

SENATE BILL 79

R4, D4

8lr0036

(PRE-FILED)

By: **Chair, Judicial Proceedings Committee (By Request – Departmental – Human Services)**

Requested: September 27, 2017

Introduced and read first time: January 10, 2018

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Child Support – Employment Program Participation – Reinstatement of Driver’s**
3 **License and Expungement of Suspension**

4 FOR the purpose of requiring the Motor Vehicle Administration, on request of the Child
5 Support Administration, to expunge a record of a suspension for failure to pay child
6 support under certain circumstances; prohibiting a request by the Child Support
7 Administration to expunge a certain record from affecting any suspension unrelated
8 to child support; requiring the Motor Vehicle Administration to reinstate a certain
9 obligor’s license or privilege to drive under certain circumstances; authorizing the
10 Child Support Administration to request that the Motor Vehicle Administration
11 expunge a record of a suspension for failure to pay child support under certain
12 circumstances; authorizing the Secretary of Transportation, in cooperation with the
13 Secretary of Human Services, to adopt regulations to implement certain provisions
14 of this Act; defining a certain term; providing for the effective date of certain
15 provisions of this Act; providing for the termination of certain provisions of this Act;
16 and generally relating to child support.

17 BY repealing and reenacting, with amendments,
18 Article – Transportation
19 Section 16–117.1 and 16–203
20 Annotated Code of Maryland
21 (2012 Replacement Volume and 2017 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – Family Law
24 Section 10–119
25 Annotated Code of Maryland
26 (2012 Replacement Volume and 2017 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
 2 Article – Family Law
 3 Section 10–119(d)
 4 Annotated Code of Maryland
 5 (2012 Replacement Volume and 2017 Supplement)
 6 (As enacted by Chapter 312 of the Acts of the General Assembly of 2016)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 8 That the Laws of Maryland read as follows:

9 **Article – Transportation**

10 16–117.1.

11 (a) **(1)** In this section[, “criminal”] **THE FOLLOWING WORDS HAVE THE**
 12 **MEANINGS INDICATED.**

13 **(2)** **“CHILD SUPPORT ADMINISTRATION” MEANS THE CHILD**
 14 **SUPPORT ADMINISTRATION OF THE DEPARTMENT OF HUMAN SERVICES.**

15 **(3)** **“CRIMINAL offense”** does not include any violation of the Maryland
 16 Vehicle Law.

17 (b) The Administration shall expunge the public driving record of a licensee if:

18 (1) The licensee has not been convicted of a moving violation or a criminal
 19 offense involving a motor vehicle for the preceding 3 years, and the licensee’s license never
 20 has been suspended for reasons related to driver safety, as defined by the Administration,
 21 or revoked;

22 (2) The licensee has not been convicted of a moving violation or a criminal
 23 offense involving a motor vehicle for the preceding 5 years, and the licensee’s record shows
 24 not more than one suspension for reasons related to driver safety, as defined by the
 25 Administration, and no revocations; or

26 (3) Within the preceding 10 years:

27 (i) The licensee has not been granted probation before judgment for
 28 a violation of § 20–102 or § 21–902 of this article; and

29 (ii) The licensee has not been convicted of any moving violation or
 30 criminal offense involving a motor vehicle, regardless of the number of suspensions or
 31 revocations.

32 **(C) (1) ON REQUEST OF THE CHILD SUPPORT ADMINISTRATION, THE**
 33 **ADMINISTRATION SHALL EXPUNGE A RECORD OF A SUSPENSION FOR FAILURE TO**

1 **PAY CHILD SUPPORT:**

2 **(I) FOR A LICENSEE WHO IS ENROLLED IN AND COMPLIANT**
3 **WITH AN EMPLOYMENT PROGRAM APPROVED BY THE CHILD SUPPORT**
4 **ADMINISTRATION, IF THE LICENSEE:**

5 **1. HAS NOT BEEN CONVICTED OF DRIVING ON A LICENSE**
6 **THAT WAS SUSPENDED FOR FAILURE TO PAY CHILD SUPPORT; AND**

7 **2. DOES NOT HAVE CHARGES RELATED TO THE**
8 **SUSPENSION FOR FAILURE TO PAY CHILD SUPPORT PENDING AGAINST THE**
9 **LICENSEE; OR**

10 **(II) IF THE CHILD SUPPORT ADMINISTRATION NOTIFIES THE**
11 **ADMINISTRATION THAT THE INFORMATION REPORTED BY THE CHILD SUPPORT**
12 **ADMINISTRATION THAT LED TO THE SUSPENSION WAS INACCURATE.**

13 **(2) A REQUEST BY THE CHILD SUPPORT ADMINISTRATION TO**
14 **EXPUNGE A RECORD UNDER THIS SUBSECTION MAY NOT AFFECT ANY SUSPENSION**
15 **UNRELATED TO CHILD SUPPORT.**

16 **[(c)] (D)** The Administration may refuse to expunge a driving record if it
17 determines that the licensee has not driven a motor vehicle on the highways during the
18 particular conviction-free period on which the expungement is based.

