

HOUSE BILL 605

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2004 Regular Session
(4r1836)

ENROLLED BILL
-- Judiciary/Judicial Proceedings --

Introduced by **Delegate Dumais**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Child Support - Driver's License Suspension - Grounds for ~~Contesting~~**
3 **Requesting an Investigation and Appealing**

4 FOR the purpose of establishing certain grounds on which a child support obligor may
5 ~~contest~~ request an investigation and appeal the proposed action of the Child
6 Support Enforcement Administration to send a notice to the Motor Vehicle
7 Administration that the child support obligor is more than a certain number of
8 days out of compliance with the most recent court order in making child support
9 payments; requiring the Child Support Enforcement Administration to send a
10 copy of the obligor's request for an investigation to the obligee, give the obligee
11 a reasonable opportunity to respond, and consider the obligee's response;
12 prohibiting the Child Support Enforcement Administration from sending
13 information about the obligor to the Motor Vehicle Administration if certain
14 grounds exist; establishing certain grounds on which a child support obligor may
15 contest and appeal the suspension of the obligor's license and privilege to drive;
16 providing that an obligor may not contest the suspension of the obligor's license
17 or privilege to drive if the action has been previously contested in a certain

1 ~~manner; altering a limitation regarding the issues that may be considered at a~~
 2 ~~certain hearing; making it discretionary, rather than mandatory, for the Child~~
 3 ~~Support Enforcement Administration to send a notice to the Motor Vehicle~~
 4 ~~Administration; and generally relating to child support and driver's license~~
 5 ~~suspensions.~~

6 BY repealing and reenacting, with amendments,
 7 Article - Family Law
 8 Section 10-119
 9 Annotated Code of Maryland
 10 (1999 Replacement Volume and 2003 Supplement)

11 ~~BY repealing and reenacting, with amendments,~~
 12 ~~Article - Transportation~~
 13 ~~Section 16-203~~
 14 ~~Annotated Code of Maryland~~
 15 ~~(2002 Replacement Volume and 2003 Supplement)~~

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

18 **Article - Family Law**

19 10-119.

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

21 (2) "License" has the meaning stated in § 11-128 of the Transportation
 22 Article.

23 (3) "Motor Vehicle Administration" means the Motor Vehicle
 24 Administration of the Department of Transportation.

25 (b) (1) Subject to the provisions of subsection (c) of this section, the
 26 Administration ~~shall~~ MAY notify the Motor Vehicle Administration of any obligor who
 27 is 60 days or more out of compliance with the most recent order of the court in making
 28 child support payments if:

29 (i) the Administration has accepted an assignment of support
 30 under Article 88A, § 50(b)(2) of the Code; or

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

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

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

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

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

7 (i) send written notice of the proposed action to the obligor,
8 including notice of the obligor's right to ~~contest~~ [the accuracy of the reported
9 arrearage by requesting an investigation] ~~THE PROPOSED ACTION OF THE~~
10 ~~ADMINISTRATION~~ REQUEST AN INVESTIGATION ON ANY OF THE FOLLOWING
11 GROUNDS:

12 1. THE INFORMATION REGARDING THE REPORTED
13 ARREARAGE IS INACCURATE;

14 2. ~~THE SUSPENSION OF THE OBLIGOR'S LICENSE OR~~
15 ~~PRIVILEGE TO DRIVE IS CONTRARY TO THE BEST INTERESTS OF THE OBLIGOR'S~~
16 ~~CHILD;~~

17 3. ~~THAT THE SUSPENSION OF THE OBLIGOR'S LICENSE OR~~
18 ~~PRIVILEGE TO DRIVE WOULD BE AN IMPEDIMENT TO THE OBLIGOR'S CURRENT OR~~
19 ~~POTENTIAL EMPLOYMENT AND THE OBLIGOR DOES NOT HAVE THE PRESENT~~
20 ~~ABILITY TO PAY THE MONEY REQUIRED TO REINSTATE THE LICENSE OR PRIVILEGE~~
21 ~~TO DRIVE; OR~~

22 4. ~~3. THAT THE SUSPENSION OF THE OBLIGOR'S LICENSE~~
23 ~~OR PRIVILEGE TO DRIVE WOULD PLACE AN UNDUE HARDSHIP ON THE OBLIGOR~~
24 ~~BECAUSE THE OBLIGOR HAS A DISABILITY RENDERING THE OBLIGOR, REGARDLESS~~
25 ~~OF WHETHER LICENSED OR NOT, UNABLE TO WORK AND TO PAY THE MONEY~~
26 ~~REQUIRED TO REINSTATE THE LICENSE OR PRIVILEGE TO DRIVE OF THE OBLIGOR'S:~~

27 A. ~~DOCUMENTATED~~ DOCUMENTED DISABILITY RESULTING
28 IN A VERIFIED INABILITY TO WORK; OR

29 B. INABILITY TO COMPLY WITH THE COURT ORDER; and

30 (ii) give the obligor a reasonable opportunity to ~~contest~~ REQUEST
31 AN INVESTIGATION OF [the accuracy of the information] THE PROPOSED ACTION OF
32 THE ADMINISTRATION.

