



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

House Bill 0813

Driver's Licenses – Suspension for Child Support Arrearages – Exception In the Judiciary Committee Hearing on February 15, 2024 Position: FAVORABLE

Maryland Legal Aid (MLA) submits its written and oral testimony on HB 0813 in response to a request from Delegate Toles.

MLA appreciates the opportunity to testify in support of HB 0813. This legislation would aid low-income families by tempering the harmful effects of the current arbitrary, automated driver's license suspension system used by the Maryland Child Support Enforcement Agency ("the Agency").

MLA is a private, nonprofit law firm that provides free legal services to thousands of low-income Maryland residents in civil matters. MLA's representation of non-custodial parents in child support cases has revealed significant inequities in the Agency's automated driver's license suspension system. The current system criminalizes poverty and disproportionately harms low-income families.

State and Federal laws authorize the use of driver's license suspension as an enforcement mechanism for non-custodial parents who are behind on their child support payments. Currently, the Agency automatically places any parent who has 60 days or more of arrears in a pool of people who may be randomly selected each month to be referred to the Motor Vehicle Administration ("MVA") for driver's license suspension. The MVA reported 20,512 driver's license suspensions for child support in calendar year 2023. House Bill 0813 would significantly reduce that number by creating an exception for those who are 250% below the Federal poverty guidelines.

MLA's clients are routinely harmed by driver's license suspensions.

MLA routinely assists low-income parents with driver's license suspensions. Through this work, MLA has found that parents have their licenses suspended:

- Even when custody has changed, and the child now lives with them;
- Even when they are making payments towards their arrearage balance pursuant to a payment agreement;
- Even when they need their driver's license for work;
- Even when the suspension causes them to lose their job;

-
- Even when they are disabled and unable to work and therefore unable to make payments; and
 - Even when they need their license to be an involved and active parent.

MLA has also found that parents are denied driver's license reinstatement requests by the Agency:

- Even when they provide proof that custody has changed, and the child now lives with them;
- Even when they provide proof that they need their driver's license for work;
- Even when they provide proof that the suspension will cause them to lose their job; and
- Even when they provide proof of a pending or potential job opportunity that requires a valid driver's license.

The following are just a few examples of the many cases where MLA clients have suffered the harmful consequences of improper and inappropriate driver's license suspension:

- Mr. M is an MLA client who was granted custody of his son by the Circuit Court. Mr. M provided a copy of the new custody order to the Agency, showing that custody had changed and he is now the custodial parent. Yet, the Agency **still suspended his license**. Mr. M only discovered his license was suspended when he was pulled over for a minor traffic infraction in Virginia. Due to the suspended license, Mr. M's car was impounded and he was stranded outside in the pouring rain with his wife and children. Ultimately, Mr. M had to pay to get his car out of impound, and he was charged with driving on a suspended license.
- Mr. R is an MLA client who was granted sole custody of his daughter in the Juvenile Court, after the mother was found to be unfit due to abuse and neglect. He provided a copy of the custody order to the Agency, showing that custody had changed and he is now the custodial parent. **Mr. R's driver's license was still suspended**, which he learned only after being pulled over for a minor driving infraction. As a result, Mr. R received a criminal citation for driving on a suspended license.
- Mr. P is an MLA client who was granted sole custody of his son in the Circuit Court. The court also granted Mr. P's request to officially terminate his obligation to pay child support, in light of the change in custody. Mr. P provided copies of the court orders to the Agency, but **his driver's license was still suspended**. Mr. P drives trucks for a living, and he had no idea that his license had been suspended until he was out of the state, making a work delivery to a military base. The military base ran a routine background check on him, which revealed that his license had been suspended. As a result, Mr. P was unable to complete his work delivery, and **he was terminated from his job** with that trucking company.

-
- Mr. G is an MLA client whose children began residing with him full time a few years ago. Mr. G filed motions to modify both custody and child support, but these motions are still pending in the Circuit Court, as he has had trouble serving the mother, who moved out of state. Mr. G made the Agency aware of the change in custody and the pending court proceedings. Nevertheless, Mr. G received a letter informing him that **his license would be suspended**. Mr. G makes his living by driving for Uber, and he provided proof to the Agency that the suspension would cause him to lose his job, but the Agency refused to lift the suspension unless he made a large lump sum payment.

We at MLA know that child custody can change rapidly in low-income families. Sometimes neither parent has stable housing or employment, so custody might switch depending on which parent has more reliable housing or income at any given point in time. While a custody switch might happen overnight, a legal modification of a custody or child support order in the Circuit Court takes at minimum a year, and often longer. For low-income parents who cannot afford attorneys, navigating the court system is extremely difficult. The current child support enforcement system does absolutely nothing to protect parents from having their driver's license suspended even in these situations where custody has changed and the former non-custodial parent is now the custodial parent.

