

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE
Revised

House Bill 838

(Delegate Vallario, *et al.*)

Judiciary

Judicial Proceedings

Vehicle Laws - Drivers' Licenses - Licensing Documentation

This bill requires an application for a driver's license to include the applicant's Social Security number (SSN) unless the applicant does not have one. If the applicant does not have an SSN, the applicant must certify that fact in the application. The bill clarifies that a person may not use a false, fictitious, or fraudulently altered document in an application for a driver's license. A violation is a misdemeanor subject to a maximum fine of \$500 or imprisonment for up to two months, or both.

The bill also establishes a 12-member joint executive-legislative Task Force to Study Driver Licensing Documentation, with the Motor Vehicle Administration (MVA) providing staff support. The task force must report its findings and recommendations to the Governor and the General Assembly on or before December 1, 2004.

The provisions establishing the task force are effective July 1, 2003 and terminate on December 31, 2004.

Fiscal Summary

State Effect: Special fund revenues would increase to the extent that the bill facilitates collection of child support. Enactment of the bill could prevent the loss of up to all the federal Temporary Assistance to Need Families (TANF) block grant (\$229.1 million), child support enforcement incentive payments (\$66.8 million), and cooperative reimbursement and incentive payments to the Judiciary for child support enforcement activities (\$2.6 million). It is expected that the bill's requirements, including any expense reimbursements for task force members and staffing costs for the MVA would be minimal and absorbable within existing resources.

Local Effect: Enactment of the bill could prevent the loss of up to \$2.5 million in cooperative reimbursement grants from the Judiciary to provide child support services

through the clerks of the court. Federal incentive payments of \$150,000, which provide child support initiatives in local offices could also be eliminated.

Small Business Effect: None.

Analysis

Current Law: An application for a driver's license must be in the form required by the MVA. The application must state the applicant's identifying information, whether the applicant has ever been licensed to drive, and if so, by what jurisdiction. The applicant must also state whether he or she has been previously refused a license, or whether the license has ever been suspended, revoked, or canceled, and if so, the date and the reason, and provide any other pertinent information required by the MVA. The applicant must sign the application and certify that the statements are true. An applicant for an original license must submit a birth certificate or other proof of age and identity that is acceptable to the MVA.

An applicant with an absolute divorce may use a prior legal or true name after filing an affidavit or other proof satisfactory to the MVA of the prior name and the absolute divorce. An applicant who claims a name change must submit with the application an affidavit of the applicant's known name as demonstrated by a Social Security card or record together with other documents as specified in statute.

A person may not use a false or fictitious name, knowingly make a false statement, knowingly conceal a material fact, or otherwise commit a fraud in any application for a driver's license. A person who violates this provision is guilty of a misdemeanor and is subject to a maximum fine of \$500, imprisonment not to exceed two months, or both. The MVA is required to assess 12 points against a violator's license and the license is subject to revocation.

Background: Before the terrorist attacks of September 11, 2001, at least 15 states were considering easing immigrant licensing restrictions in an effort to increase highway safety by expanding the numbers of those who receive driver training, licenses, and vehicle insurance. After the attacks, measures to restrict immigrant access to driver's licenses were considered in as many as 30 states. Only a few states have passed this type of legislation, including Colorado, Virginia, New Jersey, and Kentucky. According to the National Immigration Law Center, about half of the states (including Maryland) require that driver's license applicants be lawfully present in the country. States that most recently added this requirement include Louisiana, Ohio, Indiana, and Minnesota. Some states have expanded the types of documentation that driver's license applicants can use to prove identity. Currently, 13 states, located primarily in the midwest or west, accept the Matricula Consular, an identity document issued by the Mexican Consulate.

Other states accept foreign documentation, including passports, birth certificates, and military identification. Maryland is one of six states that does not require a SSN to process a driver's license. An applicant's disclosure of his or her SSN is voluntary in Maryland. About 91% of all current Maryland driver's license holders have a valid SSN on record with the MVA.

One of the purposes for which disclosure of an individual's SSN is mandatory under federal law is child support enforcement. The federal-state child support enforcement program created in 1975 under part D, title IV ("Title IV-D") of the federal Social Security Act established a Federal Parent Locator Service (FPLS) for collecting and making available to authorized persons information on "absent" parents. The SSN is one of the key pieces of information concerning these individuals and it is collected from various sources, including State and federal agencies. The disclosure and use of the SSN, with respect to the FPLS, is specifically restricted to the purposes of the federal statute, i.e., establishing paternity and establishing, modifying, and enforcing child support and medical support obligations. The federal government requires State compliance with all federal child support enforcement provisions. The federal sanction for noncompliance is loss of up to all of the State block grant for TANF and the grant and incentive payments provided for the State child support enforcement program.

