

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 311 (Delegates Simpson and Taylor)
 Judiciary

Child Support - Suspension of Driver's Licenses

This bill extends, from 60 to 120 days, the period during which the holder of a noncommercial driver’s license may be out of compliance with a child support order before the Child Support Administration (CSA) is authorized to notify the Motor Vehicle Administration (MVA) to begin the process to suspend the obligor’s license. The bill also (1) alters procedures CSA must take before notifying MVA of an obligor’s noncompliance, including requiring CSA to petition the court to make a finding (after a hearing) that suspension is appropriate, as specified; (2) permits the obligor to make a request for reinstatement of the license with CSA or the court; and (3) requires CSA, on the request of the obligor, to request for MVA to expunge an obligor’s record of license suspension for failure to pay child support, as specified.

Fiscal Summary

State Effect: General/federal fund expenditures for the Department of Human Services (DHS) are anticipated to increase by *at least* \$2.1 million in FY 2025, including one-time programming costs of \$340,800. Future years reflect annualization, inflation, and elimination of one-time costs. Federal fund matching revenues increase correspondingly to federal fund expenditures. Reimbursable expenditures and revenues decrease minimally for the Office of Administrative Hearings (OAH), as discussed below (not reflected below). Minimal decrease in general fund fine revenues.

(\$ in millions)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
GF Revenue	(-)	(-)	(-)	(-)	(-)
FF Revenue	\$1.4	\$1.4	\$1.5	\$1.5	\$1.6
GF/FF Exp.	\$2.1	\$2.2	\$2.2	\$2.3	\$2.4
Net Effect	(\$0.7)	(\$0.7)	(\$0.8)	(\$0.8)	(\$0.8)

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

Local Effect: Local government expenditures, partially offset by federal matching funds received from the State, may increase in jurisdictions where a local agency (generally the State's Attorney's Office) carries out child support enforcement within the jurisdiction.

Small Business Effect: None.

Analysis

Bill Summary/Current Law:

Child Support Administration Notification Requirements – License Suspension

Applicable Period of Noncompliance: Under current law, after providing an obligor with notice and the opportunity to request an investigation, as specified below, CSA within DHS may notify MVA if an obligor with a noncommercial driver's license is 60 days or more out of compliance (120 days for holders of a commercial driver's license) with the most recent order of the court in making child support payments. The bill extends the applicable period of noncompliance to 120 days for noncommercial driver's licenses.

Existing Procedural Requirements Prior to Reporting to MVA: Under current law, before providing any information to MVA regarding a child support obligor, CSA must send written notice of the proposed action to an obligor, including notice of the obligor's right to request an investigation on any of the following grounds: (1) the information regarding the reported arrearage is inaccurate; (2) suspension of the obligor's license or privilege to drive would be an impediment to the obligor's current or potential employment; or (3) 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. In addition, CSA must give the obligor a reasonable opportunity to request an investigation of the proposed action. If, after an investigation or appeal to OAH, CSA finds that one of the circumstances specified above exists, CSA may not send any information about the obligor to MVA.

Additionally, CSA may not send any information about an obligor to MVA if (1) CSA reaches an agreement with the obligor regarding a scheduled payment of child support arrearages (or a court issues an order for a scheduled payment) and (2) the obligor is complying with the agreement (or court order).

The bill repeals the above procedural requirements.

Court Determination: Under the bill, before CSA may send information to MVA about an obligor who is noncompliant with the most recent child support order, CSA must petition the court to make a finding that suspension of the obligor's license or privilege to drive is appropriate. Notice of the petition must be served on the obligor. After a hearing, the court may make a finding that the suspension of the obligor's license or privilege to drive is appropriate if CSA proves by *clear and convincing evidence* that (1) the obligor has the funds to pay the arrearage balance, but is making the free and conscious choice to withhold payment or is voluntarily impoverished as defined in the Family Law Article; (2) the obligor's funds are not subject to other collection and enforcement mechanisms; and (3) suspension of the obligor's license or privilege to drive in order to collect the child support arrearage is in the best interest of the child. If the court determines that the suspension of the obligor's license or privilege to drive is appropriate, CSA may notify MVA.

The court may *not* determine that the suspension of the obligor's license or privilege to drive is appropriate if:

- the obligor proves by a *preponderance of the evidence* that suspension of the obligor's license or privilege to drive would place an undue hardship on the obligor or the obligor's family because of specified factors, including (1) the minor child is residing primarily with the obligor; (2) a documented disability of the obligor that results in a verified inability to work; and (3) an obligor does not have the ability to pay and is making reasonable efforts to become or remain employed;
- the information regarding the reported arrearage is inaccurate; or
- CSA reaches an agreement with the obligor for payment of the child support arrearages, *or* the court issues an order for a scheduled payment of the arrearages *and* the court determines that the obligor is complying with the agreement or the order.

Pursuant to the Family Law Article, "voluntarily impoverished" means that a parent has made the free and conscious choice, not compelled by factors beyond the parent's control, to render the parent without adequate resources.

Reinstatement of Obligor's License

Under current law, MVA must reinstate an obligor's license or privilege to drive if it receives a court order to do so or if CSA notifies MVA that (1) the individual is not in arrears in making child support payments; (2) the obligor has paid the support arrearage in full; (3) the obligor has demonstrated good faith by paying the ordered amount of support for six consecutive months; or (4) the obligor is a participant, in full compliance, in an employment program approved by CSA. As discussed above, an obligor has the right under current law to request an investigation based on specified grounds prior to information

being sent to MVA. MVA must also reinstate the license on notice from CSA that one of these specified grounds exists.