33 (2) (i) Upon receipt of a request for investigation from the obligor, the
34 Administration shall conduct an investigation ~~as to the~~ [accuracy of the reported
35 arrearage] ~~EXISTENCE OF THE GROUNDS ON WHICH THE OBLIGOR BASES THE~~
36 ~~OBJECTION TO DETERMINE IF ANY OF THE GROUNDS UNDER PARAGRAPH (1)(I) OF~~
37 THIS SUBSECTION EXIST.

38 (II) THE ADMINISTRATION SHALL:

1 1. SEND A COPY OF THE OBLIGOR'S REQUEST FOR AN
 2 INVESTIGATION TO THE OBLIGEE BY FIRST-CLASS MAIL;

3 2. GIVE THE OBLIGEE A REASONABLE OPPORTUNITY TO
 4 RESPOND; AND

5 3. CONSIDER THE OBLIGEE'S RESPONSE.

6 ~~(ii)~~ (III) Upon completion of the investigation, the Administration
 7 shall notify the obligor of the results of the investigation and the obligor's right to
 8 appeal to the Office of Administrative Hearings.

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

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

14 (4) If, after the investigation or appeal to the Office of Administrative
 15 Hearings, the Administration finds that [it erred in making a decision] ONE OF THE
 16 GROUNDS UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION EXISTS, the Administration
 17 may not send any information about the obligor to the Motor Vehicle Administration.

18 (5) The Administration may not send any information about an obligor to
 19 the Motor Vehicle Administration if:

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

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

24 (d) If after information about an obligor is supplied to the Motor Vehicle
 25 Administration the obligor's arrearage is paid in full ~~or~~, the obligor has demonstrated
 26 good faith by paying the ordered amount of support for 6 consecutive months, OR THE
 27 ADMINISTRATION FINDS THAT ONE OF THE GROUNDS UNDER PARAGRAPH (1)(I) OF
 28 THIS SUBSECTION EXISTS, the Administration shall notify the Motor Vehicle
 29 Administration to reinstate the obligor's license or privilege to drive.

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

33 ~~Article—Transportation~~

34 ~~46-203.~~

35 (a) ~~In this section, "Child Support Enforcement Administration" means the~~
 36 ~~Child Support Enforcement Administration of the Department of Human Resources.~~

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

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

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

9 (c) (1) Prior to the suspension of a license or the privilege to drive in the
10 State and the issuance of a work restricted license or work restricted privilege to
11 drive under subsection (b) of this section, the Administration shall send written notice
12 of the proposed action to the obligor, including notice of the obligor's right to contest
13 [the accuracy of the information] THE PROPOSED SUSPENSION ON ANY OF THE
14 FOLLOWING GROUNDS:

15 (I) THE ADMINISTRATION HAS MISTAKEN THE IDENTITY OF THE
16 OBLIGOR;

17 (II) THE SUSPENSION OF THE OBLIGOR'S LICENSE OR PRIVILEGE
18 TO DRIVE IS CONTRARY TO THE BEST INTERESTS OF THE OBLIGOR'S CHILD;

19 (III) THAT THE SUSPENSION OF THE OBLIGOR'S LICENSE OR
20 PRIVILEGE TO DRIVE WOULD BE AN IMPEDIMENT TO THE OBLIGOR'S CURRENT OR
21 POTENTIAL EMPLOYMENT AND THE OBLIGOR DOES NOT HAVE THE PRESENT
22 ABILITY TO PAY THE MONEY REQUIRED TO REINSTATE THE LICENSE OR PRIVILEGE
23 TO DRIVE; OR

24 (IV) THAT THE SUSPENSION OF THE OBLIGOR'S LICENSE OR
25 PRIVILEGE TO DRIVE WOULD PLACE AN UNDUE HARDSHIP ON THE OBLIGOR
26 BECAUSE THE OBLIGOR HAS A DISABILITY RENDERING THE OBLIGOR, REGARDLESS
27 OF WHETHER LICENSED OR NOT, UNABLE TO WORK AND TO PAY THE MONEY
28 REQUIRED TO REINSTATE THE LICENSE OR PRIVILEGE TO DRIVE.

29 (2) [Any contest under this subsection shall be limited to whether the
30 Administration has mistaken the identity of the obligor or the individual whose
31 license or privilege to drive has been suspended.] THE OBLIGOR MAY NOT CONTEST
32 THE DECISION TO SUSPEND THE OBLIGOR'S LICENSE OR PRIVILEGE TO DRIVE IF THE
33 OBLIGOR HAS PREVIOUSLY CONTESTED THE CURRENT ACTION TO SUSPEND THE
34 LICENSE OR PRIVILEGE TO DRIVE UNDER THE PROVISIONS OF § 10-119(C) OF THE
35 FAMILY LAW ARTICLE.

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

38 (2) At a hearing under this subsection, the [issue] ISSUES shall be
39 limited to [whether the Administration has mistaken the identity of the obligor or the

1 individual whose license or privilege to drive has been suspended] THE GROUNDS
2 PROVIDED IN SUBSECTION (C) OF THIS SECTION.

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

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

7 (2) The Child Support Enforcement Administration notifies the
8 Administration that:

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

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

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

14 (f) The Secretary of Transportation, in cooperation with the Secretary of
15 Human Resources and the Office of Administrative Hearings, shall adopt regulations
16 to implement this section.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2004.