of student loan default.”).

197. See, e.g., Dieterle et al., *supra* note 65, at 7 (“[S]tate lawmakers on both sides of the aisle have introduced legislation to repeal these types of laws.”); Silver-Greenberg et al., *supra* note 196 (noting that Montana’s remedial legislation was co-sponsored by a Republican and a Democratic Representative); Greg Angel, *Florida Bill Stops License Suspension Over Student Loans*, SPECTRUM NEWS 13 (Jan. 31, 2020), <https://mynews13.com/fl/orlando/politics/2020/01/31/florida-bill-stops-license-suspensions-over-student-loans> [https://perma.cc/6Q65-RD9U] (reporting that Florida’s remedial law was a bipartisan effort).

198. *Student Loan Bill Tracking Database*, NAT’L CONF. OF STATE LEGISLATURES (last updated Sept. 6, 2024), <https://www.ncsl.org/education/student-loan-bill-tracking-database> [https://perma.cc/L4EP-KS46] (select “Student Loan Bill Tracking Database,” then select “Licensure,” and then select “Enacted”). The enacted state bills are: H.B. 1296, 92nd Gen. Assemb., Reg. Sess. (Ark. 2019), 2019 Ark. Acts 1011; H.B. 115, 26th Leg., Reg. Sess. (Fla. 2020), 2020 Fla. Laws 1382; H.B. 118, 2019 Leg., Reg. Sess. (Ky. 2019), 2019 Ky. Acts 38; S.B. 37, 86th Leg., Reg. Sess. (Tex. 2019), 2019 Tex. Gen. Laws 1351; S.B. 214, 2019 Leg., Reg. Sess. (Ga. 2019), 2019 Ga. Laws 462; S.B. 304, 88th Gen. Assemb., 2019 Reg. Sess. (Iowa 2019), 2019 Iowa Acts 28; H.B. 423, 2019 Leg., Reg. Sess. (La. 2019), 2019 La. Acts 1192; S.B. 918, 2018 Gen. Assemb., Reg. Sess. (Va. 2018), 2018 Va. Acts 651; S.B. 4, 30th Leg., 2d Sess. (Alaska 2018), 2018 Alaska Sess. Laws ch. 23, § 30; S.B. 578, 113th Gen. Assemb., Reg. Sess. (Tenn. 2023), 2023 Tenn. Code Ann. Adv. Legis. Serv. 93 (LexisNexis); S.B. 2439, 100th Gen. Assemb., Reg. Sess. (Ill. 2018), 2018 Ill. Laws 5345; S.B. 385, 30th Leg., Reg. Sess. (Haw. 2019), 2019 Haw. Sess. Laws 765; H.B. 363, 64th Leg., Reg. Sess. (Mont. 2015), 2015 Mont. Laws 913; H.B. 1169, 65th Leg., 2018

impetus for changing the legislation, such as then-Illinois Attorney General Lisa Madigan, a Democrat, stated: “Taking away debtors’ licenses punishes and prevents them from earning enough to live and make their loan payments. It is nonsensical.”¹⁹⁹ One of the co-sponsors of similar legislation in Montana, Republican Representative Daniel Zolnikov, equated debt-based license restrictions to the state “shooting [itself] in the foot, to take away the only way for these people to get back on track.”²⁰⁰ And a co-sponsor of the Florida remedial legislation explicitly recognized that the law was harming healthcare workers, which was an area of great need in Florida.²⁰¹

As Part III.B.2 details, there is no conclusive evidence that using occupational license restrictions as a debt collection tool is effective.²⁰² And the rationales for repealing such laws specific to student loan debt collection are no different for other kinds of debt. Therefore, policymakers should consider the legislative history of student loan debt collection as they analyze the benefits and burdens of continuing debt-based occupational licensing restrictions for other kinds of debt owed to the state.

C. UNCOUNTED BUT OCCURRING: ENFORCEMENT OF DEBT-BASED OCCUPATIONAL LICENSE RESTRICTIONS

While law at every level of government authorizes state actors to suspend or revoke occupational licenses for state-owned debt, there is limited information available about actual enforcement. This Subsection gathers the available data on enforcement, gleaned from academic reports, lawsuits, news reports, audits, and Freedom of Information Act (FOIA) and open records requests. Even those sources, however, offer data that is

Reg. Sess. (Wash. 2017), 2018 Wash. Sess. Laws 1022; Assemb. B. 508, 2017–18 Reg. Sess. (Cal. 2017), 2017 Cal. Stat. 2114.

199. Eric Rosenkoetter, *Illinois Passes Career Preservation and Student Loan Repayment Act*, MAURICE WUTSCHER: CONSUMER FIN. SERVS. BLOG (Aug. 15, 2018), <https://consumerfsblog.com/2018/08/illinois-passes-career-preservation-and-student-loan-repayment-act> [<https://perma.cc/3DU4-PVCU>].

200. Silver-Greenberg et al., *supra* note 196.

201. Angel, *supra* note 197 (“Rep. Goff-Marcil says the policy in allowing licenses to be revoked is backwards, citing the state’s inability to fill a large number of healthcare jobs.”); *cf. id.* (“It makes no sense. If somebody owes money on student loans, they need a job in order to pay it, and if you take away the license that allows them to work, then you’re making it even harder for them to pay back the loan.” (quoting Marco Rubio, U.S. Senator (R-Fla.))).

202. See *infra* Part III.B.2.

incomplete, underreported, and difficult to parse.²⁰³ It appears that this is due to both a failure to collect the information and a failure to make public any information collected.²⁰⁴ Even the limited data available in the aggregate, however, demonstrate that jurisdictions *are* restricting occupational licenses of those who owe debt to the state and that there are a significant number of debtors affected.²⁰⁵

Even without data, we can presume that, for statutes creating mandatory or automatic occupational license restrictions, there is significant enforcement.²⁰⁶ In discretionary states, data shows varied enforcement levels. From July 1993 through March 1994, Maine threatened more than 17,000 child support debtors with loss or restriction of driver's, occupational, or professional

203. See Silver-Greenberg et al., *supra* note 196 (“Determining the number of people who have lost their licenses is impossible because many state agencies and licensing boards don’t track the information.”).

204. See, e.g., 1997 HHS REPORT, *supra* note 88, at 3–4 (noting that California maintained only “decentralized records for occupational and professional license suspensions, with no statewide information for collections, overdue amounts, or the self-employed;” Tampa, Florida did not maintain quantitative information for occupational licenses; Oregon did not maintain the total number of eligible child support cases for those with occupational licenses; Pennsylvania, for the two counties reviewed, “did not have readily available information on the total number of eligible cases, the amount of overdue child support, and whether the [noncustodial parent] was self-employed;” and Virginia did not have information readily available on debt collection from those with occupational licenses). Some sources suggest that information may be collected in certain jurisdictions, but that it is not readily available to the public. See Srikrishnan & Clarke, *supra* note 173 (noting that five states refused to respond to basic questions about license restrictions for income tax noncompliance, and the West Virginia Tax Commissioner refused to share basic information, claiming that it would “provide malefactors with a roadmap in furtherance of tax noncompliance”).

205. See, e.g., Srikrishnan & Clarke, *supra* note 173 (describing occupational license restrictions in different states and professions).

206. See, e.g., D.C. CODE § 47-2862 (2024); NEV. REV. STAT. §§ 353C.020–.060, .1965 (2023); 23 PA. CONS. STAT. § 4355 (2024); S.C. CODE ANN. §§ 63-17-1010 to -1060 (2023); W. VA. CODE §§ 48-15-101 to -304 (2024); DEL. CODE ANN. tit. 30, § 547 (2024); 20 ILL. COMP. STAT. 2105/2105-15(g) (2024); MO. REV. STAT. § 324.010 (2023); WIS. STAT. §§ 73.0301–.0302, 440.12 (2023). *But see* E-mail from Michelle Mann, Exec. Assistant, Nev. State Controller’s Off., to Kate Elen-gold, Assistant Professor of L., Univ. of N.C. Sch. of L. (Dec. 18, 2023) (on file with Minnesota Law Review) (responding to author’s FOIA request and showing that, although almost 25,000 debt accounts were sent from state agencies to the Nevada Controller’s Office for collection over three years, only eight debtors risked occupational licensure loss, and no debtors actually lost their occupational licenses).

licenses, but only suspended 113 licenses.²⁰⁷ In 1997, Maine reported twelve occupational and professional license restrictions for failure to pay child support.²⁰⁸ In 2006, Arizona reported that it sent out 280 first notices to suspend a debtor's professional license and forty-one final notices to suspend.²⁰⁹ Public data from Pennsylvania showed fifty-three suspended professional or occupational licenses based on child support debt in 2022,²¹⁰ whereas only thirty occupational licenses were similarly restricted over the course of several years in Arkansas.²¹¹ In Maryland, just in

207. 1997 HHS REPORT, *supra* note 88, at 7.

208. *Id.* at 8.

209. *Arizona Special Audit*, *supra* note 135, at a-iv tbl.4. At that time, the state Division did not track occupational licenses actually suspended. *Id.* at a-v n.4.

210. See Pa. Dep't of State, *Professional Licensing Disciplinary Actions*, COMMONWEALTH OF PA., <https://www.dos.pa.gov/ProfessionalLicensing/VerifyaProfessional/DisciplinaryActions/Pages/2022-Disciplinary-Actions.aspx> [<https://perma.cc/9PDU-8EPZ>] (choose "Sort & Filter"; then choose "2022"; then click "View Results"; then navigate to the results for each month) (counting all disciplinary actions labeled as "issued under section 4355 of the Domestic Relations Code," referring to 23 PA. CONS. STAT. § 4355 (2023) (mandatory occupation license suspension for child support debt)).

211. See Dupree, A.I.D. No. 2017-058 (Ark. Ins. Dep't Aug. 10, 2017); Devine, A.I.D. No. 2017-056 (Ark. Ins. Dep't Aug. 1, 2017); Davis, A.I.D. No. 2022-89 (Ark. Ins. Dep't Dec. 1, 2022); Spencer, A.I.D. No. 2020-31 (Ark. Ins. Dep't May 13, 2020); Holliday, A.I.D. No. 2018-88 (Ark. Ins. Dep't Sept. 11, 2018); Wilson, A.I.D. No. 2021-51 (Ark. Ins. Dep't Oct. 20, 2021) (rescinding suspension of license ordered in A.I.D. 2021-47); Tucker, A.I.D. No. 2023-12 (Ark. Ins. Dep't Feb. 16, 2023); Fleming, A.I.D. No. 2017-082 (Ark. Ins. Dep't Nov. 17, 2017); Thomas, A.I.D. No. 2019-74 (Ark. Ins. Dep't Nov. 7, 2019); McGee, A.I.D. No. 2022-92 (Ark. Ins. Dep't Dec. 19, 2022); Whitmore, A.I.D. No. 2023-52 (Ark. Ins. Dep't May 15, 2023) (reinstating license suspended by A.I.D. No. 2023-36); Sipes, A.I.D. No. 2022-6 (Ark. Ins. Dep't Jan. 7, 2022); Alexander, A.I.D. No. 2022-93 (Ark. Ins. Dep't Dec. 29, 2022); Keith, A.I.D. No. 2022-90 (Ark. Ins. Dep't Dec. 6, 2022); Phillips, A.I.D. No. 2023-51 (Ark. Ins. Dep't May 15, 2023); Phillips, A.I.D. No. 2023-37 (Ark. Ins. Dep't Apr. 11, 2023); Davis, A.I.D. No. 2021-48 (Ark. Ins. Dep't Oct. 4, 2021); Freeman, A.I.D. No. 2022-83 (Ark. Ins. Dep't Oct. 21, 2022); Freeman, A.I.D. No. 2022-73 (Ark. Ins. Dep't Aug. 16, 2022); Shelton, A.I.D. No. 2019-20 (Ark. Ins. Dep't Apr. 8, 2019); Whitmore, A.I.D. No. 2023-36 (Ark. Ins. Dep't Apr. 11, 2023); Mason, A.I.D. No. 2018-99 (Ark. Ins. Dep't Nov. 1, 2018); Holliday, A.I.D. No. 2018-111 (Ark. Ins. Dep't Nov. 28, 2018); Wilson, A.I.D. No. 2021-47 (Ark. Ins. Dep't Oct. 1, 2021); Mason, A.I.D. No. 2019-6 (Ark. Ins. Dep't Feb. 7, 2019); Dean, A.I.D. No. 2023-38 (Ark. Ins. Dep't Apr. 11, 2023); Neal, A.I.D. No. 2019-82 (Ark. Ins. Dep't Dec. 16, 2019); Johnson, A.I.D. No. 2019-25 (Ark. Ins. Dep't May 1, 2019); Davis, A.I.D. No. 2021-55 (Ark. Ins. Dep't Nov. 12, 2021); Tucker, A.I.D. No. 2021-02 (Ark. Ins. Dep't Jan. 15, 2021); Tucker, A.I.D. No. 2023-35 (Ark. Ins. Dep't Apr. 11,

September of 2018, almost 2,000 occupational and recreational licenses were suspended; 750 of those were in Baltimore.²¹² In Minnesota in 2020, the Department of Revenue Collection Division sent 312 letters to debtors about occupational licensing restrictions; 193 were letters of intent to revoke an occupational license, 5 were letters of restriction that informed a debtor that their professional license will not be renewed or allowed to transfer, and 111 were revocation letters.²¹³ After pausing enforcement for COVID in 2021, Minnesota issued 414 similar letters in 2023, 263 were letters of intent to revoke, 15 were letters of restriction, and 136 were revocation letters.²¹⁴

Illinois offers a unique example because its Department of Financial and Professional Regulation publishes a monthly report detailing disciplinary action on its website.²¹⁵ An NPR investigation mined this data to discover that more than 2,700 people were subject to occupational license restrictions for unpaid child support in Illinois over five years.²¹⁶ A careful accounting, however, shows that it is tax debt, not child support debt, that leads to the majority of Illinois's occupational licensing

2023) (reinstating license that was suspended by A.I.D. No. 2023-12); Freeman (Ark. Ins. Dep't Aug. 19, 2022) (notice of admin. hearing); McGee (Ark. Ins. Dep't Dec. 30, 2022) (notice of admin. hearing); Keith (Ark. Ins. Dep't Dec. 6, 2022) (notice of admin. hearing).

212. Wenger, *supra* note 158.

213. E-mail from Craig Steiner, Recs. Manager and Data Pracs. Compliance Off., Minn. Dep't of Revenue, to Kate Elengold, Assistant Professor of L., Univ. of N.C. Sch. of L. (Jan. 18, 2024) (on file with Minnesota Law Review) (responding to author's FOIA request). The responding Minnesota state official noted that "[t]his does not provide a total for how many licenses were/are revoked as customers can avoid a revocation or receive a license clearance when they resolve the debt or set up a payment plan." *Id.*

214. *Id.*

215. See *IDFPR Consolidated Reports*, ILL. DEP'T OF FIN. & PRO. REGUL., <https://idfpr.illinois.gov/news/disciplines/discreports.html> [<https://perma.cc/JDC6-VH4T>] (providing a compilation of every monthly report for disciplinary actions dating back to 2012).

