

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 402 (Senator Carter)
Judicial Proceedings

Driver's Licenses - Suspension for Child Support Arrearages - Repeal

This bill repeals provisions of State law related to the suspension of an individual's driver's license (or privilege to drive) due to child support arrearages. As a result, the bill eliminates a driver's license suspension as a possible penalty for child support arrearages.

Fiscal Summary

State Effect: The bill may put significant federal funding at risk by placing the State out of compliance with federal requirements, as discussed below. General fund revenues may decrease minimally due to fewer citations issued to individuals for driving with a suspended license. General fund expenditures increase by approximately \$64,000 in FY 2022 only for reprogramming changes. General fund expenditures are further assumed to increase correspondingly with any federal fund revenue loss, as discussed below.

Local Effect: The bill does not directly affect local government finances or operations.

Small Business Effect: None.

Analysis

Current Law: After providing an obligor with notice and the opportunity to request an investigation, as specified below, the Child Support Administration (CSA) within the Department of Human Services (DHS) may notify the Motor Vehicle Administration (MVA) if an obligor is 60 days or more out of compliance (120 days for holders of a commercial license) with the most recent order of the court in making child support payments. Upon such notification, MVA must suspend an obligor's license or privilege to drive and may issue a work-restricted license or work-restricted privilege to drive.

MVA must reinstate an obligor's license or privilege to drive if it receives a court order to do so or if CSA notifies MVA that (1) the individual is not in arrears in making child support payments; (2) the obligor has paid the support arrearage in full; (3) the obligor has demonstrated good faith by paying the ordered amount of support for six consecutive months; or (4) the obligor is a participant in full compliance of an employment program approved by CSA. As discussed below, an obligor has the right to request an investigation based on specified grounds prior to information being sent to MVA. MVA must also reinstate the license on notice from CSA that one of these specified grounds exists.

Before providing any information to MVA regarding a child support obligor, CSA must send written notice of the proposed action to an obligor, including notice of the obligor's right to request an investigation on any of the following grounds: (1) the information regarding the reported arrearage is inaccurate; (2) suspension of the obligor's license or privilege to drive would be an impediment to the obligor's current or potential employment; or (3) suspension of the obligor's license or privilege to drive would place an undue hardship on the obligor because of the obligor's documented disability resulting in a verified inability to work or inability to comply with the court order. In addition, CSA must give the obligor a reasonable opportunity to request an investigation of the proposed action. If, after an investigation or appeal to the Office of Administrative Hearings, CSA finds that one of the circumstances specified above exists, CSA may not send any information about the obligor to MVA.

Additionally, CSA may not send any information about an obligor to MVA if (1) CSA reaches an agreement with the obligor regarding a scheduled payment of child support arrearages (or a court issues an order for a scheduled payment) and (2) the obligor is complying with the agreement (or court order).

State Fiscal Effect:

Potential Federal Funding Loss

The federal government reimburses states for a share of child support-related costs pursuant to Title IV-D of the Social Security Act. As a condition of federal funding, a state's plan for child support must meet specified requirements and have in effect laws requiring the use of certain procedures, including those related to the state's authority to withhold or suspend, or to restrict the use of, driver's licenses of individuals owing overdue child support.

As a result, both the Judiciary and DHS advise that the bill may result in Maryland becoming out of compliance with federal law. The Governor's proposed fiscal 2022 budget includes \$105.2 million in federal IV-D (child support enforcement) funds. In addition, a state must operate a child support program under an approved federal plan as a condition

of receiving Temporary Assistance for Needy Families (TANF) funding. The Governor's proposed fiscal 2022 budget includes \$255.5 million in TANF funds (including \$27.2 million in contingency funding).

If federal funding is lost, it is assumed that general fund expenditures increase correspondingly so that programs and services associated with the federal funds continue. The Judiciary also notes, however, that federal law does allow for a waiver. Specifically, a state has to demonstrate – through specified methods – that use of any procedures otherwise required as a condition of federal funding would *not* increase the effectiveness and efficiency of the state's child support enforcement program. In such circumstances, the Secretary of Health and Human Services may exempt the state from the requirements, subject to continuing review and termination of the exemption should circumstances change. To the extent that DHS is able to receive an exemption, the federal funding loss is mitigated.

Reprogramming Costs

In addition, computer reprogramming changes are necessary for DHS to implement the bill. Accordingly, in fiscal 2022 only, State expenditures (assumed to be general funds) increase by approximately \$64,000 for these changes.

Child Support Collections

Temporary Cash Assistance (TCA) recipients must assign their support rights to the state and federal governments as partial reimbursement for payments made on behalf of the children of the obligor. As a result, after specified initial amounts are passed directly to the family, TCA child support collections are distributed 50% to the state and 50% to the federal government. Accordingly, special fund revenues are affected to the extent that the elimination of a driver's license suspension as a possible penalty for noncompliance with child support impacts collections in these cases.

Fine Revenues and Reinstatement Fees

The bill also affects general fund revenues. Because the bill repeals the possibility of a license suspension due to nonpayment of child support, the number of citations issued to individuals driving with a suspended driver's license is likely to decline. An individual convicted of driving with a license that is suspended due to nonpayment of child support is subject to a fine of up to \$500, may not prepay the fine, and must appear in court. Additionally, three points are assessed against the person's license.

In fiscal 2020, MVA suspended approximately 14,800 licenses due to child support noncompliance. MVA advises that it does not charge a fee for a driver's license reinstatement if a person shows they are in compliance after a suspension. Therefore, Transportation Trust Fund revenues are not materially affected by the bill.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 580 (Delegate D.M. Davis) - Judiciary.

Information Source(s): Comptroller's Office; Judiciary (Administrative Office of the Courts); Department of Human Services; Maryland Department of Transportation; Office of Administrative Hearings; Department of Legislative Services

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