

Chapter 413

(Senate Bill 79)

AN ACT concerning

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

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

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

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

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

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

Article – Transportation

16-117.1.

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

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

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

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

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

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

(3) Within the preceding 10 years:

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

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

(c) (1) ON REQUEST OF THE CHILD SUPPORT ADMINISTRATION, THE ADMINISTRATION SHALL EXPUNGE A RECORD OF A SUSPENSION FOR FAILURE TO PAY CHILD SUPPORT:

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

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

2. DOES NOT HAVE CHARGES RELATED TO THE

SUSPENSION FOR FAILURE TO PAY CHILD SUPPORT PENDING AGAINST THE LICENSEE; OR

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

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

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

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

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

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

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

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

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

16-203.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(IV) THE OBLIGOR IS A PARTICIPANT IN FULL COMPLIANCE IN AN EMPLOYMENT PROGRAM APPROVED BY THE CHILD SUPPORT ADMINISTRATION; OR

(V) ONE OF THE GROUNDS UNDER § 10–119(C)(1)(I) OF THE FAMILY LAW ARTICLE EXISTS.

(f) The Secretary of Transportation, in cooperation with the Secretary of Human Services and the Office of Administrative Hearings, shall adopt regulations to implement

this section.

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

Article – Family Law

10–119.

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

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

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

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

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

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

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

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

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

(c) (1) Before supplying any information to the Motor Vehicle Administration under this section, the Administration shall:

(i) send written notice of the proposed action to the 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:

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

B. inability to comply with the court order; and

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

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

(ii) The Administration shall:

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

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

3. consider the obligee's response.

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

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

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

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

(5) The Administration may not send any information about an obligor to

the Motor Vehicle Administration if:

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

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

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

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

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

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

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

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

Article – Family Law

10-119.

(d) **(1)** If, after information about an obligor is supplied to the Motor Vehicle Administration, the obligor's arrearage is paid in full, the obligor has demonstrated good faith by paying the ordered amount of support for 6 consecutive months, **THE OBLIGOR IS A PARTICIPANT IN FULL COMPLIANCE IN AN EMPLOYMENT PROGRAM APPROVED BY THE ADMINISTRATION**, or the Administration finds that one of the grounds under subsection (c)(1)(i) of this section exists, the Administration shall notify the Motor Vehicle

Administration to reinstate the obligor's license or privilege to drive.

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

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

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

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

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

Approved by the Governor, May 8, 2018.