216. See Charlie Schlenker, *Parents Struggle to Navigate Confusing, Complicated Child Support System*, NPR ILL. (Nov. 2, 2023), <https://www.nprillinois.org/illinois/2023-11-02/parents-struggle-to-navigate-complicated-child-support-system> [<https://perma.cc/BMN2-4MFQ>] (analyzing the effect of child support debt enforcement); *DCSS Data Compiled for WGLT*, NPR ILL., <https://npr.brightspottedn.com/9b/ab/a7348b6449e89f0e9c899a140361/dcsc-data-for-wglt-pdf2.pdf> [<https://perma.cc/C26U-7DPE>], cited in Schlenker, *supra*.

restrictions.²¹⁷ When adding them together, just in 2022, the latest full year of data available, Illinois suspended 2,214 occupational licenses for tax or child support debt.²¹⁸ In Missouri, one study reported that tax debt led to more than 3,500 occupational license restrictions across eight years, but that data was limited to only sixteen health care professions.²¹⁹

Data from FOIA and Public Records Act requests signal that publicly available data may be underrepresenting enforcement. In just the first seven months of 2023, for example, 12,844 District of Columbia workers were deemed ineligible to receive a Certificate of Clean Hands, making it impossible to get or renew an occupational license.²²⁰ Between January 2017 and July of 2023, almost 60,000 applicants for a Certificate of Clean Hands were denied.²²¹

One might think that these restrictions were directed at high-income taxpayers and noncustodial parents evading their state financial obligations,²²² but the data show that debt-based

217. See *IDFPR Consolidated Reports*, *supra* note 215 (choose “2022” and then select the individual reports included in the category) (aggregating the monthly data shows that, in 2022, Illinois suspended 2,100 occupational licenses for tax debt, and 114 occupational licenses for child support debt).

218. *Id.*

219. David Kenchington & Roger White, *Income Tax Noncompliance and Professional License Suspension: Evidence from a Natural Experiment in Missouri 20–25* (Mar. 2020) (unpublished manuscript) (on file with Minnesota Law Review) (providing a table of occupations and license restrictions which, when compiled, shows 3,506 license restrictions from 2009 to 2016).

220. E-mail from Tim Curry, Pol’y & Rsrch Dir., Fines & Fees Just. Ctr., to Kate Elengold, Assistant Professor of L., Univ. of N.C. Sch. of L. (Sept. 20, 2023) (on file with Minnesota Law Review) (providing data about the number of workers deemed “ineligible” to receive a Certificate of Clean Hands for the first seven months of 2023).

221. *Id.* (noting that the exact number of ineligibilities was 57,900 for the requested time period).

222. See, e.g., Stacy L. Brustin, *The Intersection Between Welfare Reform and Child Support Enforcement: D.C.’s Weak Link*, 52 CATH. U. L. REV. 621, 677 (2003) (advocating for occupational license suspensions for child support arrearages because “[n]oncustodial parents who are lawyers, doctors, or other licensed professionals will surely feel pressured to begin making payments if their sources of livelihood are threatened”); Lollar, *supra* note 23, at 141 (noting that the public generally assumes that noncustodial parents behind on child support “have some type of unreported income or assets that they are simply withholding or failing to disclose to the courts in order to avoid paying”); *cf.* Press Release, Andrew Cuomo, Governor of N.Y., Governor Cuomo Announces Initiative to Suspend Driver Licenses of Tax Delinquents Who Owe More Than \$10,000

restrictions disproportionately burden lower-income or “blue collar” occupations. This occurs both because many lower-income jobs require licensure and because low-income workers are more likely to bear the burden of a license lost to debt. At the front end, occupational licensing requirements regularly apply to lower-income professions. A 2022 study looked at 102 low- and middle-income occupations across the United States and found 2,749 jobs that required state-level occupational licensing.²²³ On the back end, evidence shows that debt-based occupational licensing restrictions are primarily and disproportionately applied against lower-income occupations.²²⁴

Of the fifty-three occupational licenses Pennsylvania suspended for overdue child support between January 2021 and April 2023, eighty-seven percent were barbers, cosmetologists, nurses, in vehicle manufacturing, dealing or sales, or in real estate; only one lost a medical license and nobody lost a law license.²²⁵ Of Illinois’s nearly 4,000 suspensions for child support over two years,²²⁶ less than four percent of suspensions affected the combined professional fields of clinical psychology, medicine, public accounting, professional engineering, veterinary medicine, and law.²²⁷ In Tennessee, of the 1,500 reported debt-based occupational license restrictions for student loan debt, the most

in Back Taxes (Aug. 5, 2013), <https://web.archive.org/web/20130813121749/https://www.governor.ny.gov/press/08052013Tax-Delinquent> [<https://perma.cc/DE2C-4FEU>] (showing then-Governor Cuomo arguing that the new initiative to suspend licenses for tax debt would put “tax scofflaws” on notice).

223. Knepper et al., *supra* note 67, at 11 (examining 102 occupations across fifty-one jurisdictions for a total possible count of 5,202). This accounted for only approximately 1/8 of all licenses. *Id.* at 8–9. The study defined “low- and middle-income occupations” as occupations where the average income for that profession fell below the national average income. *Id.* at 218.

224. *See infra* notes 225–34 (demonstrating that certain occupations have licenses revoked more than others, disproportionately affecting lower-income occupations).

225. *See Professional Licensing Disciplinary Actions, supra* note 210 (choose “Sort & Filter”; then select the boxes “2021”, “2022”, and “2023”; then click “View Results”; then navigate to the results for each month). Although the majority saw their licenses reinstated, sixteen licenses remained suspended at the time the information was produced. *Id.*

226. The total number was 3,761, which is exclusive of license restrictions for court fines and fees and municipal-level restrictions. *See supra* note 179 (demonstrating that Chicago has a number of municipal regulations where debt to the city can lead to occupational license restrictions).

227. *Id.*

likely targets were nurses' aides, teachers, and emergency medical personnel.²²⁸ And of the 1,900 occupational and recreational licenses suspended in just one month in Maryland in 2018, 320 applied to certified medication technician licenses, 150 to rideshare licenses, 225 to barbers licenses, and 120 to certified nursing assistant licenses.²²⁹

Economics scholars examining Missouri data from 2009–2016 offer the only publicly-available empirical study of debt-based occupational licensing restrictions.²³⁰ Although that data was limited to only the sixteen largest health care professions, researchers discovered a disproportionate effect on low-income professionals.²³¹ They found that nearly ten percent of all licenses in the low-income professions surveyed were subject to tax debt-based occupational licensing restrictions.²³² These statistics are unsurprising when we consider how many low-income workers live in a constant state of financial precarity.²³³

228. Kitroeff, *supra* note 108 (“Nurses aides, teachers, and emergency medical personnel have been among the most likely to lose their licenses.”).

229. Wenger, *supra* note 158.

230. Kenchington & White, *supra* note 219, at 3, 8 (noting that the researchers based their study in Missouri because of the uniquely open access to data that was otherwise unavailable).

231. *Id.* at 4, 16 (“[I]n both the descriptive statistics and multivariate regressions, that professional license suspensions for tax noncompliance are not uncommon among lower-income professions. . . . [And such suspensions are] particularly prevalent in contingent or casual employment situations.”).

232. *Id.* at 10. Nearly 14% of massage therapists and nearly 10% of licensed practical nurses experienced license suspension for income tax noncompliance compared to dentists, nurses, and pharmacists, who each experienced suspension rates over the same period in the range of 0.1% to 2%.

233. See generally Jesse Bricker et al., *Changes in U.S. Family Finances from 2013 to 2016: Evidence from the Survey of Consumer Finances*, FED. RSRV. BULL., Sept. 2017, at 1, 8 (noting that “[i]n 2016, 15 percent of families report spending more than they received in income” and using credit cards, savings, etc. to make up the difference); Lane Gillespie, *Bankrate’s 2024 Annual Emergency Savings Report*, BANKRATE (June 20, 2024), <https://www.bankrate.com/finance/consumer-index/money-pulse-0117.aspx> [<https://perma.cc/498J-LC7Z>] (finding that many taxpayers fail to develop an “emergency fund” because they are financially unable to do so in part due to inflation rates and high interest rates on debts); Consumer & Cmty. Rsch. Section, *Economic Well-Being of U.S. Households in 2022*, BD. OF GOVERNORS OF THE FED. RSRV. SYS. 29, 31 (May 2023), <https://www.federalreserve.gov/publications/files/2022-report-economic-well-being-us-households-202305.pdf> [<https://perma.cc/X6PL-HJ93>] (showing less than seventy percent of adults with a family income under \$25,000 annually expected that they would be able to pay their expected bills in

We can speculate that debt-based occupational licensing restrictions disproportionately burden workers of color for multiple reasons. First, people of color are more likely to be hit with state fees, particularly court fines and fees.²³⁴ Second, financial well-being differs across racial and ethnic groups; while 84% of Asians and 77% of Whites reported doing at least okay financially in 2022, only 64% of both Black and Hispanic adults reported the same.²³⁵ And a lack of intergenerational wealth has left Black families “with grossly fewer resources to draw on when they come under financial pressure.”²³⁶ Finally, there is some evidence suggesting that several of the occupations hardest-hit by debt-based occupational licensing restrictions are disproportionately held by workers of color.²³⁷ While a thorough analysis of

full, nearly forty percent of adults reported that that they could not afford an unexpected expense of \$400 without selling possessions or borrowing money, and thirteen percent reported that they would be “unable to pay the expense by any means”).

234. MESSENGER, *supra* note 28, at 47 (citing the Federal Reserve Board’s findings that those earning less than \$40,000 per year are more likely to suffer court debt, and this disproportionately falls on minority populations); *see also* Elengold, *supra* note 29, at Part IV.B.2 (detailing the racialized disparities in amassing debt to the state via court fines and fees, child support, and taxes).

235. Consumer & Cmty. Rsch. Section, *supra* note 233, at 6; *see also* Complaint, *supra* note 16, ¶ 34 (citing statistics that seek to establish that the District of Columbia’s Clean Hands Law “exacerbates racial inequality because in D.C., statistically speaking, wealth tracks race”).

236. Paul Kiel & Annie Waldman, *The Color of Debt: How Collection Suits Squeeze Black Neighborhoods*, PROPUBLICA (Oct. 8, 2015), <https://www.propublica.org/article/debt-collection-lawsuits-squeeze-black-neighborhoods> [<https://perma.cc/U83B-J34Q>].

237. *Locked Out*, *supra* note 30, at 1 (“The [D.C.] Clean Hands Law affects over 125 occupations . . . and the consequences fall disproportionately on Black DC residents and other residents from communities of color.”); Alec C. Ewald, *Barbers, Caregivers, and the “Disciplinary Subject”: Occupational Licensure for People with Criminal Justice Backgrounds in the United States*, 46 *FORD. URB. L.J.* 719, 732 (2019) (noting that barber’s licensing is open to people without advanced education and that “barbers and barbershops have long played important cultural roles in African-American communities”); *id.* at 735–36 (recognizing over ninety percent of certified nurse’s aides are female, almost half are African American or Latina); NCSL, *supra* note 36 (“Among certain populations—like immigrants with work authorization and people with criminal records—individuals who are otherwise well-equipped to safely practice a chosen profession can be limited by licensing requirements that prohibit these individuals from practicing based on their nontraditional education or language proficiency, and do not accurately reflect the actual risks of practicing that profession.”); Complaint, *supra* note 16, ¶ 35 (arguing that D.C. Clean

the effects of debt-based occupational licensing restrictions on workers of color is worthy of additional study, it is beyond the scope of this Article.

D. A NOTE ABOUT ENFORCEMENT

Even where the state does not exercise its statutory power to restrict occupational licenses as a debt collection tool,²³⁸ it is concerning that the laws are even on the books at all. Existing discretion, including through threats made but not carried out, changes the debtor's relationship with the state, opens the door for discriminatory enforcement, and leaves residents open to increased enforcement at any moment.²³⁹ Further, the decision on whether and how to collect debt from its citizens should be governed by state legislators, not an opaque administrative process.

When it comes to debt collection on state-owned debt, the processes and decision-makers are shrouded in mystery and rely on significant discretion.²⁴⁰ Not only does this lack of

Hands Law has a negative effect on street vendors, who are overwhelmingly "Latin[o], Indigenous and/or Black").

238. See E-mail from Michelle Mann to Kate Elengold, *supra* note 206 (showing that the Nevada Office of the State Controller fielded 25,000 debt requests but no occupational license revocations were issued); E-mail from John Fuller, Pub. Info. Officer, Iowa Dep't Revenue, to Kate Elengold, Assistant Professor of L., Univ. of N.C. Sch. of L. (Dec. 21, 2023) (on file with Minnesota Law Review) (showing almost 600,000 referrals were made from the Iowa Judicial Branch to collect in Fiscal Year 2021, but no related notices were sent to the debtors threatening occupational licensing revocation and reflecting no actual revocations).

239. Compare Eisha Jain, *Arrests as Regulations*, 67 STAN. L. REV. 809, 858 (2015) ("One persistent critique of administrative discretion is that it is prone to error, or applied inconsistently or unfairly."), and Daniel P. Tokaji, *First Amendment Equal Protection: On Discretion, Inequality, and Participation*, 101 MICH. L. REV. 2409, 2415–16 (2003) (exploring the definition of discretion in the law), with Brustin, *supra* note 222, at 677 (calling for increased professional license suspension enforcement for child support arrearages in Washington, D.C.), and Kelly Browe Olson, *Child Support in America: A Glimpse of the Past and the Present*, CHILD.'S LEGAL RTS. J., Summer 1996, at 40, 49 (advocating for occupational license revocation similar to Maine's to increase child support collections).

240. There is evidence that debt-based occupational license restrictions are designed explicitly as coercive threats. See 1997 HHS REPORT, *supra* note 88, at 9 (speaking of Maine's successful use of debt-based occupational license threats, noting that the effectiveness of the program "lies not in the suspension of licenses, but in the threat of a single agency that can attack on a broad front"); OFF. OF CHILD SUPPORT SERVS., U.S. DEP'T OF HEALTH & HUM. SERVS.,

transparency lead to fear and uncertainty for anyone who owes money to the state, it also opens the door to discriminatory application of discretionary authority.²⁴¹ As Professor Daniel Tokaji explains, “[t]he modern administrative state—with its countless agencies at the local, state, and national level—is critically dependent upon the exercise of official discretion to engage in both quasi-legislative and quasi-judicial functions.”²⁴² Scholars have been wary of that kind of discretion in the context of First Amendment rights,²⁴³ immigration,²⁴⁴ criminal law,²⁴⁵ and voting rights.²⁴⁶ There is no reason to fear it any less in the context of state debt collection.²⁴⁷

Having the laws on the books also allows for increased enforcement at any time. State and local fiscal, tax, and social welfare policies are cyclical and responsive to economic and political changes.²⁴⁸ While one government official might decide not to

ESSENTIALS FOR ATTORNEYS IN CHILD ENFORCEMENT 242 (3d ed. 2020) (describing license revocation programs as “coercive” tools).

241. See *supra* Part II.A (noting that some of the debt-based occupational licensing restriction laws are discretionary); see also Jain, *supra* note 239, at 858.

242. Tokaji, *supra* note 239, at 2415.

243. *Id.* at 2416 (noting “the threat of inequality” arising from discretion).