19 **[(d)] (E)** Notwithstanding any other provision of this section, the Administration
20 may not expunge:

21 (1) Any driving records before the expiration of the time they are required
22 to be retained under § 16-819 of this title;

23 (2) Any driving record entries required for assessment of subsequent
24 offender penalties; and

25 (3) Any driving record entries related to a moving violation or an accident
26 that resulted in the death of another person.

27 **[(e)] (F) (1) [The] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,**
28 **THE Administration shall adopt regulations to carry out this section.**

29 **(2) THE SECRETARY, IN COOPERATION WITH THE SECRETARY OF**
30 **HUMAN SERVICES, MAY ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF**
31 **SUBSECTION (C) OF THIS SECTION.**

1 (a) In this section, "Child Support Administration" means the Child Support
2 Administration of the Department of Human Services.

3 (b) On notification by the Child Support Administration in accordance with §
4 10–119 of the Family Law Article that an obligor is 60 days or more out of compliance with
5 the most recent order of the court in making child support payments, the Administration:

6 (1) Shall suspend an obligor's license or privilege to drive in the State; and

7 (2) May issue a work–restricted license or work–restricted privilege to
8 drive.

9 (c) (1) Prior to the suspension of a license or the privilege to drive in the State
10 and the issuance of a work–restricted license or work–restricted privilege to drive under
11 subsection (b) of this section, the Administration shall send written notice of the proposed
12 action to the obligor, including notice of the obligor's right to contest the accuracy of the
13 information.

14 (2) Any contest under this subsection shall be limited to whether the
15 Administration has mistaken the identity of the obligor or the individual whose license or
16 privilege to drive has been suspended.

17 (d) (1) An obligor may appeal a decision of the Administration to suspend the
18 obligor's license or privilege to drive.

19 (2) At a hearing under this subsection, the issue shall be limited to whether
20 the Administration has mistaken the identity of the obligor or the individual whose license
21 or privilege to drive has been suspended.

22 (e) The Administration shall reinstate an obligor's license or privilege to drive in
23 the State if:

24 (1) The Administration receives a court order to reinstate the license or
25 privilege to drive; or

26 (2) The Child Support Administration notifies the Administration that:

27 (i) The individual whose license or privilege to drive was suspended
28 is not in arrears in making child support payments;

29 (ii) The obligor has paid the support arrearage in full; [or]

30 (iii) The obligor has demonstrated good faith by paying the ordered
31 amount of support for 6 consecutive months;

32 **(IV) THE OBLIGOR IS A PARTICIPANT IN FULL COMPLIANCE IN**

1 AN EMPLOYMENT PROGRAM APPROVED BY THE CHILD SUPPORT ADMINISTRATION;
2 OR

3 (v) ONE OF THE GROUNDS UNDER § 10-119(C)(1)(I) OF THE
4 FAMILY LAW ARTICLE EXISTS.

5 (f) The Secretary of Transportation, in cooperation with the Secretary of Human
6 Services and the Office of Administrative Hearings, shall adopt regulations to implement
7 this section.

8 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
9 as follows:

10 **Article – Family Law**

11 10-119.

12 (a) (1) In this section the following words have the meanings indicated.

13 (2) “License” has the meaning stated in § 11-128 of the Transportation
14 Article.

15 (3) “Motor Vehicle Administration” means the Motor Vehicle
16 Administration of the Department of Transportation.

17 (b) (1) Subject to the provisions of subsection (c) of this section, the
18 Administration may notify the Motor Vehicle Administration of an obligor with a
19 noncommercial license who is 60 days or more out of compliance, or an obligor with a
20 commercial license who is 120 days or more out of compliance, with the most recent order
21 of the court in making child support payments if:

22 (i) the Administration has accepted an assignment of support under
23 § 5-312(b)(2) of the Human Services Article; or

24 (ii) the recipient of support payments has filed an application for
25 support enforcement services with the Administration.

26 (2) Upon notification by the Administration under this subsection, the
27 Motor Vehicle Administration:

28 (i) shall suspend the obligor’s license or privilege to drive in the
29 State; and

30 (ii) may issue a work-restricted license or work-restricted privilege
31 to drive in the State in accordance with § 16-203 of the Transportation Article.

32 (c) (1) Before supplying any information to the Motor Vehicle Administration

1 under this section, the Administration shall:

2 (i) send written notice of the proposed action to the obligor,
3 including notice of the obligor's right to request an investigation on any of the following
4 grounds:

5 1. the information regarding the reported arrearage is
6 inaccurate;

7 2. suspension of the obligor's license or privilege to drive
8 would be an impediment to the obligor's current or potential employment; or

9 3. suspension of the obligor's license or privilege to drive
10 would place an undue hardship on the obligor because of the obligor's:

11 A. documented disability resulting in a verified inability to
12 work; or

13 B. inability to comply with the court order; and

14 (ii) give the obligor a reasonable opportunity to request an
15 investigation of the proposed action of the Administration.