Most parents we help have no idea their driver's license is suspended until they are pulled over. What would have been a minor traffic violation then turns into a criminal citation that carries with it collateral consequences ranging from their car being impounded, losing their job, missing shifts and losing wages, court dates, points on their license, increased insurance costs, and more. Further, a charge for "driving on a suspended license" acts as a subsequent conviction that will lock in earlier criminal charges on someone's record that otherwise would have been expungable, placing yet another barrier in the way of employment.

Creating this exception is in line with the controlling Federal law, 42 U.S.C. § 666(a)(16) and 654(20), which states that driver's license suspensions (along with professional/occupational and recreational/sporting license suspensions) should only be used "**in appropriate cases**" in order to "increase the effectiveness of the program." The purpose of the child support enforcement program is to increase economic stability for children and families, yet the Agency's current driver's license suspension system is the antithesis of the Federal requirement that this tool is to be used "in appropriate cases." As exemplified above, license suspensions are often not only not "appropriate"—but also harmful to children and families and counterproductive to obtaining and keeping steady employment. Further, the current system is in stark contrast to Md. Code Family Law § 10-118, which mandates that the Agency "shall promote and serve the best interests of the child."

This bill is in line with the 2020 legislation introduced by then-Attorney General Frosh and passed by the Maryland legislature that stopped the MVA from suspending

driver's licenses for fines and fees. The logic behind the passage of those laws was simple: people need driver's licenses to secure and maintain employment so that they are able to pay their fines and fees. That simple logic applies here: parents need driver's licenses to secure and maintain employment so that they are able to pay their child support. Most child support is collected through wage garnishment and tax refund intercepts. Both of these collection mechanisms require the parent to have lawful, steady employment—to which driver's license suspension is an impediment.

Driver's license suspensions simply do not work as a child support enforcement mechanism for those who are living in poverty and do not have the ability to pay. They create an obvious barrier to employment and make it difficult to be an involved and active parent. Once the non-custodial parent's driver's license is suspended, they are unable to contribute in other ways—for example, picking the child up for visits, carpooling to school, doctor's appointments, etc.

The current automated system for driver's license suspension is dysfunctional and perpetuates the cycle of poverty. On its face, the current law (Md. Code Family Law § 10-119) already has enumerated exceptions that limit when the Agency can suspend driver's licenses. The text of Md. Code Family Law 10-119 has exceptions for parents who are disabled, parents who are making consistent payments on their arrearage balance per a payment agreement, and parents who need their license for employment. In practice, however, the automated system is completely unfettered and operates as if those exceptions do not exist in the statute. MLA regularly sees clients who fit squarely into an exception, yet still have their driver's license suspended. This is because the automated system does not have any mechanism that removes parents who fit into an enumerated exception from the pool of people who can be randomly selected each month for license suspension.

If a parent falls under an exception, they can use it as a reason to request that the Agency reinstate their license. However, reinstatement, if granted by the Agency, is merely a temporary solution. If the parent still has an arrearage balance of 60 days or more, they are still in the pool of people who can be selected for license suspension each month, and they often will be re-suspended a few months later. Further, license reinstatement does not make up for the damage that may have already been done; they might have already lost their job, been criminally charged with driving on a suspended license, or missed out on participating in an important event in their child's life because of their suspended license. Many parents are stuck in a perpetual cycle of threatened or actual license suspension, undoubtedly furthering the cycle of poverty.

If the Agency staff would not have to spend so much of their time and resources on handling reinstatements of inappropriate and erroneous license suspensions for those who cannot afford to pay, they could focus their resources on investigating those rare cases where the parent is purposefully hiding or withholding money, or voluntarily impoverishing themselves.

If this legislation is implemented correctly, it would have long-term positive impacts on low-income communities and on Maryland's economy as a whole. However, given that the current automated system used by the Agency to suspend licenses does not presently have the ability to screen for whether they fall into one of the existing statutory exceptions, MLA has serious concerns about the Agency's ability to implement this bill and screen out those who are 250% below the Federal poverty guidelines from their automated system. Therefore, MLA urges the committee to give a favorable report to this bill, HB 0813, and also HB 0311.

The two bills are complimentary, and, HB 0311, by removing the automated lottery system, will ensure this bill is properly implemented. Without also passing HB 0311, we are afraid this bill has no teeth, and those who are 250% below the poverty level will continue to have their licenses suspended. Thank you for the opportunity to provide input on this important legislation.

If you have any questions, please contact:

Stacy Bensky, Esq.
Staff Attorney, Maryland Legal Aid
410-951-7755 (Office Phone)
410-852-5204 (Cell Phone)
sbensky@mdlalab.org