244. Aziz Z. Huq, *Article II and Antidiscrimination Norms*, 118 MICH. L. REV. 47, 101 (2019) (“The central legacy of the *Travel Ban Case* is its formal recognition of an open-textured Article II discretion to discriminate.”).

245. Kim Forde-Mazrui, *Ruling Out the Rule of Law*, 60 VAND. L. REV. 1497, 1530–34 (2007) (discussing the difficulty in proving discrimination in the face of broad discretion).

246. Deuel Ross, *Pouring Old Poison into New Bottles: How Discretion and Discriminatory Administration of Voter ID Laws Recreate Literacy Tests*, 45 COLUM. HUM. RTS. L. REV. 362, 364–65 (2014) (“[V]oter ID laws recreate a ‘key disenfranchising feature[]’ of Jim Crow era voter qualifications, like literacy tests, by vesting local officials with the broad discretion to discriminatorily administer facially race-neutral laws.” (alteration in original) (footnote omitted)). But see Julie C. Suk, *Discrimination at Will: Job Security Protections and Equal Employment Opportunity in Conflict*, 60 STAN. L. REV. 73, 107–08 (2007) (arguing that limiting employers’ discretion in firing decisions can actually magnify their tendency to discriminate in hiring).

247. Cf. Elengold, *supra* note 29 (arguing that the state’s use of debt policy has had disproportionately negative effects on people of color, primarily Black people, with profound effects on racially segregated spaces and opportunities).

248. See Sunjoo Kwak, *The Dynamics of State Fiscal Behavior over the Business Cycle: Are State Fiscal Policies Procyclical?*, 44 AM. REV. PUB. ADMIN. 550, 560–62 (2013) (conducting an empirical study of state revenue generation between 1992–2007 and showing that the fiscal policies are procyclical

enforce debt-based occupational licensing restrictions, they or their successors are free to change course at any time.²⁴⁹ In Tennessee, for example, the Tennessee Student Assistance Corporation did not start restricting occupational licenses for unpaid student debt for ten years after the relevant statute went into effect.²⁵⁰ In Texas, a similar law passed in 1989 was revived by administrators in the mid-2010s.²⁵¹

The following Section argues that the state should undertake serious and complicated analyses to determine if and how it should collect debt from its citizens. Those analyses should be undertaken by policymakers subject to public governance and oversight by the media, non-governmental organizations, and citizens. Rather than the current “opaque and self-serving” licensing boards, both the existence of the relevant laws and data about their application should be made available to the public.²⁵² State and municipal governments should not be able to hide behind administrative complexity and discretion. For example, although the City of Chicago’s website states that the Accounts Receivable and Cost Recovery Division of the City’s Department of Finance is “responsible for the collection of a variety of City receivables,” a FOIA request to that Department regarding debt-based occupational licensing restrictions resulted in one nonresponsive file and a notation that the remaining requests were

(magnifying fluctuations) and responsive to economic conditions); Jiri Jonas, *Great Recession and Fiscal Squeeze at U.S. Subnational Government Level 26–27* (Int’l Monetary Fund, Working Paper No. 12/184, 2012) (finding that state fiscal policy during the Great Recession of 2008 was responsive to changes in the economy, consistent with the broader understanding that state fiscal policy is procyclical).

249. Research suggests that taxpayer noncompliance increases during economic downturns; policy experts have advocated for enhanced tax enforcement programs for use in those times. See John Brondolo, *Collecting Taxes During an Economic Crisis: Challenges and Policy Options*, INT’L MONETARY FUND 5–7, 14–15 (2009), <https://www.imf.org/external/pubs/ft/spn/2009/spn0917.pdf> [<https://perma.cc/2GLF-74JW>].

250. Bregel, *supra* note 196 (noting Tennessee’s “new enforcement” of a “decade-old statute” related to restrictions of occupational licenses due to student loan payments).

251. Najmabadi, *supra* note 196 (describing the effect that revival of a 1989 Texas statute was having on Americans with student loan payments).

252. Licensing boards and their decisions have historically been opaque and self-serving. See Allensworth, *supra* note 32, at 1577–78 (noting that some licensing boards do not post meeting minutes, identify their serving members, and sometimes do not adhere to their own statutory requirements).

best directed to two different Departments within the municipal administration.²⁵³ This kind of powerful, but opaque and discretionary, authority should not be hidden from public scrutiny. And, importantly, its existence and application should be the purview of legislators elected and held accountable by the public.

III. BENEFITS AND BURDENS OF DEBT-BASED OCCUPATIONAL LICENSING RESTRICTIONS

Whether and how a state should collect debt owed by its citizens is a difficult and consequential decision. Not only should it be undertaken by legislators, but the analysis should also differ from a traditional cost-benefit analysis that one would expect to see in a private, arm's length transaction between creditor and debtor. Even though primarily financial cost-benefit analyses are regularly employed to undertake governmental policy analyses,²⁵⁴ this Part argues that such an approach is short-sighted and inconsistent with the state's role and responsibilities. This Part first offers a theory as to how a state *should* assess whether and by what means to collect debt from individual citizens. It then returns to occupational licensing to model two different ways the state *could* analyze whether and how to use occupational licensing restrictions as a debt collection tool. The first applies a traditional cost-benefit analysis. Ultimately, this Article and this Part argues that a government creditor instead should follow the second model, one that broadens the lens to include moral and public interest concerns unique to a government creditor.

253. E-mail from Frank Davis, FOIA Officer, City of Chi. Dep't. of Fin., to Kate Elengold, Assistant Professor of L., Univ. of N.C. Sch. of L. (Dec. 1, 2023) (on file with Minnesota Law Review) (failing to provide the requested information but directing requests for the number of notices sent to workers regarding impending license suspension to the Chicago Business Affairs and Consumer Protection Department, and requests for the number of referrals for the government to take action to the City of Chicago Law Department).

254. See, e.g., Off. of Mgmt. & Budget, *Circular A-4*, THE WHITE HOUSE (Sept. 17, 2003), https://obamawhitehouse.archives.gov/omb/circulars_a004_a-4/#d [<https://perma.cc/KP7G-S6R2>] (directing agencies to utilize financial cost benefit analysis for any decision where monetary values can be assigned to benefit categories); Jonathan S. Masur & Eric A. Posner, *Unquantified Benefits and the Problem of Regulation Under Uncertainty*, 102 CORNELL L. REV. 87, 87–90 (2016) (critiquing federal government's lack of inclusion of intangible variables in their cost-benefit analysis of policy issues as diverse as mercury poisoning and prison assault).

A. THE THEORY

Imagine that Ms. Jones runs a used car lot in Chicago, Illinois and offers financing to buyers. One of her financing options is an interest-free loan, repaid in monthly installments over six months. The financing contract states that, if the debtor does not pay the entire cost of the vehicle within six months from the date of purchase, Ms. Jones can employ any and all debt collection tools available by law, including repossessing the car and suing the debtor for the price of the car, collection costs, and attorneys' fees. Now imagine that Mr. Woods purchased a \$5,000 car from Ms. Jones and opted for the six-month interest-free financing. Mr. Woods defaulted on his loan. After repossessing the recently totaled vehicle worth \$500 in scrap metal, Ms. Jones had to determine whether to sue Mr. Woods to recover the remaining amount due. Assuming Ms. Jones would be successful, if Mr. Woods did not then pay a court judgment, Ms. Jones could collect by garnishing Mr. Woods' wages or bank account or by foreclosing on his personal or real property.²⁵⁵ In deciding how to proceed, Ms. Woods would consider the benefit of collecting from Mr. Woods, along with the precedent that it sets for other patrons, against the cost of going to court, getting a judgment, and enforcing that judgment. Hers is not *purely* a financial cost-benefit analysis, but it is likely the primary consideration. Ms. Jones' financial cost-benefit analysis would include the price of the vehicle, but also the costs of a lawsuit and the signal her decision would give to current and future customers. Ms. Jones would need to go through this analysis in deciding whether to pursue Mr. Woods, through what venues, and using which tools.

Now imagine instead that Mr. Woods is a licensed plumber in Chicago, Illinois. He holds both state and municipal plumber's licenses and is registered as a plumbing contractor in both jurisdictions.²⁵⁶ Mr. Woods has accrued \$1200 in unpaid parking

255. 735 ILL. COMP. STAT. 5/2-1304 (2024) (stating the statutory requirements for orders for liens and conveyances); *id.* § 2-1402 (stating the statutory requirements for citations to discover assets). Further, any judgment would accrue a five percent interest until fully discharged. *Id.* § 2-1303(b)(2).

256. See 225 ILL. COMP. STAT. 320/3(1), (3) (2024) (stating the state statutory requirements for licensure for plumbers); *id.* § 320/2 (defining "plumbing contractor" as "any person who performs plumbing . . . for another person"); *id.* § 320/13.1 (requiring registration for "all persons or corporations desiring to engage in the business of plumbing contractor"); CHI., ILL., MUN. CODE § 4-4-

tickets in the City of Chicago.²⁵⁷ The City characterizes this as a debt.²⁵⁸ Once Mr. Woods failed to pay his obligation, the City was authorized by statute to collect Mr. Woods' debt, utilizing a variety of collection tools, including enforcing a lien on his personal or real property,²⁵⁹ adding fines,²⁶⁰ or suspending or revoking his license(s),²⁶¹ including his occupational license(s).²⁶² Unlike a private creditor, the City does not first need to get an official court order before utilizing these collection tools; the licensee is entitled only to five days' notice prior to a hearing before a hearing officer.²⁶³ If the City seeks to suspend his municipal plumber's license, Mr. Woods could not lawfully take plumbing jobs in Chicago, even if his Illinois state plumber's license remained active.

When a government entity assesses whether and how to collect a debt from its citizen, should the analysis be the same as it

010 (2024) ("It shall be unlawful for any person to operate any business for which a City of Chicago license is required without first having obtained the required license(s) for such business."); *id.* § 4-4-336 (stating the city statutory requirements for Chicago's plumbing contractor license); *id.* § 4-4-332 (stating the city statutory requirements for Chicago's plumbing license).

257. CHI., ILL., MUN. CODE § 9-12-030 (2024) (making it unlawful to use a bridge or highway without payment of the required fee and punishing violation with a fine of twenty-five dollars); *id.* § 9-6-230 (making a parking violation a "civil offense punishable by fine").

258. *Id.* § 1-19-010 (defining "debt" as "a specified sum of money owed to the city for fines, penalties, fees, interest, or other types of charges or costs imposed by this code, or administrative or judicial judgments"); *id.* § 1-20-010 (defining "costs" for purposes of cost recovery to include "all costs of the city incurred in relation to the provision of service by the city or its agents, regardless of whether the city would have otherwise incurred those costs"); *see also About, PARKCHICAGO*, <https://parkchicago.com/about> [<https://perma.cc/XR7V-L89Z>] (describing the public-private relationship between City of Chicago and Chicago Parking Meters (CPM), including cost to City of CPM contract); Charles A. Reich, *The New Property*, 73 YALE L.J. 733, 746 (1964) ("When government—national, state, or local—hands out something of value, whether a relief check or a television license, government's power grows forthwith; it automatically gains such power as is necessary and proper to supervise its largess. It obtains new rights to investigate, to regulate, and to punish.").

259. CHI., ILL., MUN. CODE § 3-4-300 (2024).

260. *Id.* § 3-4-310.

261. *Id.* § 3-4-320.

262. *Id.* § 4-4-084.

263. *Id.* § 4-4-280 (empowering the Commissioner to suspend or revoke an occupational license only if the licensee is given five calendar days' notice and an opportunity to appear and defend themselves at a public hearing before a hearing officer).

would be for a private creditor like Ms. Jones? This Article emphatically argues that the answer is no.²⁶⁴ Just as it would be nonsensical to argue that the state should set plumber licensing fees at the highest fee the market could bear, there are moral, public interest, and financial reasons why it is improper and dangerous to *only* import the kind of cost-benefit analysis typical in private markets into public decision-making.

Rather, a government creditor should use a different analysis in deciding how to proceed against Mr. Woods than a private creditor like Ms. Jones would use in relation to her debtors.²⁶⁵ From a moral perspective, this Article argues that government should not see its citizens as modes of profit, especially when its most vulnerable citizens are likely to be the hardest hit. Governments, of course, do raise revenue from their citizens, not only in the form of progressive income taxes, but also through regressive flat taxes like sales tax and through citations like parking tickets and fines and fees.²⁶⁶ And we know that those backdoor taxes²⁶⁷ disproportionately burden the most vulnerable citizens.²⁶⁸ But just because governments do sometimes raise revenue on the

264. See generally Beth Nolan, *Public Interest, Private Income: Conflicts and Control Limits on the Outside Income of Government Officials*, 87 NW. U. L. REV. 57, 72 (1992) (recognizing that prohibitions on governmental conflicts of interest stem from the idea that government is meant to serve “the common good” (citing THE FEDERALIST NO. 57, at 350 (James Madison) (Clinton Rossiter ed., 1961))).

265. Cf. Liza Vertinsky, *Making Knowledge and Making Drugs? Experimenting with University Innovation Capacity*, 62 EMORY L.J. 741, 777 (2013) (suggesting that universities weighing drug discovery and development rights should undertake an analysis that would be different than if the decisionmaker was a firm, government, or other public-academic-private collaboration). *But cf.* David A. Hoffman & Cathy Hwang, *The Social Cost of Contract*, 121 COLUM. L. REV. 979, 986 (2021) (recognizing that private contracts have externalities that negatively affect the public and that “the public has an interest in keeping those negative externalities at an acceptable level”).

266. See, e.g., Quig, *supra* note 191 (highlighting Chicago’s use of fines to raise revenue); Srikrishnan & Clarke, *supra* note 173 (describing the use of punitive policies for income tax debts, such as license revocation); *Locked Out*, *supra* note 30, at 5 (explaining that the Clean Hands Law has been expanded over time for purposes of “revenue generation”).

267. MESSENGER, *supra* note 28, at 24.

268. See *Targeted Fines and Fees*, *supra* note 85, at 3 (describing how cities that rely on revenue from fines and fees disproportionately impact African American and Latino populations).

backs of their most vulnerable citizens does not mean that there is not a moral objection.²⁶⁹

In addition to moral considerations, the state also should consider broader public interest concerns in deciding if and how to collect debt from its citizens. Unlike the relationship between the car saleswoman and the buyer-debtor, the relationship between the state and its citizens is not an arms-length transaction.²⁷⁰ Private parties to a legal dispute do not have an obligation to consider the repercussions of their success to the other party or to the broader public;²⁷¹ the state does.²⁷² The state should consider how its debt collection decisions will affect the debtor, the broader community, and the general citizenry.²⁷³

269. See, e.g., Chrystin Ondersma, *Borrowing Equality: Dispossession and the Need for an Abolitionist Approach to Survival Debt*, 120 COLUM. L. REV. 299, 305 (2020) (“[M]any individuals—vastly disproportionately Black and other marginalized individuals—are dispossessed via municipal and penal fines or entered into the penal system by virtue of indebtedness.”); Abbye Atkinson, *Borrowing Equality*, 120 COLUM. L. REV. 1403, 1456–57 (2020) (describing economic sanctions as a “significant subordinating force” of the criminal justice system); see also 1 JOEL FEINBERG, *THE MORAL LIMITS OF THE CRIMINAL LAW: HARM TO OTHERS* (1984) (exploring the moral philosophy of the limits on the government’s authority to criminalize). But see Michael A. Livingston, *Blum and Kalven at 50: Progressive Taxation, “Globalization,” and the New Millennium*, 4 FLA. TAX REV. 731, 748 (2000) (noting that the flat tax movement argues that progressive tax systems “punish[] the more worthy members of society and reward[] less deserving members”).

