

Department of Legislative Services
 Maryland General Assembly
 2004 Session

FISCAL AND POLICY NOTE
Revised

House Bill 605

(Delegate Dumais)

Judiciary

Judicial Proceedings

Child Support - Driver's License Suspension - Grounds for Requesting an Investigation and Appealing

This bill expands the grounds upon which a child support obligor can challenge a proposed suspension of the obligor's driver's license for failure to pay child support. The bill makes it discretionary, rather than mandatory, for the Child Support Enforcement Administration (CSEA) to notify the Motor Vehicle Administration (MVA) to suspend the obligor's license when the obligor is in arrears.

Fiscal Summary

State Effect: Potential significant reduction in special fund revenues to the extent that the bill reduces collection of child support. Expenditures could increase by \$23,600 in FY 2005 for additional postage (34% general/66% federal). Potential minimal increase in computer programming costs in FY 2005 only. The bill's requirements could be handled within the existing resources of the MVA and the Office of Administrative Hearings (OAH).

(in dollars)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
SF Revenue	(-)	(-)	(-)	(-)	(-)
GF Expenditure	8,000	10,800	10,900	11,000	11,100
FF Expenditure	15,600	21,000	21,200	21,400	21,600
Net Effect	(\$23,600)	(\$31,800)	(\$32,100)	(\$32,400)	(\$32,700)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: This bill makes it discretionary, rather than mandatory, for CSEA to notify the MVA of any obligor who is 60 days or more out of compliance with the most recent court order in making child support payments.

Before supplying any information regarding a child support arrearage to the MVA, CSEA must send written notice of its proposed action, including notice of the obligor's right to request an investigation on any of the following grounds:

- the information regarding the reported arrearage is inaccurate;
- suspension of the obligor's license or privilege to drive would be an impediment to current or potential employment; or
- suspension of the obligor's license or privilege to drive would place an undue hardship on the obligor because of the obligor's documented disability resulting in a verified inability to work or inability to comply with the court order.

If an obligor requests an investigation, CSEA must conduct an investigation to determine if any of the grounds described above exists. CSEA must send a copy of the obligor's request for an investigation to the obligee, give the obligee a reasonable opportunity to respond, and consider the obligee's response.

If, after the investigation or an appeal by the obligor to OAH, CSEA finds that one of the applicable grounds exists, then CSEA may not send any information about the obligor to the MVA. If CSEA finds that one of the grounds exists after sending information about the obligor to the MVA, CSEA must notify the MVA to reinstate the obligor's license or privilege to drive.

Current Law: Generally, CSEA is required to notify the MVA of any child support obligor who is 60 days or more out of compliance with the most recent court order requiring child support payments, if CSEA has accepted a support assignment or the recipient of support payments has filed an application for support enforcement services. Upon notification by CSEA, the MVA must suspend the obligor's license or privilege to drive and may issue a work-restricted license or privilege.

Before supplying any information to the MVA, CSEA must send written notice of the proposed action to the obligor and inform the obligor of the right to contest the accuracy of the reported arrearage by requesting an investigation. CSEA must provide a reasonable opportunity for the obligor to contest the accuracy of the information. Upon receipt of a request for investigation, CSEA must investigate and notify the obligor of the

investigation results and the obligor's right to appeal the results to OAH. An appeal must be made in writing and be received by OAH within 20 days after notice to the obligor of the investigation results. If after investigation or an appeal to OAH, CSEA finds that its proposed action was in error, then CSEA is prohibited from sending any information about the obligor to the MVA.

In addition, CSEA may not send any information about an obligor to the MVA if CSEA reaches an agreement with the obligor regarding a scheduled payment of the obligor's arrearage or the court issues an order for a scheduled payment of the arrearage and the obligor is complying with the agreement or court order. If the obligor's arrearage was paid in full after information was supplied to the MVA, or the obligor has demonstrated good faith by paying an ordered amount for six consecutive months, CSEA must notify the MVA to reinstate the obligor's license or privilege to drive.

Once the MVA receives notification from CSEA that an obligor is 60 days or more out of compliance with the most recent order of the court in making child support payments, the MVA must suspend an obligor's driving license or privilege. The MVA may issue a work-restricted license or privilege to drive. Prior to the suspension action and issuance of a work-restricted license or privilege, the MVA must send written notice of the proposed action to the obligor, including notice of the obligor's right to contest the accuracy of the information. Any challenge to the MVA action must be limited to whether the MVA has mistaken the identity of the obligor or individual whose driving license or privilege has been suspended. Any appeal of the MVA action is also limited to mistaken identity.

The MVA must reinstate an obligor's driving license or privilege if the MVA receives a court order to reinstate the license or privilege; or if CSEA notifies the MVA that the individual has paid the arrearage in full or the obligor has demonstrated good faith by paying the ordered amount for six consecutive months. The Secretary of Human Resources, in cooperation with the Secretary of Transportation and OAH, must adopt regulations for implementation of these provisions.

Background: All states and the District of Columbia have provisions that restrict an obligor's license or privilege to drive if he or she is delinquent in paying child support. Enactment of federal welfare reform in 1996 required all state child support enforcement programs to impose driver's license, as well as professional and occupational license restrictions, on obligors who have not paid child support in a timely manner. According to the Office of Child Support Enforcement in the U.S. Department of Health and Human Services, for all fiscal years since statistics have been collected, child support arrearages nationwide total about \$92.3 billion. In Maryland, all arrearages total nearly \$1.4 billion.

During fiscal 2003, CSEA reports that \$437.5 million was collected for child support, a 4.3% increase over fiscal 2002. About 63% of the child support caseload pays on arrears obligations. Since the driver's license suspension program began in 1996, CSEA has collected \$222 million from obligors. In fiscal 2003, CSEA collected \$18 million as a result of the driver's license suspension program. The MVA suspended 18,233 driver's licenses, pursuant to notification from CSEA.

State Revenues: Special fund revenues will be reduced to the extent that the bill reduces 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. Accordingly, the State and federal governments would share equally in any reduction in collection revenues. Any such reduction cannot be quantified at this time due to the unavailability of data, but could be significant.

State Expenditures: Expenditures could increase by \$23,630 in fiscal 2005 (34% or \$8,034 general/66% or \$15,596 federal) for additional postage to send the notices to the obligee that would be required by the bill. CSEA advises that it has a caseload of 1,774 investigations per month and that under the bill, the number of investigations will probably double to 3,548. The estimate assumes that a notice to the obligee would be sent at the time an investigation is requested and at the completion of the investigation. Out-years include annualization and inflation.

CSEA also advises that \$105,000 (34% or \$35,700 general/66% or \$69,300 federal) would be needed one-time only in fiscal 2005 for computer programming changes to add functionality to trigger notices when investigations are requested and completed. The Department of Legislative Services (DLS) advises that that if other legislation is passed requiring computer reprogramming changes, economies of scale could be realized. This would reduce the costs associated with this bill and other legislation affecting CSEA. Further, DLS advises that the increased computer expenditure is an estimate and that CSEA may be able to handle the changes within existing resources.

DLS advises that this bill's requirements could be handled within the existing resources of the MVA and OAH.

Additional Information

Prior Introductions: None.

Cross File: SB 329 (Senator Grosfeld) – Judicial Proceedings.

Information Source(s): Department of Human Resources, Office of Administrative Hearings, Maryland Department of Transportation, U.S. Department of Health and Human Services (Office of Child Support Enforcement), National Conference of State Legislatures, *The Daily Record*, Department of Legislative Services

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