In 1996, Congress amended Title IV-D of the Social Security Act to expand the resources of the FPLS to include a national directory of new hires and a federal child support registry to receive data from new hire directories (containing information reported by employers) and case registries operated at the state level. The expanded FPLS is an automated database searchable by SSN. The federal and State new hire directories and case registries rely greatly on the use of SSNs for matching data to identify individuals subject to child support orders so that appropriate enforcement actions may be taken.

To broaden the state and federal databases for child support enforcement and to ensure the accuracy of information provided to them, Congress also amended Title IV-D in 1996 to require that states have "statutorily prescribed procedures" for recording SSNs. States were specifically required to record the SSN on applications for various occupational licenses and other documents. In 1997, Congress enacted further amendments to require that applications for all drivers' licenses and recreational licenses include the applicant's SSN.

In 1999, the federal Office of Child Support Enforcement issued a policy interpretation of the federal statutory requirements. According to the instruction from the office, the federal mandate that states have laws "which require an individual to furnish a SSN that he or she may have ... does not require that an individual have a social security number as a condition of having a license...." Individuals who do not have an SSN must be required "to submit a sworn affidavit, under penalty of perjury, along with their application stating that they do not have a social security number." Proposed regulations recently issued by the MVA attempt to accomplish that objective but do not appear to be "statutorily

prescribed” as required under the federal law. The Office of the Attorney General advises that enactment of a statute, rather than adoption of a regulation, is required to comply with the requirements of the federal child support enforcement law.

In October 2002, the Department of Human Resources (DHR) received an official notice of intent to disapprove Maryland’s “IV-D” plan from the U.S. Department of Health and Human Services (DHHS). This plan outlines how the State will provide child support enforcement services. The State was given an opportunity for a predecision hearing and that hearing was requested in December. The notice of intent to disapprove the plan is due, in part, to the absence of a State requirement for inclusion of SSNs on driver’s license applications. There were also other noncompliance issues cited. DHHS has stated that disapproval of Maryland’s IV-D plan could mean that the federal government will withhold the State’s entire allotment for the TANF program (\$229.1 million in federal fiscal 2002) and all cooperative reimbursement payments for child support services (\$66.8 million). A condition of eligibility for TANF block grants is that Maryland operate a child support enforcement program under an approved IV-D plan.

The Judiciary also advises that it receives federal funding for child support enforcement activities. This funding could also be at risk if Maryland’s IV-D program remains out of compliance. The Judiciary has an arrangement with DHR to provide some child support enforcement services through the clerks of the court and masters in the family services program. The Judiciary receives \$2.5 million in federal cooperative reimbursement funds to pay 66% of the salaries of clerks of court and masters who provide those child support services. The remaining 34% of these salaries is financed by general funds. If the federal funds were withheld, these salaries would still be paid, but additional general funds would be needed.

The Administrative Office of the Courts (AOC) began receiving federal incentive payments for certain child support initiatives in October 2001. AOC currently receives about \$150,000 in federal incentive funds. The monies are used to provide training, improve data management, and provide new programs such as the fatherhood pilot programs that currently exist in two local jurisdictions. These programs are funded entirely with federal funds, and would likely not continue if the incentive funds are withheld.

State Fiscal Effect: Special fund revenues could increase to the extent that the provisions in this bill increase child support collections. Temporary cash assistance (TCA) recipients must assign their support rights to the State and federal government as partial reimbursement for TCA payments made on behalf of the children of the obligor; as a result, TCA child support collections are distributed 50% to the State and 50% to the federal government. Any such increase cannot be quantified at this time due to the unavailability of data.

DHR advises that if the provisions of this bill relating to inclusion of SSNs are not enacted, the federal government could rescind the State's entire federal grant for TANF, which totals about \$229.1 million, and also rescind the State's entire federal grant for child support enforcement services, which totals \$66.8 million. The formal DHHS notice of intent to disapprove the Maryland plan, as discussed above, indicates that the sanction of withholding the entire TANF block grant and child support enforcement cooperative reimbursement payments is being given serious consideration.

The Judiciary advises that if DHHS disapproves the State's IV-D plan and the full complement of child support enforcement funding is withheld, then that would include \$2.5 million in federal cooperative reimbursement grants that the Judiciary receives for child support functions and \$150,000 in federal incentive payments for child support initiatives.

Local Fiscal Effect: Federal funding for child support services and child support initiatives received by the Judiciary is provided in the form of grants to clerks of court offices and family services programs. Disapproval of the State IV-D plan could mean withholding of up to \$2.5 million in grants for child support services in local offices. It could also mean withholding \$150,000 in grants to local offices for training, data management, fatherhood programs, and other child support enforcement initiatives.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Transportation, National Immigration Law Center, National Conference of State Legislatures, U.S. Department of Health and Human Services, *Stateline.org*, Department of Human Resources, Judiciary, Department of Legislative Services

Fiscal Note History: First Reader - March 3, 2003
mld/cer Revised - Updated Budget Information - March 17, 2003
Revised - House Third Reader - March 26, 2003
Revised - Enrolled Bill - April 24, 2003

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