270. See, e.g., Donald Braman et al., *Some Realism About Punishment Naturalism*, 77 U. CHI. L. REV. 1531, 1534 (2010) (noting “the State’s twin obligations to protect its citizens from harm and to respect their freedom”); see also *infra* notes 337–41 (explaining “the State’s twin obligations” in greater detail).

271. See Tess Wilkinson-Ryan & David A. Hoffman, *Breach Is for Suckers*, 63 VAND. L. REV. 1003, 1011 (2010) (“Ordinarily, the law tells juries (and citizens generally) to treat contractual bargains as purely economic exchanges, defended by a calibrated and unsentimental remedy.”).

272. In fact, the police power is the source of the state’s authority to regulate licensure in the first place. See, e.g., *Dent v. West Virginia*, 129 U.S. 114, 128 (1889) (“The law of West Virginia was intended to secure such skill and learning in the profession of medicine that the community might trust with confidence those receiving a license under authority of the state.”).

273. This calls to mind Professor Abbye Atkinson’s appeal to reconsider how we balance the costs and benefits of categorical non-dischargeable debts as defined by the Bankruptcy Code against the costs and benefits of “unrelenting debt . . . experienced by communities that can least bear the burden of permanent liability.” See Abbye Atkinson, *Consumer Bankruptcy, Nondischargeability, and Penal Debt*, 70 VAND. L. REV. 917, 966 (2017).

The remainder of this Part models two different ways that a state entity could assess whether to employ a particular debt collection tool on its citizens, using occupational license restrictions as an example. Because the financial effects of any such decisions are important to the stability of the state and its citizens, it first sets out a traditional cost-benefit analysis—weighing effectiveness, efficiency, and appropriate targeting. It then engages in a secondary analysis of the benefits and burdens, where the state would also apply moral and public interest factors that are unique to a state actor in its decision making.

B. TRADITIONAL COST-BENEFIT ANALYSIS

A traditional cost-benefit analysis is finance forward. In other words, it is primarily concerned about the relative economic value of utilizing a particular debt collection tool against the costs it would incur in that usage. This Subsection uses that method with respect to use of occupational licensing restrictions as a debt collection tool, looking specifically at its effectiveness, efficiency, and whether there are guardrails in place to protect against futile collection efforts.

1. Benefits

All states and municipalities must have money to remain operational. Taxes, child support reimbursements, and civil and criminal fines and fees support government operations.²⁷⁴ Unsurprisingly then, relevant scholarship on managing state-owned debt is largely geared toward achieving compliance and improving collection.²⁷⁵ The most compelling rationale for using occupational licensing restrictions as a debt collection lever is that they are arguably effective and efficient enforcement tools that already have procedural guardrails protecting those who

274. See, e.g., Foster *supra* 29, at 3 (discussing how fines and fees are used to fund government operations); Lollar, *supra* note 23, at 154 (discussing how the state's recoup child support payments).

275. See, e.g., Joshua D. Blank & Ari Glogower, *When Should Means Matter? The Case of Tax Compliance*, 42 VA. TAX REV. 241, 255–58 (2023) (describing the role of tax compliance rules); J. Thomas Oldham & Bruce M. Smyth, *Child Support Compliance in the USA and Australia: To Persuade or Punish?*, 52 FAM. L.Q. 325, 336–38 (2018) (suggesting reevaluation of U.S. child support enforcement strategy). There is less support for compliance and collection for fines and fees in the scholarship, but the reality is that fines and fees are critical to running governmental business. See, e.g., Quig, *supra* note 191 (highlighting the important role fines and fees play in financing the City of Chicago).

cannot pay.²⁷⁶ Conversely, the guardrails protect the government from expending resources on futile debt collection efforts.

First, the limited available data suggest that using occupational licensing restrictions—or even the threat of occupational licensing restrictions—is effective to collect overdue debt.²⁷⁷ Maine’s early use of the tactic showed that universal threats to licensure could be successful in collecting overdue child support.²⁷⁸ Maine targeted 17,000 debtors in the first nine months and more than 23,000 over three years.²⁷⁹ During that time, Maine collected more than \$40 million in child support without needing to suspend more than 113 occupational licenses.²⁸⁰ Other states took notice, passing similar legislation,²⁸¹ and Maine drew praise from the federal government.²⁸²

This success in the child support context supports tax scholars’ related arguments that non-financial tools, or “collateral tax sanctions,” can be effective in collecting overdue taxes.²⁸³ Professor Joshua Blank argues that such sanctions “can promote voluntary tax compliance more effectively than the threat of additional monetary tax penalties” because they are salient, costly to the debtor, signal lack of trustworthiness, and reinforce notions of fairness and civic responsibility.²⁸⁴ A similar context

276. Governments often use traditional cost-benefit analysis to make decisions. See Zachary Liscow, *Redistribution for Realists*, 107 IOWA L. REV. 495, 497 (2022) (“The [Department of Transportation] relies on cost-benefit analysis to determine where money is best spent.”).

277. See *infra* notes 279–82, 285–288 (providing data on the success of licensing restrictions in collecting debt).

278. See ME. STAT. tit. 19-A, § 2603-A (2024) (originally enacted as Act effective Oct. 1, 1997, ch. 466, 1997 Me. Laws 985) (giving the State the power to suspend driver’s and occupational licenses for failure to pay child support).

279. 1997 HHS REPORT, *supra* note 88, at 7. There was insufficient data to disaggregate the different types of licenses. *Id.*

280. *Id.* This is consistent with some evidence suggesting that expanded enforcement tactics, including income withholding and income tax intercepts, have improved child support collections. Marcia Cancian et al., *Child Support: Responsible Fatherhood and the Quid Pro Quo*, 635 ANNALS AM. ACAD. POL. & SOC. SCI. 140, 149 (2011) (cataloguing empirical studies).

281. *State Says ‘Deadbeat’ Effort a Success*, PORTLAND PRESS HERALD, Jan. 23, 1996, at 8B.

282. *Clinton Likes Maine’s Law on Deadbeats*, ORLANDO SENTINEL, May 20, 1994, at A11; 1997 HHS REPORT, *supra* note 88, at 6–9.

283. Joshua D. Blank, *Collateral Compliance*, 162 U. PA. L. REV. 719, 723–24 (2014).

284. *Id.* at 725–27.

produced positive results; researchers found that threatening passport restrictions had a “small positive effect” on collecting federal tax debt.²⁸⁵ And Louisiana’s nursing board reported that, after refusing to renew eighty-seven nursing licenses for student loan default, eighty-four paid their debts and had their licenses restored.²⁸⁶

Second, restricting occupational licenses is arguably more efficient than other debt collection tools because it can be conducted administratively without judicial process, it can be automated, it does not require intergovernmental collaboration, and it is less expensive to implement than other collection tactics.²⁸⁷

Maine’s success with child support collections highlighted the efficiency of its administrative process.²⁸⁸ The systemic and automatic nature of its tool allowed the government to recover dollars without expending excessive financial or administrative resources.²⁸⁹ Federal guidance reinforced this preference, claiming that the administrative process was “more successful” and “more effective than the judicial process” because it “generally targeted more cases, had more collections, and took less time to suspend licenses.”²⁹⁰ And even if there are additional processes like hearings, occupational license restrictions are less expensive than other collection tools like incarceration.²⁹¹

285. Paul R. Organ et al., *Incentive Effects of the IRS’ Passport Certification and Revocation Process*, J. PUB. ECON., April 2022, at 1, 5.

286. Dieterle et al., *supra* note 65, at 6 (presenting data from other states that shows similar successes).

287. *See, e.g.*, 1997 HHS REPORT, *supra* note 88 (discussing the success of state license revocation program and highlighting the program’s positive effect on administrative efficiency).

288. *Id.* at 6–9.

289. Fondacaro & Stolle, *supra* note 110, at 362 (recognizing license revocation programs as “a prime example of this overall shift toward more systemic and administrative models of justice and enforcement”).

290. 1997 HHS REPORT, *supra* note 88, at i–ii.

291. *See* Cammett, *supra* note 182, at 383 (recognizing that states bear the costs of imprisoning debtors and that “[a] true cost-benefit analysis of user fees would reveal that costs imposed on sheriffs’ offices, local jails and prisons, prosecutors and defense attorneys, and the courts themselves surpass what the states take in as revenue”); Torie Atkinson, Note, *A Fine Scheme: How Municipal Fines Become Crushing Debt in the Shadow of the New Debtors’ Prisons*, 51 HARV. C.R.-C.L. L. REV. 189, 194 (2016) (stating that in 2014, a federal inmate cost more than \$30,000 annually and a state inmate cost nearly \$30,000).

Third, there is a strong argument that guardrails already exist to protect debtors who truly cannot pay and, conversely, protect the government from expending resources on futile collection efforts. Many state income tax payments are progressive and explicitly linked to income.²⁹² And many states offer credits, like Earned Income Tax Credits (EITC) and Child Tax Credits (CTC), based on income tax filings, to offset financial insecurity.²⁹³ Child support monthly payments are also linked to income, based on one of three formulas.²⁹⁴ Forty-one states use the income shares model that tries to create “the same proportion of parental income that [the child] would have received if the parents lived together.”²⁹⁵ Six states use a percentage of income model that assigns a monthly obligation based only on the non-custodial parent’s income.²⁹⁶ And three states use a variation on the income shares model, which accounts for several factors that are “designed to ensure that each parent’s basic needs are met in addition to the children’s.”²⁹⁷ All of these formulas ostensibly account for a “self-support reserve,” including imputed income, health care expenses, special child care expenses, shared custody, split custody, extraordinary visitation, and support obligations for additional children.²⁹⁸ For court debt, due process requires an evidentiary hearing regarding defendant’s ability to pay prior to incarceration for unpaid debt.²⁹⁹ Many states have

292. See Michael Pressman, “*The Ability to Pay*” in *Tax Law: Clarifying the Concept’s Egalitarian and Utilitarian Justifications and the Interactions Between the Two*, 21 N.Y.U. J. LEGIS. & PUB. POL’Y 141, 149–51 (2018) (exploring the idea that the tax system assigns tax burdens according to the taxpayers’ “ability to pay”).

293. Carl Davis et al., *Who Pays? A Distributional Analysis of the Tax Systems in All 50 States*, INST. ON TAX’N & ECON. POL’Y 26–27 (2024), <https://sfo2.digitaloceanspaces.com/itep/ITEP-Who-Pays-7th-edition.pdf> [<https://perma.cc/V9MT-GU5L>] (stating that thirty-one states and the District of Columbia offer EITCs and fourteen states provide CTCs).

294. *Child Support Guideline Models*, NAT’L CONF. OF STATE LEGISLATURES (July 10, 2020), <https://www.ncsl.org/human-services/child-support-guideline-models> [<https://perma.cc/5GYQ-Y62Y>].

295. *Id.*

296. *Id.*

297. *Id.* (noting that the District of Columbia uses a hybrid version).

298. *Id.*

299. *Bearden v. Georgia*, 461 U.S. 660, 672 (1983) (“[A] sentencing court must inquire into the reasons for the failure to pay. If the probationer willfully refused to pay or failed to make sufficient bona fide efforts legally to acquire the

gone further, considering a defendant's ability to pay before initially assessing fines and fees for court-involved services.³⁰⁰ And some states and municipalities have experimented with implementing a process for assessing graduated fines or fees based on both the severity of the crime and the defendant's adjusted daily income, or ability to pay.³⁰¹

2. Costs

The prior Subsection set out the benefits of using occupational license restrictions as a debt collection tool using traditional cost-benefit analysis focused on effectiveness, efficiency, and protective guardrails. This Subsection both responds to those arguments and identifies additional and, perhaps unintended, costs.

First, the empirical data about the effectiveness of using occupational licensing restrictions to increase debt collection is both limited and lacking clear evidence of causality. The Maine data, for example, is small and lacks both a control group and any comparison group testing for the effectiveness of other collection tools, including less punitive measures.³⁰² In the years following Maine's implementation of occupational licensing restrictions to collect child support, aggregate national data

resources to pay, the court may revoke probation and sentence the defendant to imprisonment within the authorized range of its sentencing authority.”).

300. See Shanelle Johnson, *First Steps Toward More Equitable Fines and Fees Practices*, FINES & FEES JUST. CTR. 3 (Sept. 2024), https://finesandfeesjusticecenter.org/content/uploads/2020/11/FFJC_Policy_Guidance_Ability_to_Pay_Payment_Plan_Community_Service_Final_2.pdf [<https://perma.cc/E2HH-NHC9>] (defining “ability to pay” hearings as “the evaluation of an individual’s ability to pay a fine, fee or other monetary sanction” to “ensure that fines are proportionate and offer an interim solution for jurisdictions that have not yet eliminated all of their fees”); see also MO. REV. STAT. § 558.004(1) (2024) (“In determining the amount and method of payment of a fine, the court shall, insofar as practicable, proportion the fine to the burden that payment will impose in view of the financial resources of an individual.”); CAL. R. CT. 4.335(c)(1) (requiring that for infraction offenses, “[t]he court, on request of a defendant, must consider the defendant’s ability to pay”).

301. Beth A. Colgan, *Graduating Economic Sanctions According to Ability to Pay*, 103 IOWA L. REV. 53, 62–64 (2017).

302. 1997 HHS REPORT, *supra* note 88, at 8.

suggest that collection efforts have not become more successful over time.³⁰³

Even if we accept that occupational licensing restrictions increase debt collection, whether the dollars collected exceed the costs of collection is unclear. Because so many people owing child support debt have very low incomes,³⁰⁴ less than half of outstanding arrearages are likely to be paid over the next decade.³⁰⁵ And child support collection is expensive. States spend \$1 for every \$4.30 collected, an amount that does not account for personnel costs.³⁰⁶ Professor Beth Colgan finds similar results when assessing collection of court fines and fees, noting that administration and judicial oversight of delinquent court-related debts are expensive.³⁰⁷ She explains that “court dockets are often clogged by hearings where courts require people with outstanding debt to appear periodically, as well as hearings triggered when debtors fall behind on payments.”³⁰⁸ A report assessing collection of fines and fees in ten counties across New Mexico, Texas, and Florida similarly found that “[f]ees and fines are an inefficient source of government revenue.”³⁰⁹ On average, the study found that the counties in Texas and New Mexico spent \$0.41 of every dollar they collected on in-court hearings and jail costs, exclusive of administrative costs and burdens.³¹⁰

303. Oldham & Smyth, *supra* note 275, at 330 (“In 1995, 42.3% of custodial parents reported full payment of child support; by 2015, this percentage had increased only to 43.5% Similarly, in 1995, 24.3% reported receiving no support; by 2015, this percentage had increased to 30.7%.”).

304. Lollar, *supra* note 23, at 141 (“Almost 75% of parents owing large amounts of child support either had no reported income or reported incomes of \$10,000 a year or less.”).

305. *Id.* at 142 (“[O]nly 40% of child support debt is likely to be collected within the next ten years”).