16 (2) (i) Upon receipt of a request for investigation from the obligor, the
17 Administration shall conduct an investigation to determine if any of the grounds under
18 paragraph (1)(i) of this subsection exist.

19 (ii) The Administration shall:

20 1. send a copy of the obligor's request for an investigation to
21 the obligee by first-class mail;

22 2. give the obligee a reasonable opportunity to respond; and

23 3. consider the obligee's response.

24 (iii) Upon completion of the investigation, the Administration shall
25 notify the obligor of the results of the investigation and the obligor's right to appeal to the
26 Office of Administrative Hearings.

27 (3) (i) An appeal under this section shall be conducted in accordance
28 with Title 10, Subtitle 2 of the State Government Article.

29 (ii) An appeal shall be made in writing and shall be received by the
30 Office of Administrative Hearings within 20 days after the notice to the obligor of the
31 results of the investigation.

1 (4) If, after the investigation or appeal to the Office of Administrative
2 Hearings, the Administration finds that one of the grounds under paragraph (1)(i) of this
3 subsection exists, the Administration may not send any information about the obligor to
4 the Motor Vehicle Administration.

5 (5) The Administration may not send any information about an obligor to
6 the Motor Vehicle Administration if:

7 (i) the Administration reaches an agreement with the obligor
8 regarding a scheduled payment of the obligor's child support arrearage or a court issues an
9 order for a scheduled payment of the child support arrearage; and

10 (ii) the obligor is complying with the agreement or court order.

11 (d) **(1)** If, after information about an obligor is supplied to the Motor Vehicle
12 Administration, the obligor's arrearage is paid in full, the obligor has demonstrated good
13 faith by paying the ordered amount of support for 6 consecutive months, the obligor is a
14 participant in full compliance in the Noncustodial Parent Employment Assistance Pilot
15 Program established under § 10-112.2 of this title **OR ANOTHER EMPLOYMENT**
16 **PROGRAM APPROVED BY THE ADMINISTRATION**, or the Administration finds that one
17 of the grounds under subsection (c)(1)(i) of this section exists, the Administration shall
18 notify the Motor Vehicle Administration to reinstate the obligor's license or privilege to
19 drive.

20 **(2) THE ADMINISTRATION MAY REQUEST THAT THE MOTOR VEHICLE**
21 **ADMINISTRATION EXPUNGE A RECORD OF A SUSPENSION OF A LICENSE OR**
22 **PRIVILEGE TO DRIVE FOR FAILURE TO PAY CHILD SUPPORT:**

23 **(I) FOR AN OBLIGOR WHO IS ENROLLED IN AND COMPLIANT**
24 **WITH AN EMPLOYMENT PROGRAM APPROVED BY THE ADMINISTRATION; OR**

25 **(II) IF THE INFORMATION REPORTED BY THE ADMINISTRATION**
26 **THAT LED TO THE SUSPENSION WAS INACCURATE.**

27 (e) The Secretary of Human Services, in cooperation with the Secretary of
28 Transportation and the Office of Administrative Hearings, shall adopt regulations to
29 implement this section.

30 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
31 as follows:

32 **Article – Family Law**

33 10-119.

34 (d) **(1)** If, after information about an obligor is supplied to the Motor Vehicle

1 Administration, the obligor's arrearage is paid in full, the obligor has demonstrated good
2 faith by paying the ordered amount of support for 6 consecutive months, **THE OBLIGOR IS**
3 **A PARTICIPANT IN FULL COMPLIANCE IN AN EMPLOYMENT PROGRAM APPROVED BY**
4 **THE ADMINISTRATION**, or the Administration finds that one of the grounds under
5 subsection (c)(1)(i) of this section exists, the Administration shall notify the Motor Vehicle
6 Administration to reinstate the obligor's license or privilege to drive.

7 **(2) THE ADMINISTRATION MAY REQUEST THAT THE MOTOR VEHICLE**
8 **ADMINISTRATION EXPUNGE A RECORD OF A SUSPENSION OF A LICENSE OR**
9 **PRIVILEGE TO DRIVE FOR FAILURE TO PAY CHILD SUPPORT:**

10 **(I) FOR AN OBLIGOR WHO IS ENROLLED IN AND COMPLIANT**
11 **WITH AN EMPLOYMENT PROGRAM APPROVED BY THE ADMINISTRATION; OR**

12 **(II) IF THE INFORMATION REPORTED BY THE ADMINISTRATION**
13 **THAT LED TO THE SUSPENSION WAS INACCURATE.**

14 SECTION 4. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take
15 effect on the taking effect of the termination provision specified in Section 2 of Chapter 312
16 of the Acts of the General Assembly of 2016. If that termination provision takes effect,
17 Section 2 of this Act, with no further action required by the General Assembly, shall be
18 abrogated and of no further force and effect. This Act may not be interpreted to have any
19 effect on that termination provision.

20 SECTION 5. AND BE IT FURTHER ENACTED, That, subject to the provisions of
21 Section 4 of this Act, this Act shall take effect October 1, 2018.