

HOUSE BILL 605

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2004 Regular Session
4r1836
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By: **Delegate Dumais**

Introduced and read first time: February 4, 2004

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

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

4 FOR the purpose of establishing certain grounds on which a child support obligor may
5 contest and appeal the proposed action of the Child Support Enforcement
6 Administration to send a notice to the Motor Vehicle Administration that the
7 child support obligor is more than a certain number of days out of compliance in
8 making child support payments; prohibiting the Child Support Enforcement
9 Administration from sending information about the obligor to the Motor Vehicle
10 Administration if certain grounds exist; establishing certain grounds on which a
11 child support obligor may contest and appeal the suspension of the obligor's
12 license and privilege to drive; providing that an obligor may not contest the
13 suspension of the obligor's license or privilege to drive if the action has been
14 previously contested in a certain manner; altering a limitation regarding the
15 issues that may be considered at a certain hearing; and generally relating to
16 child support and driver's license suspensions.

17 BY repealing and reenacting, with amendments,
18 Article - Family Law
19 Section 10-119
20 Annotated Code of Maryland
21 (1999 Replacement Volume and 2003 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article - Transportation
24 Section 16-203
25 Annotated Code of Maryland
26 (2002 Replacement Volume and 2003 Supplement)

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

1

Article - Family Law

2 10-119.

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

4 (2) "License" has the meaning stated in § 11-128 of the Transportation
5 Article.6 (3) "Motor Vehicle Administration" means the Motor Vehicle
7 Administration of the Department of Transportation.8 (b) (1) Subject to the provisions of subsection (c) of this section, the
9 Administration shall notify the Motor Vehicle Administration of any obligor who is 60
10 days or more out of compliance with the most recent order of the court in making child
11 support payments if:12 (i) the Administration has accepted an assignment of support
13 under Article 88A, § 50(b)(2) of the Code; or14 (ii) the recipient of support payments has filed an application for
15 support enforcement services with the Administration.16 (2) Upon notification by the Administration under this subsection, the
17 Motor Vehicle Administration:18 (i) shall suspend the obligor's license or privilege to drive in the
19 State; and20 (ii) may issue a work-restricted license or work-restricted privilege
21 to drive in the State in accordance with § 16-203 of the Transportation Article.22 (c) (1) Before supplying any information to the Motor Vehicle
23 Administration under this section, the Administration shall:24 (i) send written notice of the proposed action to the obligor,
25 including notice of the obligor's right to contest [the accuracy of the reported
26 arrearage by requesting an investigation] **THE PROPOSED ACTION OF THE**
27 **ADMINISTRATION ON ANY OF THE FOLLOWING GROUNDS:**28 1. **THE INFORMATION REGARDING THE REPORTED**
29 **ARREARAGE IS INACCURATE;**30 2. **THE SUSPENSION OF THE OBLIGOR'S LICENSE OR**
31 **PRIVILEGE TO DRIVE IS CONTRARY TO THE BEST INTERESTS OF THE OBLIGOR'S**
32 **CHILD;**33 3. **THAT THE SUSPENSION OF THE OBLIGOR'S LICENSE OR**
34 **PRIVILEGE TO DRIVE WOULD BE AN IMPEDIMENT TO THE OBLIGOR'S CURRENT OR**
35 **POTENTIAL EMPLOYMENT AND THE OBLIGOR DOES NOT HAVE THE PRESENT**

1 ABILITY TO PAY THE MONEY REQUIRED TO REINSTATE THE LICENSE OR PRIVILEGE
2 TO DRIVE; OR

3 4. THAT THE SUSPENSION OF THE OBLIGOR'S LICENSE OR
4 PRIVILEGE TO DRIVE WOULD PLACE AN UNDUE HARDSHIP ON THE OBLIGOR
5 BECAUSE THE OBLIGOR HAS A DISABILITY RENDERING THE OBLIGOR, REGARDLESS
6 OF WHETHER LICENSED OR NOT, UNABLE TO WORK AND TO PAY THE MONEY
7 REQUIRED TO REINSTATE THE LICENSE OR PRIVILEGE TO DRIVE; and

8 (ii) give the obligor a reasonable opportunity to contest [the
9 accuracy of the information] THE PROPOSED ACTION OF THE ADMINISTRATION.

10 (2) (i) Upon receipt of a request for investigation from the obligor, the
11 Administration shall conduct an investigation as to the [accuracy of the reported
12 arrearage] EXISTENCE OF THE GROUNDS ON WHICH THE OBLIGOR BASES THE
13 OBJECTION.

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

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

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

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

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

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

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

32 (d) If after information about an obligor is supplied to the Motor Vehicle
33 Administration the obligor's arrearage is paid in full or the obligor has demonstrated
34 good faith by paying the ordered amount of support for 6 consecutive months, the
35 Administration shall notify the Motor Vehicle Administration to reinstate the
36 obligor's license or privilege to drive.

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

4 **Article - Transportation**

5 16-203.

6 (a) In this section, "Child Support Enforcement Administration" means the
7 Child Support Enforcement Administration of the Department of Human Resources.

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

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

14 (2) May issue a work-restricted license or work-restricted privilege to
15 drive.

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

22 (I) THE ADMINISTRATION HAS MISTAKEN THE IDENTITY OF THE
23 OBLIGOR;

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

26 (III) THAT THE SUSPENSION OF THE OBLIGOR'S LICENSE OR
27 PRIVILEGE TO DRIVE WOULD BE AN IMPEDIMENT TO THE OBLIGOR'S CURRENT OR
28 POTENTIAL EMPLOYMENT AND THE OBLIGOR DOES NOT HAVE THE PRESENT
29 ABILITY TO PAY THE MONEY REQUIRED TO REINSTATE THE LICENSE OR PRIVILEGE
30 TO DRIVE; OR

31 (IV) THAT THE SUSPENSION OF THE OBLIGOR'S LICENSE OR
32 PRIVILEGE TO DRIVE WOULD PLACE AN UNDUE HARDSHIP ON THE OBLIGOR
33 BECAUSE THE OBLIGOR HAS A DISABILITY RENDERING THE OBLIGOR, REGARDLESS
34 OF WHETHER LICENSED OR NOT, UNABLE TO WORK AND TO PAY THE MONEY
35 REQUIRED TO REINSTATE THE LICENSE OR PRIVILEGE TO DRIVE.

36 (2) [Any contest under this subsection shall be limited to whether the
37 Administration has mistaken the identity of the obligor or the individual whose
38 license or privilege to drive has been suspended.] THE OBLIGOR MAY NOT CONTEST

1 THE DECISION TO SUSPEND THE OBLIGOR'S LICENSE OR PRIVILEGE TO DRIVE IF THE
2 OBLIGOR HAS PREVIOUSLY CONTESTED THE CURRENT ACTION TO SUSPEND THE
3 LICENSE OR PRIVILEGE TO DRIVE UNDER THE PROVISIONS OF § 10-119(C) OF THE
4 FAMILY LAW ARTICLE.

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

7 (2) At a hearing under this subsection, the [issue] ISSUES shall be
8 limited to [whether the Administration has mistaken the identity of the obligor or the
9 individual whose license or privilege to drive has been suspended] THE GROUNDS
10 PROVIDED IN SUBSECTION (C) OF THIS SECTION.

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

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

15 (2) The Child Support Enforcement Administration notifies the
16 Administration that:

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

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

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

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

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