306. Margaret Ryznar, *Two Direct Rights of Action in Child Support Enforcement*, 62 CATH. U. L. REV. 1007, 1015 (2013); *see also* Lollar, *supra* note 23, at 129 (complaining that the “economics underlying the system are both inefficient and morally troubling”).

307. Colgan, *supra* note 301, at 69–70 (arguing that economic sanctions are costly due to the need to hire staff to oversee delinquent accounts).

308. *Id.* at 70.

309. Matthew Menendez et al., *The Steep Costs of Criminal Justice Fees and Fines: A Fiscal Analysis of Three States and Ten Countries*, BRENNAN CTR. FOR JUST. 5 (Nov. 21, 2019), https://www.brennancenter.org/sites/default/files/2019-11/2019_10_Fees%26Fines_Final5.pdf [<https://perma.cc/G3JE-4E8V>].

310. *Id.*

Second, because there is little information about occupational license restriction as a collection tool,³¹¹ it is hard to know whether it is more efficient than other collection tools. What we do know is that efficiency is not easy to predict. In assessing the effectiveness and efficiency of graduated fine and fee assessments, Colgan finds that attempting to collect lesser amounts from individuals less able to pay resulted in greater net intake overall.³¹² Colgan rebuts “the misconceptions about the administrability of capturing and using financial data” and reports “strong indications . . . that graduation according to ability to pay can keep stable, and perhaps even improve, revenue intake, while also leading to reduced expenditures overall.”³¹³

Third, there are serious questions about whether the guardrails that allegedly protect those who cannot pay function effectively. Child support scholars have argued that the formula for determining a noncustodial parent’s monthly obligation is broken.³¹⁴ This is true for several reasons: a full-time minimum wage income is imputed to a noncustodial parent regardless of actual income;³¹⁵ low-income child support debtors may not be able to hire a lawyer to seek a necessary modification or protect their interests at an ability-to-pay hearing;³¹⁶ a court may order back child support for months prior to the invocation of the award even if the parent did not know about the child;³¹⁷ a court may award interest on overdue child support;³¹⁸ or a court may assume that a parent can continue to make minimum wage

311. See *supra* notes 203–05 (explaining the nationwide lack of data regarding the economic efficiency of revoking occupational licenses to collect debts).

312. Colgan, *supra* note 301, at 65 (arguing that lowering the amounts people of limited means are expected to pay may result in a larger overall collection of fines and fees).

313. *Id.*

314. See *infra* notes 370–75 (examining the negative societal impacts of non-custodial monthly payments that are unaffordable).

315. Tonya L. Brito, *Fathers Behind Bars: Rethinking Child Support Policy Toward Low-Income Noncustodial Fathers and Their Families*, 15 J. GENDER, RACE & JUST. 617, 639–40 (2012) (explaining the process of courts “imputing income,” or assuming an indigent father’s ability to earn minimum wage); Tait, *supra* note 157, at 309 (explaining how the court will assume the amount of income fathers should be able to earn).

316. Brito, *supra* note 315, at 619–20.

317. *Id.* at 642 n.202 (explaining how courts are “permitted to retroactively hold fathers liable for child support for some or all of the time between the birth of their child and the establishment of the court order”).

318. *Id.* at 642.

payments while incarcerated.³¹⁹ Any or all of these actions increases the parent's monthly obligation beyond what the formula would award and often beyond the parent's financial capacity.³²⁰

On the tax front, while federal income tax rates are graduated and progressive, implementation is not as progressive as the system, as designed, might predict.³²¹ Nor are state income tax schemes universally progressive. In fact, many states have a flat tax system.³²² In twelve states, personal income tax is a flat tax, disproportionately burdening lower-income households.³²³ And because some municipalities also assess a local income tax—often based on state filings³²⁴—the combination leads to a real possibility that one may be charged taxes in excess of ability to pay.

Nine states do not impose a state income tax on individuals at all.³²⁵ Where the state gets no revenue from income tax, the government must rely on other kinds of flat and regressive forms

319. *Id.* at 644 (explaining how many jurisdictions view incarceration as voluntary underemployment and thus refuse to modify payments to avoid rewarding “criminal behavior”); *see also* Cammett, *supra* note 182, at 385 (highlighting that felony status precludes child support modifications for incarcerated fathers).

320. Tonya L. Brito, *The Child Support Debt Bubble*, 9 U.C. IRVINE L. REV. 953, 955 (2019) (characterizing child support for low-income parents as a “financial bubble” because it is “artificially inflated, largely uncollectible, and potentially destructive”).

321. *See, e.g.*, Blank & Glogower, *supra* note 275, at 258 (“Economists and legal scholars have found that tax noncompliance may disproportionately benefit high-end taxpayers and, consequently, reduce the overall progressivity of the tax system.”).

322. *See* Jared Walczak & Katherine Loughead, *The State Flat Tax Revolution: Where Things Stand Today*, TAX FOUND. (Feb. 15, 2024), <https://taxfoundation.org/blog/flat-tax-state-income-tax-reform> [<https://perma.cc/6BLR-YUYK>] (noting twelve states that have flat income taxes and nine states with no income tax at all); Janet Berry-Johnson & Korrena Bailie, *9 States With No Income Tax*, FORBES ADVISOR (Oct. 19, 2023), <https://www.forbes.com/advisor/taxes/states-with-no-income-tax> [<https://perma.cc/SP7W-J356>] (elaborating on states with no income tax).

323. *Tax Rates by State 2024*, WORLD POPULATION REV. (2024), <https://worldpopulationreview.com/state-rankings/tax-rates-by-state> [<https://perma.cc/3FXJ-NHR2>] (listing which states use a flat rate).

324. Jared Walczak et al., *Local Income Taxes: A Primer*, TAX FOUND. 6 (Feb. 2023), <https://taxfoundation.org/wp-content/uploads/2023/02/Local-Income-Taxes-A-Primer-2023.pdf> [<https://perma.cc/R7GZ-6ZD2>] (explaining how local collection relies on states' own definition of “income”).

325. *See* sources cited *supra* note 322.

of taxation, including sales taxes, excise taxes, and property taxes, to raise necessary revenue.³²⁶ In Washington, for example, families making less than \$33,500 annually pay almost fourteen percent of their income in state and local taxes, whereas families making more than \$878,400 annually pay approximately five percent of their income in state and local taxes.³²⁷

Finally, many have argued that the limited guardrails around assessment and collection of fines and fees have collapsed.³²⁸ Defendants often face imposition of fines at the time of the violation or at sentencing (the assessment stage).³²⁹ Defendants can also face additional fines and fees if and when the defendant either fails to show up for a hearing (failure to appear) or fails to pay a fine or fee (failure to pay).³³⁰ Scholars and

326. See Melissa Hellmann et al., *How State Taxes Make Inequity Worse*, CTR. FOR PUB. INTEGRITY (Sept. 14, 2022), <https://publicintegrity.org/inequality-poverty-opportunity/taxes/unequal-burden/taxes-inequality-worse-progressive-tax> [<https://perma.cc/U49E-QADN>] (explaining that poor communities of color are the most harmed by flat/regressive taxes, which take a higher portion of their earnings relative to wealthier taxpayers).

327. Davis et al., *supra* note 293, at 100 (listing tables by state, including Washington).

328. April D. Fernandes et al., *Monetary Sanctions: A Review of Revenue Generation, Legal Challenges, and Reform*, 15 ANN. REV. L. & SOC. SCI. 397, 403 (2019) (“In many jurisdictions, the ability to pay is not systematically factored into the assessment of monetary sanctions, leaving indigent and low-income defendants open to additional sanctions and the threat of incarceration for failure to pay.”); Neil L. Sobol, *Griffin v. Illinois: Justice Independent of Wealth?*, 49 STETSON L. REV. 399, 429 (2020) (arguing that laws restricting occupational licenses or public assistance because of unpaid fines and fees “should be examined because they affect the ability of defendants and their families to escape the poverty debt cycle”); Edelman, *supra* note 85, at 217 (describing the process of fining and assessing fees against criminal defendants and then using draconian tools to collect on that debt as a “government-operated loan shark system”); see also *infra* notes 367–71 (explaining how the debt collection system disadvantages low-income fathers).

329. Foster, *supra* note 29, at 3 (“Throughout the United States, state and local courts impose stiff fines and fees on people convicted of criminal and civil offenses, including minor traffic and municipal code violations, misdemeanors and felonies.”); see also Cammett, *supra* note 182, at 378–79 (discussing the difference between fines, restitution penalties, and fee assessments).

330. Fernandes et al., *supra* note 328, at 404 (“Failure to appear for a hearing or pay for fines and fees has often resulted in stringent penalties for defendants, ranging from additional fines and fees and driver’s license suspensions to bench warrants and incarceration.”); cf. Jodi Rios, *Racial States of Municipal Governance: Policing Bodies and Space for Revenue in North St. Louis County, MO*, 37 L. & INEQ. 235, 285 (2019) (“The biggest factor residents name for not appearing in court is fear of jail for inability to pay.”).

advocates have pushed for ability-to-pay hearings at the assessment stage.³³¹ And although several jurisdictions have implemented such hearings, research on ten counties in three states “found that judges rarely hold ability-to-pay hearings.”³³² On the back end, while some jurisdictions consider a debtor’s ability to pay before utilizing punitive collection tactics,³³³ scholars have generally found that courts dealing with a defendant’s failure to pay a fine or fee “lack a systematic consideration of the ability to pay, which can result in punitive responses to the failure to pay.”³³⁴ In some jurisdictions, one of those responses is occupational licensing restriction.

C. BENEFITS AND BURDENS UNIQUE TO STATE-OWNED DEBT

The cost-benefit analysis set out above is, at its heart, about the collection of dollars relative to the dollars expended. This Article argues that limiting analysis to such a traditional, private, and arms-length kind of cost-benefit analysis is inappropriate in considering collection of state-owned debt. Rather, in addition to the analysis above, the government should also account for moral and public interest assessments in determining whether and how to collect debts due from its citizens.

While it may not garner universal acceptance, there is widespread agreement that the government has responsibilities to its citizenry that exceed those of private actors.³³⁵ Professors Donald Braman, Dan M. Kahan, and David A. Hoffman explain, for example, that the state has “twin obligations to protect its

331. Fernandes et al., *supra* note 328, at 403–04 (describing reform efforts seeking or implementing ability to pay hearings at the assessment of an LFO).

332. MENENDEZ ET AL., *supra* note 309, at 9.

333. New Jersey, for example, has mandated that its municipal courts hold ability-to-pay hearings for someone who failed to pay a prior fine or fee, assessing the circumstances for the need for payment schedules or sentencing alternatives. Fernandes et al., *supra* note 328, at 403.

334. *Id.* at 404.

335. See, e.g., *Implementing the Human Right to Water in the West: Conference Report*, 48 WILLAMETTE L. REV. 1, 27 (2011) (“[P]ositive human rights such as the human right to water and sanitation are the responsibility of governments rather than individuals and corporations.”); 20 N.Y. JUR. 2D *Constitutional Law* § 234 (2024), Westlaw (database updated Aug. 2024) (recognizing that the “police power is not limited to guarding merely the physical or material interests of a citizen. It permits a consideration of the citizen’s moral, intellectual, and spiritual needs as well”); see also *infra* note 343 (explaining tax funding public goods).

citizens from harm and to respect their freedom.”³³⁶ This includes moral and public interest considerations, in addition to financial considerations.³³⁷ This Subsection adopts that view, considering how the government’s use of debt-based occupational licensing restrictions could benefit and burden individuals, families, and communities.

1. Benefits

Collecting child support dollars, taxes, and court fines and fees has both public interest and moral rationales. The general public benefits from money collected with, for example, consistent welfare benefits, strong infrastructure, a reasonably paid and supported civil service, and investment in public schools. And morally, it only seems right that those who benefit from government services pay their fair share. A government that did not seek to collect from those who owe it money would likely be viewed as unjust by other taxpayers, incentivizing additional non-payment and a general lack of trust.³³⁸

Taxation is the primary mechanism to pay for government services and to address income and wealth inequality through redistribution. As tax scholar John Brooks explains, “[a]

336. See, e.g., Braman et al., *supra* note 270, at 1534.

337. See, e.g., June Carbone, “Blue” *Morality and the Legitimacy of the State—Ed Rubin’s Soul, Self, and Society: The New Morality and the Modern State*, 42 LAW & SOC. INQUIRY 582, 593 (2017) (describing Ed Rubin’s notion that “[t]he administrative state . . . exists to serve the public” and that “[c]itizens constitute the state and the state exists to advance the material well-being of its citizens”); Judith W. Wegner, *Do We Have the Will to Change?*, 71 N.C. L. REV. 1779, 1784 (1993) (describing colloquium participants’ agreement, among many, that America’s economic and social policies for combatting racism and poverty should “encourage mutual responsibility between government and individual citizens”); Anne-Marie Slaughter, *3 Responsibilities Every Government Has Towards Its Citizens*, WORLD ECON. F. (Feb. 13, 2017), <https://www.weforum.org/agenda/2017/02/government-responsibility-to-citizens-anne-marie-slaughter> [<https://perma.cc/E93M-WVY5>] (“The oldest and simplest justification for government is as protector.”); Michele Goodwin & Erwin Chemerinsky, *The Trump Administration: Immigration, Racism, and Covid-19*, 169 U. PA. L. REV. 313, 345 (2021) (noting that “[p]rotecting the public’s health is firmly rooted not only in law, but also in Supreme Court jurisprudence” in describing the government’s responsibilities during the COVID-19 pandemic).

338. The reverse—that taxpayers who see a government that enforces tax obligations are more likely to pay—is also likely true. Cf. Tess Wilkinson-Ryan & David A. Hoffman, *The Common Sense of Contract Formation*, 67 STAN. L. REV. 1269, 1280 (2015) (“[R]eciprocity norms are implicated in mortgage contracts, in assigned contracts, and even in divorce settlements.”).

redistributive tax-and-transfer system, and a progressive income tax in particular, not only funds the operations of government and provides for income redistribution, but also acts as a form of insurance against uncertain future income.”³³⁹ Not only do federal taxes support public spending and infrastructure, but so too do state and local taxes.³⁴⁰ Local taxes “pay for schools, pothole filling, road plowing, and other municipal services,” and the greater the tax base, the more money is spent on public services.³⁴¹ State taxes are similarly spent on the public, providing for “highways, statewide education grants, and national guardsmen, to name a few.”³⁴² And many scholars believe that the tax-and-transfer system is the primary and best mechanism for addressing income and wealth inequality in the United States.³⁴³ As Professors Kyle Logue and Ronen Avraham explain, “[t]he manner in which the tax-and-transfer system redistributes income is fairly straightforward: High income people are taxed more than low income people, with the lowest-income folks receiving transfer payments.”³⁴⁴ Undisputedly, the country’s tax-

339. John R. Brooks II, *Fiscal Federalism as Risk-Sharing: The Insurance Role of Redistributive Taxation*, 68 TAX L. REV. 89, 90 (2014) (listing municipal services and infrastructure supported by non-federal taxes).

340. Brian Galle, *Federal Fairness to State Taxpayers: Irrationality, Unfunded Mandates, and the “SALT” Deduction*, 106 MICH. L. REV. 805, 813 (2008).