The bill alters these provisions by (1) specifying that, in addition to CSA, the court may find that the aforementioned requirements have been met (and CSA must, therefore, notify MVA for reinstatement) and (2) generally conforming additional grounds that may be used as the basis for reinstatement to specific factors as established in the bill. Also, the bill allows the obligor to request reinstatement of the obligor’s license with CSA or the court.

Expungement of Obligor’s Record

Under current law, CSA may request that MVA expunge a record of a suspension of license or privilege to drive for failure to pay child support if an obligor is (1) enrolled in – and compliant with – an approved employment program or (2) the information reported by CSA that led to the suspension was inaccurate. The bill requires CSA, on request of the obligor, to make a request for expungement with MVA.

In addition, the bill repeals a requirement for OAH to cooperate with the Secretary of Human Services and the Secretary of Transportation in the adoption of regulations to implement the statutory provisions related to the suspension of driving privileges of an obligor for child support arrearages.

State Fiscal Effect:

Resources at the Department of Human Services

The bill requires CSA to petition a court (and a court to hold a hearing) prior to initiating any driver’s license suspensions for obligors with child support arrearage. Based on a preliminary estimate from the Office of the Attorney General, it is estimated that *at least* 17 additional assistant Attorneys General may be required throughout DHS to review petitions for legal sufficiency and litigate the cases before the circuit courts. Based on this assessment, general/federal fund expenditures increase by *at least* \$2.1 million in fiscal 2025, which accounts for the bill’s October 1, 2024 effective date. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. It also accounts for \$340,800 in one-time programming costs for DHS to update the Child Support Management System within the Maryland Total Human-Services Integrated Network (MD THINK).

Positions	17.0
Salaries and Fringe Benefits	\$1,602,847
MD THINK Reprogramming	340,800
Operating Expenses	<u>123,352</u>
Minimum FY 2025 State Expenditures	\$2,066,999

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses. For fiscal 2026 and annually thereafter, DHS general/federal fund expenditures reflect ongoing maintenance costs for MD THINK of \$64,752.

The aforementioned DHS expenditures are assumed to be supported by 34% general funds and 66% federal funds. Federal fund revenues correspondingly increase with federal fund expenditures. The estimate does not account for any impact on federal funding for local jurisdictions under cooperative reimbursement agreements (discussed below).

The Department of Legislative Services (DLS) notes that DHS – without further explanation – has indicated that additional resources beyond those accounted for above are necessary, including 29 additional child support caseworkers with associated expenditures of at least \$1.0 million on an annualized basis. Because, however, the information was not provided in time for DLS to properly validate the estimate and assess the need for additional staffing of that magnitude, it is not accounted for in the estimate.

Impacts on the Office of Administrative Hearings

OAH reimbursable expenditures decrease minimally due to the bill's provisions repealing the obligor's right to appeal the results of a CSA investigation to OAH. OAH indicates that 34 hearing requests were made in fiscal 2023 involving CSA and an obligor's driver's license suspension. Reimbursable revenues correspondingly decrease.

Other Effects

The bill also affects general fund revenues. In calendar 2023, MVA suspended approximately 20,512 licenses due to child support noncompliance. Because the bill *requires* CSA to petition the court to make a finding about whether the suspension of the obligor's license is appropriate and extends the time during which an obligor may be out of compliance before CSA initiates suspension efforts, the number of citations issued to individuals driving with a suspended driver's license is likely to decline, at least minimally. An individual convicted of driving with a license that is suspended due to nonpayment of child support is subject to a fine of up to \$500, may not prepay the fine, and must appear in court. Additionally, three points are assessed against the person's license.

MVA advises that it does not charge a fee for a driver's license reinstatement if a person shows they are in compliance after a suspension. Therefore, Transportation Trust Fund revenues are not materially affected by the bill.

The Judiciary anticipates that it can accommodate the additional hearings required by the bill using existing resources.

Local Fiscal Effect: CSA may enter into cooperative reimbursement agreements with local governments that wish to carry out child support enforcement within their jurisdiction. Under cooperative agreements, the local agency undertaking the child support function receives the 66% federal match for expenses it incurs for completing this function. The federal funds are budgeted within CSA as the State child support agency. However, because local governments are responsible for costs not reimbursed by federal funds under a CSA cooperative reimbursement agreement, local government expenditures may increase in certain jurisdictions to the extent additional resources, such as an attorney to handle court hearings under the bill, are required.

Additional Comments: The Judiciary advises that, tied to federal reimbursement for states, federal law requires each state to have in effect laws requiring the use of certain procedures, including those under which the state has, and uses in appropriate cases, authority to withhold or suspend or otherwise restrict the use of driver's licenses of individuals owing overdue support. Nevertheless, the Judiciary advises that nothing in the federal law or implementing rules specifically provides that this bill would violate that statutory requirement.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 174 (Senator Muse) - Judicial Proceedings.

Information Source(s): Office of Administrative Hearings; Office of the Attorney General; Judiciary (Administrative Office of the Courts); Department of Human Services; Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History: First Reader - February 1, 2024
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