

HB0326_DHS_FWA.pdf

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Position: FWA

Date: February 9, 2023

Bill number: HB0326

Committee: House Judiciary Committee

Bill title: **Driver's Licenses - Suspension for Child Support Arrearages - Exception**

DHS Position: **FAVORABLE WITH AMENDMENT**

The Maryland Department of Human Services (DHS) thanks the Committee for the opportunity to provide favorable written support with amendments needed in order for the Child Support Administration (CSA) to successfully implement Senate Bill 164 (SB 164).

All states are federally required to have a Drivers' License Suspension (DLS) Program. Maryland's CSA utilizes the DLS Program to intervene as early as possible with obligors who find themselves two months or more out of compliance with payment of their child support orders. In Maryland, obligors receive notice at the beginning of a child support case of possible enforcement tools that may be used if support is not paid timely in accordance with the court order. Upon no payment for two or more months, obligors are referred to the DLS Program and notified by CSA of potential referral to the Maryland Motor Vehicle Administration (MVA) and given 30 days to contest.

After 30 days the obligor is referred to MVA for potential suspension and MVA notifies obligors with another 30 days to contest the action prior to any actual license suspension. Advising obligors of an impending driver's license suspension as early as possible creates an opportunity and incentive for noncompliant obligors to contact their local child support office to access the various services that may be available to them. Such services may include employment programs, state-owed arrears forgiveness programs, and assistance with modifying a child support order that no longer accurately reflects an obligor's ability to pay following a material change in circumstances. This early intervention method is critical to ensuring that an obligor avoids incurring an excessive arrearage that may result in more aggressive enforcement mechanisms, including incarceration for contempt and additional penalties, later in the CSA enforcement proceedings.

The DLS Program is one of CSA's most successful early intervention enforcement tools to ensure that children receive the support they need from their parents. On average, nearly ten percent of child support collections each year in Maryland are received after an obligor has been referred to the DLS Program due to their arrearage accumulation. In 2021, while 24,647 obligors were referred to the DLS Program, only 4,869 were referred to MVA, and of that only 2,819 had their license suspended. This is the result of obligors, upon receipt of notices from either CSA or MVA, contacting the child support agency to make payment or raise other concerns that resulted in no suspension or release of the suspension.

The DLS Program is an effective enforcement tool, used by CSA to collect an average of \$50 million annually, collections which families rely upon for the care and sustenance of their child(ren). DHS recognizes that, for certain obligors, this enforcement tool may have the reverse effect as it may negatively impact an obligor's employment opportunities or ability to get to work. For this reason, in 2004 the Maryland General Assembly passed legislation adding several grounds an obligor could raise to seek exemption from the DLS program, including one allowing an obligor to challenge a driver's license suspension because it would be an impediment to current or potential employment.

Senate Bill 164 acknowledges that the DLS program is valuable to DHS' enforcement toolbox, while offering a new exemption for Maryland's lower income obligors. As drafted, SB 164 would establish an exemption for using this early intervention and enforcement tool for obligors whose income is at or below 300% of the federal poverty level.

However, as written, the bill cannot be implemented due to CSA's inability to obtain information that is required to determine whether an obligor's income exceeds 300% of the federal poverty guidelines, which would require CSA to know (1) the number of people in an obligor's family or household, and (2) the respective income of *all* those individuals. Currently, CSA does not track the number of family members or housemates of the parties for whom they provide child support services, nor is there any authority for CSA to obtain income information on individuals who are not parties to a child support order. Additionally, at 300% the bill would eliminate referrals to the DLS Program for those who earn \$43,740 or less in 2023, thus rendering the program ineffective. As federally required, state child support programs must provide effective programs for enforcing child support, which includes a DLS Program. An ineffective program may result in noncompliance with the Title IV-D State Plan for Maryland resulting in federal penalties.

In order to successfully implement this bill, and allow obligors to seek an exemption from the DLS Program based on their income, the Department respectfully recommends the following amendments:

Proposed Amendment 1: Specify that the income determination for the exemption be based on the federal poverty guidelines *for an individual*, to reduce the amount of information required and simplify the process for CSA to determine whether an obligor may/may not be referred for the DLS Program.

Proposed Amendment 2: Similar to the existing exemptions outlined in Maryland statute, instead of creating a wholesale exclusion from the DLS Program, allow an obligor's reduced income to serve as a basis for challenging a DLS referral. CSA requests moving the exemption clause proposed further down the statute to where the other grounds for challenging a DLS referral exist. See Md. Code Ann., Fam. Law 10-119(c)(1)(i).