341. *Id.*

342. *Id.*

343. Kyle Logue & Ronen Avraham, *Redistributing Optimally: Of Tax Rules, Legal Rules, and Insurance*, 56 TAX L. REV. 157, 160 (2003) (arguing that the tax system is the best method to redistribute wealth, but should not be the only one used); see also Blank & Glogower, *supra* note 275, at 243–44 (explaining how the tax system operates as an exception to the general legal rule of non-discrimination to effectively redistribute wealth). There is a growing body of scholarship, however, that argues for redistribution through legal rules and private law. See, e.g., Liscow, *supra* note 276, at 531–32 (arguing for policies supporting redistribution, based off examples from areas of law such as labor, antitrust, housing, and torts); Lee Anne Fennell & Richard H. McAdams, *The Distributive Deficit in Law and Economics*, 100 MINN. L. REV. 1051, 1056 (2016) (arguing that legal rules are not inherently worse than the tax-and-transfer system at redistributing wealth); Daphna Lewinsohn-Zamir, *In Defense of Redistribution Through Private Law*, 91 MINN. L. REV. 326, 331 (2006) (arguing that private laws are better for distribution than the tax-and-transfer system).

344. Logue & Avraham, *supra* note 343, at 175.

and-transfer program is the largest and most successful anti-poverty program.³⁴⁵

There are similar public interest and moral arguments about child support collection. Because almost one in three American adults have either been subject to paying child support or have received child support,³⁴⁶ it has long been the subject of policymaking. Increased child support payments decrease poverty and increase child well-being.³⁴⁷ Studies have connected increased child support payments with child emotional well-being, greater academic success, cognitive development, and fewer behavioral concerns.³⁴⁸ And regular payments allow the custodial parent more time to spend with their children.³⁴⁹

There is also a fairness justification for using robust methods—including occupational license restrictions—to collect on state-owned debt. Professor Joshua Blank lists reasons why individuals pay their taxes, which include “the perception that

345. Ariel Jurow Kleiman, *Inequality of Deservingness*, 23 J. CONTEMP. LEGAL ISSUES 235, 236 (2022) (“The U.S. tax system delivers the bulk of federal antipoverty cash support via the Earned Income Tax Credit (EITC) and Child Tax Credit (CTC).”); Susannah Camic Tahk, *The Tax War on Poverty*, 56 ARIZ. L. REV. 791, 793 (2014) (“Today . . . the federal government anchors many of its anti-poverty initiatives in the nation’s tax code.”); Sara Sternberg Greene, *The Broken Safety Net: A Study of Earned Income Tax Credit Recipients and a Proposal for Repair*, 88 N.Y.U. L. REV. 515, 519 (2013) (noting that the Earned Income Tax Credit is the center of the public safety net, which is the United States’ “largest cash-transfer program for low-income workers with children” and which has been called the “largest federal anti-poverty program” (first quoting Anne L. Alstott, *Why the EITC Doesn’t Make Work Pay*, 73 LAW & CONTEMP. PROBS. 285, 285 (2010); and then quoting Lawrence Zelenak, *Redesigning the Earned Income Tax Credit as a Family-Size Adjustment to the Minimum Wage*, 57 TAX L. REV. 301, 301 (2004))).

346. Tait, *supra* note 157, at 306.

347. Monica Hof Wallace, *Child Support Savings Accounts: An Innovative Approach to Child Support Enforcement*, 85 N.C. L. REV. 1155, 1166 (2007) (highlighting that child support payments can make the difference between falling below or above the poverty line for some families); *see also* Stacy Brustin, *Child Support: Shifting the Financial Burden in Low-Income Families*, 20 GEO. J. ON POVERTY L. & POL’Y 1, 15 (2012) (citing the Census Bureau’s 2009 Current Population Survey, which showed that “the additional income provided by child support helped lift a million people out of poverty in 2008[,]” but recognizing that poverty reduction occurs only where low-income families “actually receive it”).

348. Hof Wallace, *supra* note 347, at 1168–69 (recognizing other areas of a child’s life positively impacted because of child support payments).

349. *Id.* at 1167 (finding that “increased time and involvement” are a “residual benefit” of child support payments).

others are reciprocating one's tax compliance, a desire to avoid the negative signal of tax noncompliance, and the belief that payment of taxes is a duty of citizenship."³⁵⁰ Those rationales are largely about fairness: you pay your taxes, so I should pay my taxes. Not only do taxpayers not want to signal that they have cheated the government,³⁵¹ they also buy into "reciprocity theory," which suggests that taxpayers willingly pay taxes if they believe that their neighbors are doing the same.³⁵² The fairness rationale extends to arguments in favor of court fines and fees and, relatedly, robust collection methods. Proponents of court fines and fees point out that municipalities and states are facing a budget crisis, the criminal justice system is expensive,³⁵³ and fines and fees are a preferable alternative to incarceration.³⁵⁴ The underlying narrative, however, is about fairness: "individuals who 'use' the criminal legal system should bear some of the costs associated with its 'use.'"³⁵⁵ Ohio's "pay-to-stay" program, which charges inmates something akin to room and board, for example, was endorsed as a mechanism to "offset the costs

350. Blank, *supra* note 283, at 747–48.

351. *Id.* at 759 (using the signaling model to argue people pay taxes to demonstrate they are upstanding citizens).

352. *Id.* at 762. This sentiment took center stage in the 2023 Biden proposal to cancel certain federal student debt. Many people who had already paid off their student debt or never took on student debt considered student debt forgiveness to be unfair. Libby Nelson, *The "Fairness" Debate over Student Loan Forgiveness, Explained*, VOX (Aug. 31, 2022), <https://www.vox.com/policy-and-politics/23322129/student-loan-forgiveness-fair-inflation> [<https://perma.cc/6338-35W7>]; Zack Friedman, *Student Loan Forgiveness Is Completely Unfair to These People*, FORBES (May 31, 2022), <https://www.forbes.com/sites/zack-friedman/2022/05/31/student-loan-forgiveness-is-completely-unfair-to-these-people/?sh=4f74144b1035> [<https://perma.cc/WJB3-EEBR>].

353. Wayne A. Logan & Ronald F. Wright, *Mercenary Criminal Justice*, 2014 U. ILL. L. REV. 1175, 1177 (explaining that costs and fees are a major portion of money owed by criminal defendants).

354. See Jessica M. Eaglin, *Improving Economic Sanctions in the States*, 99 MINN. L. REV. 1837, 1837–38 (2015) (arguing fines and fees have become an extension of punishment for crime in America).

355. Wesley Dozier & Daniel Kiel, *Debt to Society: The Role of Fines & Fees Reform in Dismantling the Carceral State*, 54 U. MICH. J.L. REFORM 857, 864 (2021) (highlighting arguments made by state legislatures justifying fines and fees).

associated with” incarceration and promote “the importance of offender accountability.”³⁵⁶

2. Burdens

There are, however, moral and public interest downsides to consider. Using occupational licensing restrictions to collect state-owned debt can have negative effects on debtors, children and families, the state tax base, workforce and businesses, consumers, felony reintegration and non-recidivism goals, and statutory goals.³⁵⁷ Finally, the state’s use of debt collection tactics that reinforce the association between debt and moral failure has negative downstream consequences.³⁵⁸

Individuals who lose their occupational licenses because of debt may face lasting and harmful consequences.³⁵⁹ Threatened with licensure loss, debtors may go to extreme lengths to avoid that outcome, including by taking on additional debt or foregoing basic needs like food or shelter. When Roderick Scott Sr. was unable to renew his Texas teacher’s license in 2015 for overdue student loan debt, for example, he “immediately” took out a loan to pay the loan collector and entered into a repayment plan to pay the rest.³⁶⁰ Without other options, Mr. Scott used the money he had set aside for rent to pay down his debt, leading to his family’s eviction.³⁶¹ And even though he made sacrifices to pay off the debt, Mr. Scott still lost his “dream job.”³⁶² Job loss like Mr. Scott’s leads to additional negative outcomes, such as loss of

356. Katherine G. Porter, Student Article, *A “Debt” to Society?: Reassessing the Constitutionality of Pay-to-Stay Programs in Ohio Jails and Prisons*, 44 OHIO N.U. L. REV. 415, 417 (2018) (referencing the policies and goals of the program).

357. See *infra* notes 358–99 and accompanying text (detailing the negative effects of occupational licensing restrictions).

358. See, e.g., Najmabadi, *supra* note 196 (describing the situation of a man who lost his occupational license and who was then evicted as a result of paying his debt with the money he saved for rent). See generally Gustav Peebles, *The Anthropology of Credit and Debt*, 39 ANN. REV. ANTHROPOLOGY 225, 226 (2010) (discussing the moral association of credit and debt).

359. See, e.g., Najmabadi, *supra* note 196 (describing the situation of a man who lost his occupational license and who was then evicted as a result of paying his debt with the money he saved for rent).

360. *Id.*

361. *Id.*

362. *Id.*

relationships, loss of self-esteem,³⁶³ and increased levels of poverty.³⁶⁴ And because most licensing schemes require investment in time, money, and education,³⁶⁵ license revocation not only limits work, but strips the long-term value of the debtor's investment.³⁶⁶

These negative consequences have ripple effects that extend beyond individual debtors. Using occupational licensing restrictions to collect child support, for example, has negative effects on the child(ren). Removing a noncustodial parent's access to employment makes it more difficult for the debtor parent to support their child, financially and by spending time together.³⁶⁷ These state actions destabilize the entire family, breaking ties between parents and children and damaging the child(ren)'s well-being.³⁶⁸ And when a significant percentage of the cumulative child support arrearages are owed to the state under PRWORA,³⁶⁹ even successful collection cannot overcome the negative consequences to the family.

For both child support and other kinds of debt, there are also consequences that burden the broader public in the form of

363. See *infra* note 395 and accompanying text (discussing social isolation and effects on self-esteem).

364. See Sobol, *supra* note 328 (noting that restricting occupational licenses for criminal justice debt makes it more difficult for "defendants and their families to escape the poverty debt cycle").

365. See *supra* notes 73–74 and accompanying text (detailing the time and money investments required by licensing).

366. Increased restrictions can impose higher costs and effectively reduce the value of investing in licensure. See Dieterle et al., *supra* note 65, at 6 (discussing how licensing restrictions result in debtors taking out more debt).

367. See Lollar, *supra* note 23, at 170–71 ("Poor fathers are also more likely to be affected by the many collateral consequences that attach to child support arrears. . . . Whereas a father with sufficient financial means likely could work around these hurdles, for someone with little to no income, not being able to drive to work or get a professional license that would allow for a regular income can have devastating effects."); Laurie S. Kohn, *Engaging Men as Fathers: The Courts, the Law, and Father-Absence in Low-Income Families*, 35 *CARDOZO L. REV.* 511, 532 (2013) ("[D]ata indicate that child support enforcement is negatively correlated with visitation by nonresident fathers.").

368. See Lollar, *supra* note 23, at 129 (noting that a "critical determinant of a child's well-being" is the relationship with both parents, and that the current child support system actively undermines that by imposing "inefficient and morally troubling" punishments on parents unable to pay child support).

369. Hatcher, *supra* note 23, at 1030 ("Out of the \$105 billion in child support debt nationwide, the government claims half so it can seek to recoup the costs of welfare benefits provided to low-income families.").

increased bankruptcy filings and increased healthcare costs.³⁷⁰ Financial and administrative costs associated with collections divert resources for public safety and other public services.³⁷¹ And when one loses their occupational license, they are not only less likely to be able to pay off their debt, but they will draw less income on which the state can assess taxes.³⁷²

Stripping debtors' occupational licenses can also have negative effects on businesses, the workforce, and consumers. Because licensing schemes limit who can enter an occupation, businesses and chambers of commerce have lobbied against restrictive licensing schemes.³⁷³ When those licenses are further restricted because of debt, the workforce shrinks and costs rise,

370. U.S. DEPT OF HEALTH & HUM. SERVS., ESSENTIALS FOR ATTORNEYS IN CHILD SUPPORT ENFORCEMENT 11-73 (4th ed. 2021) ("Many obligors seek relief from their financial obligations in the U.S. Bankruptcy Courts."); cf. Tia Lee Kerkhof, Note, *Small Fines and Fees, Large Impacts: Ability-to-Pay Hearings*, 95 S. CAL. L. REV. 447, 456 (2021) (noting that collecting legal financial obligation debt from indigent people results in "cycles of poverty" with negative downstream consequences).

371. Cf. Joni Hirsch & Priya Sarathy Jones, *Driver's License Suspension for Unpaid Fines and Fees: The Movement for Reform*, 54 U. MICH. J.L. REFORM 875, 881 (2021) (noting that debt-based driving restrictions divert resources from public safety to courts and the DMV). A Phoenix study showed that reinstatement of 7,000 driver's licenses could increase Arizona's gross domestic product by almost \$150 million. Melissa Toback Levin, *Driver's License Suspensions for Nonpayments: A Discriminatory and Counterproductive Policy*, 48 HASTINGS CONST. L.Q. 73, 75 (2020).

372. Cf. Press Release, N.M. Health Care Auth., Governor Lujan Grisham Proclaims August Child Support Awareness Month (Aug. 9, 2021), <https://www.hsd.state.nm.us/2021/08/09/governor-lujan-grisham-proclaims-august-child-support-awareness-month-hsd-promotes-modern-child-support-family-program> [<https://perma.cc/H4CT-XXQJ>] (noting that a state pilot program "show[ed] that collections increased by 18.5% per child by focusing on providing job opportunities and sustained work participation for non-custodial parents").

373. See, e.g., *The New Georgia Economy: Winning the War for Talent: Policy and Best Practice Recommendations*, GA. CHAMBER OF COMMERCE 6 (2022), <https://www.gachamber.com/wp-content/uploads/2024/04/gac-2022-01-10-v4-WarForTalent-booklet-hw.pdf> [<https://perma.cc/R8DG-R8QC>] (promoting "flexibility in occupational licensing requirements to maintain and expand talent pipelines"); Andrew Fitzgerald & Brooke Hathaway, *(Let Us) Get to Work: How Expansive Louisiana Occupational Licensing Hinders Entrepreneurship and Hurts At-Risk Populations*, BATON ROUGE AREA CHAMBER 5 (Apr. 2019), https://brac.org/wp-content/uploads/PPC_OCCUPATIONAL-LICENSE_rev3.pdf [<https://perma.cc/EN5W-BEQC>] (advocating "eliminat[ing] licensing requirements from occupations that do not deal with health, public safety, or fiduciary and other heightened duties of care").

negatively affecting both businesses and consumers.³⁷⁴ This is particularly problematic in today's post-COVID-19 world. In 2021, the Bureau of Labor Statistics reported that there were a "record 10.9 million open jobs and 2.2 million more unfilled positions than people looking for work."³⁷⁵ While licensing schemes are not the only cause for such a mismatch, limiting access to employment through licensing requirements or debt-based licensing restrictions exacerbates the problem.³⁷⁶ Consider the well-documented national nursing shortage.³⁷⁷ Even in the face of a critical shortage, nurses, nurses' aides, and licensed practical nurses (LPNs) have been disproportionately burdened with debt-based occupational license restrictions. In 2021 and 2022, for example, twelve percent of Illinois's debt-based occupational license restrictions were applied to nursing licenses³⁷⁸ and almost one in ten LPNs lost their occupational licenses in Missouri between 2009 and 2016.³⁷⁹

For those caught in the criminal justice system, losing one's occupational license undermines felony reintegration and anti-recidivism goals. If criminal justice debt leads to occupational licensure revocation, former felons face a barrier to entry on top

374. See *supra* notes 68–69; see also Kleiner & Xu, *supra* note 72, at 1 (exploring how licensing schemes inhibit worker mobility and labor market fluidity, which "could be harmful for individual labor market outcomes as well as for the aggregate economy").

