

SENATE BILL 329

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2004 Regular Session
4r1810
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By: **Senator Grosfeld**

Introduced and read first time: February 2, 2004

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 10, 2004

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

23 BY repealing and reenacting, with amendments,
24 Article - Family Law
25 Section 10-119
26 Annotated Code of Maryland

1 (1999 Replacement Volume and 2003 Supplement)

2 ~~BY repealing and reenacting, with amendments,~~

3 ~~Article - Transportation~~

4 ~~Section 16-203~~

5 ~~Annotated Code of Maryland~~

6 ~~(2002 Replacement Volume and 2003 Supplement)~~

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

9 **Article - Family Law**

10 10-119.

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

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

14 (3) "Motor Vehicle Administration" means the Motor Vehicle
15 Administration of the Department of Transportation.

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

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

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

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

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

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

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

32 (i) send written notice of the proposed action to the obligor,
33 including notice of the obligor's right to ~~contest~~ [the accuracy of the reported
34 arrearage by requesting an investigation] ~~THE PROPOSED ACTION OF THE~~

1 ~~ADMINISTRATION REQUEST AN INVESTIGATION~~ ON ANY OF THE FOLLOWING
 2 GROUNDS:

3 1. THE INFORMATION REGARDING THE REPORTED
 4 ARREARAGE IS INACCURATE;

5 2. ~~THE SUSPENSION OF THE OBLIGOR'S LICENSE OR~~
 6 ~~PRIVILEGE TO DRIVE IS CONTRARY TO THE BEST INTERESTS OF THE OBLIGOR'S~~
 7 ~~CHILD;~~

8 3. ~~THAT THE SUSPENSION OF THE OBLIGOR'S LICENSE OR~~
 9 ~~PRIVILEGE TO DRIVE WOULD BE AN IMPEDIMENT TO THE OBLIGOR'S CURRENT OR~~
 10 ~~POTENTIAL EMPLOYMENT AND THE OBLIGOR DOES NOT HAVE THE PRESENT~~
 11 ~~ABILITY TO PAY THE MONEY REQUIRED TO REINSTATE THE LICENSE OR PRIVILEGE~~
 12 ~~TO DRIVE; OR~~

13 4. 3. ~~THAT THE SUSPENSION OF THE OBLIGOR'S LICENSE~~
 14 ~~OR PRIVILEGE TO DRIVE WOULD PLACE AN UNDUE HARDSHIP ON THE OBLIGOR~~
 15 ~~BECAUSE THE OBLIGOR HAS A DISABILITY RENDERING THE OBLIGOR, REGARDLESS~~
 16 ~~OF WHETHER LICENSED OR NOT, UNABLE TO WORK AND TO PAY THE MONEY~~
 17 ~~REQUIRED TO REINSTATE THE LICENSE OR PRIVILEGE TO DRIVE OF THE OBLIGOR'S:~~

18 A. DOCUMENTED DISABILITY RESULTING IN A VERIFIED
 19 INABILITY TO WORK; OR

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

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

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

29 (II) THE ADMINISTRATION SHALL:

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

32 2. GIVE THE OBLIGEE A REASONABLE OPPORTUNITY TO
 33 RESPOND; AND

34 3. CONSIDER THE OBLIGEE'S RESPONSE.

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

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

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

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

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

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

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

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

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

25 **~~Article—Transportation~~**

26 ~~16-203.~~

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

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

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

35 (2) ~~May issue a work restricted license or work restricted privilege to~~
36 ~~drive.~~

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

7 (I) THE ADMINISTRATION HAS MISTAKEN THE IDENTITY OF THE
8 OBLIGOR;

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

11 (III) THAT THE SUSPENSION OF THE OBLIGOR'S LICENSE OR
12 PRIVILEGE TO DRIVE WOULD BE AN IMPEDIMENT TO THE OBLIGOR'S CURRENT OR
13 POTENTIAL EMPLOYMENT AND THE OBLIGOR DOES NOT HAVE THE PRESENT
14 ABILITY TO PAY THE MONEY REQUIRED TO REINSTATE THE LICENSE OR PRIVILEGE
15 TO DRIVE; OR

16 (IV) THAT THE SUSPENSION OF THE OBLIGOR'S LICENSE OR
17 PRIVILEGE TO DRIVE WOULD PLACE AN UNDUE HARDSHIP ON THE OBLIGOR
18 BECAUSE THE OBLIGOR HAS A DISABILITY RENDERING THE OBLIGOR, REGARDLESS
19 OF WHETHER LICENSED OR NOT, UNABLE TO WORK AND TO PAY THE MONEY
20 REQUIRED TO REINSTATE THE LICENSE OR PRIVILEGE TO DRIVE.

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

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

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

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

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

38 (2) The Child Support Enforcement Administration notifies the
39 Administration that:

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

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

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

6 (f) ~~The Secretary of Transportation, in cooperation with the Secretary of~~
7 ~~Human Resources and the Office of Administrative Hearings, shall adopt regulations~~
8 ~~to implement this section.~~

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