Proposed Amendment 3: Substitute "federal poverty guidelines" where the bill currently reads "federal poverty level" in order to avoid confusion and in accordance with recommendations from the U.S. Department of Health and Human Services, the agency that periodically releases the federal poverty guidelines.

Proposed Amendment 4: Insert a specific year and dollar amount for determining what federal poverty guideline amount should apply to the exemption analysis to create consistency and avoid any ambiguity in the statute.

Proposed Amendment 5: Add language to clarify that the judicial determination of voluntary impoverishment needs to be made at the time when the most recent child support order was issued in order to ensure that the exception to the exemption is narrowly applied.

Proposed Amendment 6: Reduce the applicable income threshold from 300% of the federal poverty guidelines to 200% of the federal poverty guidelines, which aligns the statute with the recommendations made in the 2019 Abell Report. A 200% threshold for those who earn \$29,160 or less in 2023 is a more balanced approach for maintaining an effective DLS Program that balances between helping noncustodial parents and collecting support for custodial parents and children.

Moving forward, it is the desire of DHS to continuously seek the income data needed to make ongoing assessments and program revisions to improve the ways in which we serve families. With a new automated system now available, CSA has greater flexibility to work with the proponents of this bill to ensure the DLS Program works for all. One enhancement now available ensures obligors who pay regularly or have wages garnished do not get referred to the DLS Program. Additionally, CSA and MVA continue ongoing collaboration to improve communication between automated systems. It is the goal of CSA to best serve



the whole family by balancing obligor compliance and ability to pay with ensuring children receive the financial support necessary to grow and thrive.

The Department is grateful to offer our support with the Committees receipt and acceptance of the above enumerated amendments. DHS welcomes collaboration with the Committee on SB 164 and requests a favorable with amendments report.



Letter of Information – House Bill 326 – Driver’s

Uploaded by: Justin Hayes

Position: INFO

**Letter of Information – House Bill 326 – Driver’s Licenses – Suspension for Child Support
Arrearages - Exception***Judiciary Committee**February 9, 2023*

This bill adds a provision to the family law article permitting the Motor Vehicle Administration to suspend the driver’s license of an individual who is more than 60 days (for a noncommercial license) or 120 days (for a commercial license) out of compliance with a child support order. However, the above provision does not apply to an obligor whose income is equal to or less than 300% of the federal poverty level, unless the obligor is voluntarily impoverished. The language of the bill suggests that the obligor’s income would be disclosed to the Motor Vehicle Administration by the Comptroller’s Office.

The Comptroller’s Office closely scrutinizes any non-tax-related disclosures of confidential tax information – particularly, income data.

- Each additional disclosure of confidential tax information raises the risk of a breach of data-security. The Comptroller’s Office recommends against data-sharing for non-tax purposes.

The transfer of confidential tax information is not necessary to effectuate the purpose of this bill.

- The bill permits the Administration to rely on the obligor’s self-reported income, as well as income information provided by the obligor’s employer.
- Any income information that the Comptroller’s Office possesses for an obligor is not current, as tax returns report income for the prior year.
- The Comptroller’s Office does not have income information for taxpayers who earn less than the minimum filing requirement (for tax year 2022, \$12,950 for single filers, \$25,900 for married filing joint filers).
- Other state agencies which provide benefits with income-based eligibility (Medicaid, SNAP, TANF, etc.) are better suited to providing accurate and timely data on current-year income.

Notwithstanding the general concerns about disclosure of confidential tax-information for a non-tax purpose, Comptroller participation in such a program requires additional resources:

- The Comptroller’s Office would require an executed Memorandum of Understanding delineating acceptable use, security controls, and apportionment of program costs.
- Data retrieval and analysis generates significant costs due to the involvement of technical and management staff. Even if materials and labor costs are reimbursed, providing data analysis pulls resources away from tax-collection objectives. If the Comptroller’s Office is tasked with multiple projects of this nature, as it is in the 2023 legislative session, additional PINs would be needed.



- The above objections notwithstanding, the Comptroller requests that any additional exceptions to the prohibition against disclosure of confidential tax information be added to Tax-General Article § 13-203(c).

In absence of the above-suggested improvements to make these provisions administrable, the Comptroller's Office would ask to be stricken from this bill to allow other sources of income verification to be the primary determinant of eligibility.

As always, the Comptroller's Office is willing and available to discuss these concerns or any questions you may have at your convenience. Please contact Justin Hayes, Director of State Affairs at jhayes@marylandtaxes.gov or 410-260-7696.