375. Adam Michel & Christina King, *Occupational Licensing Stands in the Way of Recovery*, U.S. CONG. JOINT ECON. COMM. REPUBLICANS (Sept. 28, 2021), <https://www.jec.senate.gov/public/index.cfm/republicans/2021/9/occupational-licensing-standing-in-the-way-of-recovery> [<https://perma.cc/7MZ2-6XCD>].

376. *Id.*; see also *Locked Out*, *supra* note 30, at 13 (showing how D.C.'s Clean Hands Law shrinks the District's labor pool, putting it at a disadvantage relative to Maryland and Virginia).

377. See Mark Hagland, *McKinsey Report: Nursing Shortage Will Become Dire by 2025*, HEALTHCARE INNOVATION (May 17, 2022), <https://www.hcinnovationgroup.com/policy-value-based-care/staffing-professional-development/news/21268125/mckinsey-report-nursing-shortage-will-become-dire-by-2025> [<https://perma.cc/K7NG-N3P7>] (predicting the nationwide nurse shortage could reach 450,000 by 2025).

378. See *IDFPR Consolidated Reports*, *supra* note 215.

379. Kenchington & White, *supra* note 219, at 20; see also *Locked Out*, *supra* note 30 at 14 (arguing that D.C.'s Clean Hands Law has placed a "special burden" on District hospitals and healthcare facilities, which face "an acute problem filling positions in the healthcare field").

of already-existing labor market constraints.³⁸⁰ Not only does this undermine the goals of debt repayment and probation compliance, it also undermines community reintegration and trust in formerly incarcerated people.³⁸¹ When court-involved people face fines and fees in excess of what they can afford, it can “promote[] recidivism by pushing people toward criminal activity as a means of obtaining funds to satisfy economic sanctions.”³⁸² This is particularly true when court fines and fees, along with the punitive economic sanctions for non-payment like occupational license restrictions, exacerbate the defendant’s financial insecurity.³⁸³ On the flip side, when a defendant’s ability to pay is taken into account, it can lead to reductions in crime and criminal justice system costs.³⁸⁴

Stripping workers of occupational licenses because they owe debt to the state also has a negative effect on certain statutory goals. Recall that restricting occupational licenses for unpaid child support arose in the context of 1996’s welfare reform bill known as PRWORA.³⁸⁵ The very same legislation, however, obligates noncustodial parents whose child receives welfare benefits to participate in “work activities,” such as paid or unpaid employment, job training, job search, community service, vocational education, or certain job skills training.³⁸⁶ When a noncustodial parent loses their occupational license, it undermines the

380. Andrew Elmore, *Labor Redemption in Work Law*, 11 UC IRVINE L. REV. 287, 289 (2020) (“[W]ork is elusive for people with a criminal record. Even a nonviolent criminal record reduces the chances of an employer interview or offer by about fifty percent.”).

381. *Id.* at 302–04 (“Finding and keeping work is also important for the individual as a means of material support and community reintegration, and for society as a marker of desistance.”).

382. Colgan, *supra* note 301, at 72.

383. *Id.* at 72–73 (“Unmanageable economic sanctions—along with penalties for failure to pay that restrict access to occupational and drivers’ licenses . . . drain defendants and their families of necessary resources, thus creating or exacerbating financial responsibility.”).

384. *Id.* at 73 (“[B]y ensuring that economic sanctions are within a defendant’s meaningful ability to pay, graduation has the potential to undermine criminogenic pushes and result in a decrease in system costs.”).

385. *See supra* notes 111–14 (describing the creation of PRWORA).

386. 42 U.S.C. § 666(a)(15)(B) (work requirement); *id.* § 607(d) (list of eligible work activities); *see also* Zatz, *supra* note 23, at 310 (“[PRWORA] . . . contains a little-studied provision requiring that state child support authorities be empowered to ‘issue an order that requires’ non-custodial parents to participate in ‘work activities’” (quoting 42 U.S.C. § 666(a)(15))).

personal responsibility goals of PRWORA.³⁸⁷ Relatedly, licensure loss for court debt undermines the work and anti-recidivist agenda of state and federal criminal laws that tie reintegration and work.³⁸⁸ When someone has a run-in with the court, accruing fines or fees, they may simultaneously face work requirements. In New Jersey, for example, the court may require the debtor to seek job training and work as part of the legal financial obligation (LFO) collection process.³⁸⁹ In Mississippi and Oklahoma, the court may require a debtor to work off their debt in restitution centers or residential drug treatment centers.³⁹⁰ And in California, the court may mandate unpaid community service to “work off” court fines and fees.³⁹¹ In many states, the court may attach work requirements to probation or parole requirements.³⁹² By simultaneously requiring work and threatening the loss of occupational licensure, policymakers have put themselves and debtors in a no-win situation.

Finally, the state as debt collector must contend with the negative effects—individually and societally—of using punitive collection tools that treat debt as shameful and a debtor as a criminal.³⁹³ By treating the debtor as a criminal simply because of the debt, the state reinforces centuries of shaming debtors. Anthropologist David Graeber, in his exploration of debt over 5,000 years, explained: “If history shows anything, it is that there’s no better way to justify relations founded on violence, to make such relations seem moral, than by reframing them in the

387. *See supra* notes 108–09.

388. *See generally* Elmore, *supra* note 380, at 292 (noting that behind state requirements that individuals released from incarceration must find work and pay court-ordered fines “lies a broad assignment of the responsibility to find work as a central goal of reintegration into society”).

389. Zatz, *supra* note 23, at 315.

390. *Id.* at 315–16 (Mississippi); *id.* at 319 (Oklahoma); *see also* Anna Wolfe & Michelle Liu, *Think Debtors Prisons Are a Thing of the Past? Not in Mississippi*, THE MARSHALL PROJECT (Jan. 9, 2020), <https://www.themarshallproject.org/2020/01/09/think-debtors-prisons-are-a-thing-of-the-past-not-in-mississippi> [<https://perma.cc/TQ6Y-XKCC>] (exploring Mississippi’s process of sentencing convicted people to a restitution center to pay off their fines and fees).

391. Zatz, *supra* note 23, at 326 (citing CAL. PENAL CODE § 1209.5 (2020)).

392. *Id.* at 317.

393. *Cf.* Ann Cammett, *The Shadow Law of Child Support*, 102 B.U. L. REV. 2237, 2246–56 (2022) (exploring how the child support system has connected poverty and morality).

language of debt—above all, because it immediately makes it seem that it’s the victim who’s doing something wrong.”³⁹⁴

That association is dangerous, especially when reinforced by the state. Debtors already experience shame and stigma.³⁹⁵ They also suffer downstream consequences, including physical effects like migraines, back pain, and hypertension; psychological effects like depression; and social effects like low self-esteem, social isolation, and high divorce rates.³⁹⁶ Because restricting occupational licenses is financially punitive beyond the extent of the debt owed and is effectively publicly disclosed, and because one’s occupation is central to one’s identity and self-worth, the government should be careful when engaging it.³⁹⁷ This is especially true when it is unlikely to lead to debt repayment and is thus used primarily to punish moral failure.³⁹⁸

394. DAVID GRAEBER, *DEBT: THE FIRST 5,000 YEARS* 5 (2014).

395. Michael D. Sousa, *Debt Stigma and Social Class*, 41 SEATTLE U. L. REV. 965, 966 (2018) (“[N]otions of morality undergird the entire debtor-creditor relationship.”); Michael D. Sousa, *Bankruptcy Stigma: A Socio-Legal Study*, 87 AM. BANKR. L. J. 435, 463–69 (2013) (interviews of Chapter 7 bankruptcy filers revealed filers felt shame and stigma about their inability to pay); Joe J. Gladstone et al., *Financial Shame Spirals: How Shame Intensifies Financial Hardship*, 167 ORGANIZATIONAL BEHAV. & HUM. DECISION PROCESSES 42, 52 (2021) (“[W]e found evidence for a vicious cycle between shame and financial hardship . . .”).

396. Daniel A. Austin, *The Indentured Generation: Bankruptcy and Student Loan Debt*, 53 SANTA CLARA L. REV. 329, 401–02 (2013).

397. See Joshua D. Blank, *What’s Wrong with Shaming Corporate Tax Abuse*, 62 TAX L. REV. 539, 547–49 (2009) (describing shaming sanctions to include state condemnation of a person “for violating a shared moral norm” issued “in a dramatic and public fashion” and potentially “provok[ing] communal ostracism of the offender”).

398. See, e.g., Lollar, *supra* note 23, at 130 (“We are punishing these fathers for their reproductive decisions, for having ‘irresponsible sex,’ and for not living up to our societal expectation of fatherhood.”); Carolyn Carter et al., *Collecting Criminal Justice Debt Through the State Civil Justice System: A Primer for Advocates and Policymakers*, NAT’L CONSUMER L. CTR. 3 (May 2021), https://www.nclc.org/wp-content/uploads/2022/09/Rpt_CJ_Debt_State_Civil_Justice_System.pdf [<https://perma.cc/F4BL-TDCC>] (observing that threatening or enforcing incarceration for nonpayment of court fines and fees is a “punishment” that “unfairly enmesh[es] those who cannot afford to pay further in the criminal justice system and add[s] to the financial burden of their debt, including by leading to assessment of more fees and fines and by making it more difficult to maintain or secure employment”); Akheil Singla et al., *Race, Representation, and Revenue: Reliance on Fines and Forfeitures in City Governments*, 56 URB. AFFS. REV. 1132, 1134 (2020) (describing revenues from fines and forfeitures as

IV. THREADING THE NEEDLE: POSSIBILITIES FOR CHANGE

Policymakers are constantly weighing benefits and burdens, pros and cons, and costs of taking and implementing certain state actions. They should do so in the context of debt collection. They also should do so in accord with the expanded benefits and burdens unique to state actors discussed above. And because many state and municipal debt collection statutes are encouraged or enforced by federal legislation or guidance, that task should be undertaken at the federal, state, and local levels. Should policymakers decide that the burdens outlined above outweigh the benefits, they may decide to eradicate certain practices, like using occupational licensing restrictions as a debt collection tool, altogether.³⁹⁹ Short of that decision, this Part introduces some potential adjustments to the current approach of using occupational licensing restrictions to collect overdue debt from individuals that account for some of the state's moral and public interest goals, even the playing field, and better protect the most vulnerable debtors. The proposals are initial ideas and have not been fleshed out enough for implementation. They are neither comprehensive nor singular. Rather this Part should be considered an early brainstorm for scholars, advocates, and policymakers to consider, refine, and supplement as they assess the state's responsibility in collecting its debt.

First, this Article surfaces a severe lack of data on debt-based occupational licensing restrictions. To adequately inform themselves, policymakers should create requirements and mechanisms for states and municipalities to track the number of occupational licensing restrictions, disaggregated by occupation, annually. More in-depth data collection, such as notices related to debt-based occupational licensing sent, the number of requests for ability-to-pay determinations, and the amounts collected in the wake of a threat to an occupational license, all disaggregated by occupation, would be ideal, although more onerous. Once collected, the data should be made publicly available. This suggestion is not unreasonable. Illinois's Department

a "form of punishment associated with some illegal or otherwise prohibited activity rather than a broad-based tax").

399. *Cf.* Elengold, *supra* note 29 (arguing that states should eliminate any statutes that tie state-owned debt to driver's license and car registration restrictions).

of Financial and Professional Regulation already maintains and makes publicly available monthly statements that identify individuals who have lost their occupational license and for what reason, broken down by occupation.⁴⁰⁰ This kind of data collection could be mandated by federal or state statute or could be tied to federal or state funding.⁴⁰¹

Second, there are a number of possibilities for legislative action that could change the calculus outlined in Part III. One possibility is for policymakers to require robust ability-to-pay hearings that “consider an individual’s ability to pay . . . without having to forgo basic living necessities such as food, shelter, clothing, medical expenses, or child support.”⁴⁰² One way to do that would be to require a finding of willful contempt for nonpayment prior to restricting an occupational license.⁴⁰³ Courts should be clear that the nonpayment itself must be willful and that it is the government’s responsibility to establish ability to pay. Courts should be familiar with this kind of analysis from assessing willfulness in other areas of law.⁴⁰⁴ It is also consistent

400. See, e.g., *IDFPR Consolidated Reports*, *supra* note 215. Although the Illinois data lists individuals, disclosure of such personally identifiable information may have negative consequences and is not necessary for this Article’s proposal.

401. See *supra* notes 111–14 (describing PRWORA’s background and enforcement).

402. Shanelle Johnson, *First Steps Toward More Equitable Fines and Fee Practices*, FINES & FEES JUST. CTR. 9 (Sept. 2024) https://finesandfeesjusticecenter.org/content/uploads/2020/11/FFJC_Policy_Guidance_Ability_to_Pay_Payment_Plan_Community_Service_Final_2.pdf [<https://perma.cc/9PFS-4DYG>].

403. Even when states limit punitive collection measures to a “willful” refusal to pay child support, courts have interpreted that to be a “willful failure to acquire the means to pay.” *Zatz*, *supra* note 23, at 311 (citing *Comm’r of Soc. Servs. v. Rosen*, 736 N.Y.S.2d 42, 44 (N.Y. App. Div. 2001), as an example of New York’s routine practice of upholding incarceration for nonpayment, despite the debtor’s immediate lack of funds); see *Amunrud v. Bd. of Appeals*, 143 P.3d 571, 572–73 (Wash. 2006) (requiring service of “intent to seek revocation of a license of the parent” and offering the parent the opportunity for a hearing), *abrogated by Yim v. City of Seattle*, 451 P.3d 694 (Wash. 2019); *Dababnah v. W. Va. Bd. of Med.*, 535 S.E.2d 220, 225–26 (W. Va. 2000) (discussing West Virginia’s requirement of an “issuance of a notice by the child support division”).

404. See, e.g., *Kawauhau v. Geiger*, 523 U.S. 57, 60–61 (1998) (discussing the term “willful” in “willful injury” language in the bankruptcy code related to the inability to discharge some debt); *Stedman v. District of Columbia*, 12 A.3d 1156, 1156–57 (D.C. 2011) (assessing conduct required by District of Columbia law for willful failure to pay a tax); *Spaulding v. Alliant Foodservice, Inc.*, 689

with the notion that the state's authority to use certain collection tools that create significant hardship for the debtor, like occupational licensing restrictions, is not, by itself, a deterrent because deterrence is only effective for those who have an ability to pay the debt.

Policymakers might also consider using alternative debt collection tools rather than restricting the debtor's occupational license. In addition to existing tools like wage or tax return garnishment, advocates have pushed for payment plans or community service to allow a debtor to satisfy their debt at a reasonable rate.⁴⁰⁵ Professor Jeremy Bearer-Friend, for example, has explored ways that taxpayers can and have provided services or given noncash property to the government in lieu of paying taxes.⁴⁰⁶ Massachusetts' program to allow citizens to "pay" taxes through public service such as "painting fire hydrants, shelving public library books, and answering phones for city hall" offers an example.⁴⁰⁷ The same concept could be implemented with respect to any state-owned debt, turning to occupational licensing restriction only when those other options have failed.

Finally, policymakers could consider limiting debt-based occupational licensing restrictions to certain occupations with a mean income higher than a certain threshold amount.⁴⁰⁸ This is not a particularly novel idea.⁴⁰⁹ Beth Colgan has found that graduating fines and fees on the front end has shown promise for

N.W.2d 593, 603 (Neb. Ct. App. 2004) (discussing whether employee's conduct rose to the level of willful negligence necessary to void employment benefits).

405. See Johnson, *supra* note 402, at 6–7 (offering payment plans and community service as reasonable alternatives to fees and fines).

406. Jeremy Bearer-Friend, *Tax Without Cash*, 106 MINN. L. REV. 953, 958 (2021) (considering "a tax system beyond cash-tax exclusivity").

407. *Id.* at 967.

408. This is similar to income tax "tagging." See George A. Akerlof, *The Economics of "Tagging" as Applied to the Optimal Income Tax, Welfare Programs, and Manpower Planning*, 68 AM. ECON. REV. 8, 8 (1978) (describing "tagging" as a kind of income tax scheme where a tax, positive or negative, can be applied to people with certain characteristics, rather than to a tax scheme where all people are treated alike); see also Yulia Kuchumova, *A Collateral Tax Sanction: When Does It Mimic a Welfare-Improving Tag?*, 25 INT'L TAX & PUB. FIN. 841, 843 (2018) (proposing using collateral tax sanctions to improve the redistribution of income as related to Akerlof's tagging).

409. *Cf.* Liscow, *supra* note 276, at 495 (arguing that redistribution to address inequality should not be limited to tax-and-transfer policies but should be extended across many different policy domains).

both effectiveness and efficiency of collection.⁴¹⁰ Those benefits are just as likely to succeed on the back end, using collection tools based on their likelihood of success rather than on a one size fits all approach.

CONCLUSION

Work is critical to one's identity, social connection, and financial well-being. When one owes debt to the state, however, occupational licensing restrictions may limit their ability to work. This Article's mapping of debt-based occupational licensing statutes establishes that they are ubiquitous across the nation, largely affecting lower-income occupations.

As occupational licensing restrictions as a debt collection tool have largely been unstudied and uninterrogated, policymakers have not been asked to grapple with their costs and benefits. This Article challenges them to consider whether this punitive debt collection tool has more advantages than disadvantages, employing a traditional cost-benefit analysis alongside and supplemented by an assessment of moral and public interest trade-offs unique to state action.

My goal here is to shed much-needed light on this under-recognized and under-reported phenomenon, its ironies, and its downstream consequences. I further aim to spur discussions among legal and non-legal scholars, advocates, and policymakers not only about *whether* to employ debt-based occupational licensing restrictions to collect on state-owned debt, but also *how* to undertake that kind of critical assessment.

410. Colgan, *supra* note 301, at 58. See generally Blank & Glogower, *supra* note 275, at 242 (noting that Finland's penal code "imposes variable fines calculated as a fraction of the offender's average annual income, reduced by an exemption amount for basic consumption needs").

APPENDIX

Table 1: Statutes Authorizing Occupational Licensing Restrictions for Broadly Construed “Debt”

State	Code Citation	Mandatory or Discretionary ⁴¹¹
Iowa	IOWA CODE §§ 272D.1–.9 (2024)	Discretionary
Louisiana	LA. STAT. ANN. §§ 47:1676(A)(2), (B)(3), (D)(3)(b)(i)–(ii) (2024)	Discretionary
Minnesota	MINN. STAT. §§ 16D.02(3), .04(2)(a), .08(1)–(2)(a), 270C.72(1)(a)–(c) (2023)	Discretionary
Nevada	NEV. REV. STAT. §§ 353C.020, .040–.060, .1965 (2023)	Mandatory
Washington, D.C.	D.C. CODE § 47-2862 (2024)	Mandatory
Washington, D.C.	D.C. CODE § 47- 2853.17(a)(15), (c)(1)– (3) (2024)	Discretionary

411. “Mandatory” refers to a statute that requires debt-based occupational licensing restrictions. “Discretionary” refers to a statute that permits debt-based occupational licensing restrictions.

Table 2: Statutes Authorizing Occupational Licensing Restrictions for Child Support Debt

Category	Total
Occupational licensing restrictions for child support debt	51 ⁴¹²
Mandatory	14 ⁴¹³
Permissive	23 ⁴¹⁴
Unclear/Mixed	14 ⁴¹⁵
Administrative	24 ⁴¹⁶
Judicial	12 ⁴¹⁷

412. See *infra* notes 413–18.

413. ALASKA STAT. § 25.27.244 (2024); ARK. CODE ANN. § 9-14-239 (2024); CAL. FAM. CODE § 17520 (2024); D.C. CODE § 46-225.01(b) (2024); HAW. REV. STAT. §§ 576D-1, 576D-13, 436B-19.5 (2023); IND. CODE. §§ 31-16-12-8, -25-4-32 (2023); KY. REV. STAT. ANN. § 205.712(9)–(11) (West 2024) (effective until July 1, 2025); MINN. STAT. §§ 214.101, 518A.66 (2023); MISS. CODE ANN. §§ 93-11-153, -155, -157, -163 (2024); NEV. REV. STAT. §§ 425.500, .530 (2023); N.J. STAT. ANN. § 2A:17-56.41 (West 2024); 23 PA. CONS. STAT. § 4355 (2024); S.C. CODE ANN. §§ 63-17-1010 to -1060 (2023); W. VA. CODE §§ 48-15-101 to -304 (2023).

414. ALA. CODE § 30-3-171 to -179 (2024); COLO. REV. STAT. § 26-13-126 (2024); CONN. GEN. STAT. ANN. § 46b-220 (West 2024); DEL. CODE ANN. tit. 13, §§ 516(g), 2216 (West 2023–24); FLA. STAT. ANN. § 409.2598 (West 2024); KAN. STAT. ANN. §§ 20-1204a(f), 74-147 (West 2024); LA. STAT. ANN. § 9:315.32 (2024); ME. REV. STAT. ANN. tit. 19-A, § 2603-A (West 2024); MD. CODE ANN., FAM. LAW § 10-119.3 (West 2023); MASS. GEN. LAWS ANN. ch. 119A, § 16 (West 2024); MICH. COMP. LAWS ANN. §§ 552.628–.630, .644–.645 (West 2024); MO. ANN. STAT. §§ 454.1003, .1005, .1008 (West 2023); N.Y. DOM. REL. LAW § 244-c (McKinney 2024); N.C. GEN. STAT. §§ 50-13.12, 93B0-13, 110-142.1 (202); N.D. CENT. CODE § 14-08.1-06 (2023); OR. REV. STAT. ANN. §§ 25.750, .759 (West 2024); 15 R.I. GEN. LAWS § 15-11.1-3 (2024); TENN. CODE ANN. § 36-5-702 (2024); TEX. FAM. CODE ANN. § 232.003 (West 2023); UTAH CODE ANN. § 78B-6-315 (West 2024); VT. STAT. ANN. tit. 15, §§ 606, 798 (2023–24); VA. CODE ANN. § 63.2-1937 (2024); WYO. STAT. ANN. § 20-6-112 (2023).

415. ARIZ. REV. STAT. ANN. §§ 25-517 to -518, 32-3701 (2024); GA. CODE ANN. §§ 19-11-9.3, 19-6-28.1, 43-1-19(11) (2024); IDAHO CODE §§ 7-1401 to -1417 (West 2023); 20 ILL. COMP. STAT. ANN. 2105/2105-15(a)(5) (West 2024); 305 ILL. COMP. STAT. ANN. 5/10-17.6 (West 2024); IOWA CODE ANN. §§ 252J.1–.9 (West 2024); MONT. CODE ANN. §§ 40-5-701 to -710 (West 2023); NEB. REV. STAT. ANN. §§ 43-3314 to -3318 (West 2024); N.H. REV. STAT. ANN. § 161-B:11 (2023); N.M. STAT. ANN. §§ 40-5A-4 to -8 (West 2023); OHIO REV. CODE ANN. §§ 3123.43–.44, .47 (West 2023–24); OKLA. STAT. ANN. tit. 43, § 139.1, tit. 56, § 240.15 (West 2024); S.D. CODIFIED LAWS § 25-7A-56–56.1 (2024); WASH. REV. CODE ANN.

§§ 26.23.050, 74.20A.320 (West 2024); WIS. STAT. ANN. §§ 49.857, 440.13 (West 2024).

416. ALA. CODE § 30-3-171 to -179 (2024); ALASKA STAT. § 25.27.244 (2024); ARK. CODE ANN. § 9-14-239 (2024); CAL. FAM. CODE § 17520 (2024); COLO. REV. STAT. § 26-13-126 (2024); D.C. CODE § 46-225.01(b) (2024); FLA. STAT. ANN. § 409.2598 (West 2024); HAW. REV. STAT. §§ 576D-13, 436B-19.5 (2023); IOWA CODE ANN. §§ 252J.2–.9 (West 2024); KY. REV. STAT. ANN. § 205.712(9)–(11), (14) (West 2024) (effective until July 1, 2025); MD. CODE ANN., FAM. LAW § 10-119.3 (West 2023); MASS. GEN. LAWS ANN. ch. 119A, § 16 (West 2024); MISS. CODE ANN. §§ 93-11-153, -155, -157, -163 (2024); MONT. CODE ANN. §§ 40-5-702 to -705 (West 2023); NEB. REV. STAT. ANN. §§ 43-3314 to -3318 (West 2024); NEV. REV. STAT. §§ 425.500–.530 (2023); N.H. REV. STAT. ANN. § 161-B:11 (2023); OHIO REV. CODE ANN. §§ 3123.43–.47 (West 2023–24); OR. REV. STAT. ANN. §§ 25.750, .759 (West 2024); 15 R.I. GEN. LAWS §§ 15-11.1-2 to -8 (2024); S.C. CODE ANN. § 63-17-1060 (2023); TENN. CODE ANN. §§ 36-5-701 to -707 (2024); WASH. REV. CODE ANN. §§ 26.23.050, 74.20A.320 (West 2024); WIS. STAT. ANN. §§ 49.857, 440.13 (West 2024).

417. CONN. GEN. STAT. ANN. § 46b-220 (West 2024); DEL. CODE ANN. tit. 13, §§ 516(g), 2216 (West 2023–24); KAN. STAT. ANN. §§ 20-1204a(f), 74-147 (West 2024); LA. STAT. ANN. §§ 9:315.30–.33 (2024); ME. REV. STAT. ANN. tit. 19-a, § 2603-A (West 2024); MO. ANN. STAT. § 454.1003 (West 2023); N.J. STAT. ANN. § 2A:17-56.41 (West 2024); N.Y. DOM. REL. LAW § 244-c (McKinney 2024); N.D. CENT. CODE § 14-08.1-06 (2023); UTAH CODE ANN. § 78B-6-315 (West 2024); VA. CODE ANN. § 63.2-1937 (2024); WYO. STAT. ANN. § 20-6-112 (2023).

Table 3: Statutes Authorizing Occupational Licensing Restrictions for Tax Debt

State	Code Citation	Mandatory/ Permissive
Alabama	ALA. CODE § 11-51-150 (2024)	Permissive
Alaska	ALASKA STAT. § 43.10.045 (2024)	Mandatory
Arkansas	ARK. CODE ANN. § 26-18-601 (2024)	Permissive
California	CAL. BUS. & PROF. CODE § 494.5 (West 2024)	Mandatory ⁴¹⁸
Connecticut	CONN. GEN. STAT. ANN. § 12-39o (West 2024)	Permissive
Delaware	DEL. CODE. ANN. tit. 30, § 547 (West 2023–24)	Mandatory
Indiana	IND. CODE ANN. § 25-1-1-1 (West 2023)	Mandatory
Illinois	20 ILL. COMP. STAT. ANN. 2105/2105-15(g) (West 2024)	Mandatory
Iowa	IOWA CODE §§ 272D.1–.9 (2024)	Permissive
Kentucky	KY. REV. STAT. ANN. § 131.1817 (West 2024)	Permissive
Louisiana	LA. STAT. ANN. § 47:1676 (2024)	Permissive ⁴¹⁹

418. The statute makes action mandatory for all license types except California Bar licenses, where action is permissive. See CAL. BUS. & PROF. CODE § 494.5(a)(1), (3) (West 2024).

419. Representatives from Louisiana informed reporters from The Center for Public Integrity that they do not restrict occupational licenses for overdue state income tax debt. Telephone Interview with Maya Srikrishnan, Investigative Reporter, Ctr. for Pub. Integrity (Dec. 19, 2023).

State	Code Citation	Mandatory/ Permissive
Maine	ME. STAT. tit. 36, § 175 (2024)	Unclear/Mixed
Maryland	MD. CODE ANN. BUS. OCC. & PROF. § 1-204 (West 2023); MD. CODE ANN. BUS. REG. § 1-210 (West 2023); MD. CODE ANN. HEALTH OCC. § 1-213 (West 2023)	Mandatory
Massachusetts	MASS. GEN. LAWS ch. 62C, § 47A (2023)	Mandatory
Minnesota	MINN. STAT. § 270C.72 (2023)	Unclear/Mixed
Missouri	MO. REV. STAT. § 324.010 (2023)	Mandatory
Nevada	NEV. REV. STAT. ANN. §§ 76.173, 353C.1965 (2023)	Mandatory
New Jersey	N.J. STAT. ANN. § 40:52-1.2 (West 2024)	Permissive
Oklahoma	OKLA. STAT. ANN. tit. 68, § 212 (West 2024)	Permissive
Oregon	OR. REV. STAT. § 305.385 (2024)	Permissive
Rhode Island	5 R.I. GEN. LAWS § 5-76-2 (2024)	Mandatory
South Carolina	S.C. CODE ANN. § 40-68-160(B)(12) (2023)	Permissive
Tennessee	TENN. CODE ANN. § 67-4-1704 (2024)	Mandatory
Vermont	VT. STAT. ANN. tit. 32, § 3113 (2023–24)	Mandatory
West Virginia	W. VA. CODE § 11-12-5 (2023)	Permissive

State	Code Citation	Mandatory/ Permissive
Wisconsin	WIS. STAT. ANN. §§ 73.0301–.0302, 440.12 (West 2024)	Mandatory
Washington, D.C.	D.C. CODE § 47-2862 (2024)	Mandatory

**Table 4: Statutes Authorizing Occupational
Licensing Restrictions for Fines and Fees**

State	Code Citation	Mandatory/ Permissive
Iowa	IOWA CODE § 272D.1–.9 (2024)	Permissive
Louisiana	LA. STAT. ANN. § 47:1676(B)(3) (2024)	Permissive
Minnesota	MINN. STAT. § 16D.08 (2023)	Permissive
Nevada	NEV. REV. STAT. §§ 353C.040–.060, .1965 (2023)	Mandatory
Washington, D.C.	D.C. CODE §§ 47-2862, -2853.17 (2024)	Mandatory
