



## Senate Bill 0106

### **Child Support – Suspension of Driver’s Licenses In the Judicial Proceedings Committee Hearing on January 22, 2025 Position: FAVORABLE**

*Maryland Legal Aid (MLA) submits its written and oral testimony on SB 0106.*

MLA appreciates the opportunity to testify in support of this vital legislation. MLA is a private, nonprofit law firm that provides free legal services to thousands of low-income Maryland residents in civil matters. MLA represents both custodial and non-custodial parents in family law cases. In doing this work, we have found that wrongful driver’s license suspensions for alleged child support arrears are a recurrent and widespread problem. Driver’s license suspensions disproportionately harm low-income families, and the Maryland Child Support Enforcement Agency (“CSA”)’s automated driver’s license suspension system fails to reliably provide notice and the opportunity for a hearing prior to license suspension.

Driver’s license suspensions are not effective as a child support enforcement mechanism for those who are living in poverty and do not have the ability to pay. License suspensions create a barrier to employment and make it difficult to be an involved and active parent. Once a parent’s driver’s license is suspended, they are unable to contribute in other ways—for example, transporting their child to school, doctor’s appointments, visits with family, etc. Further, most child support is collected through wage garnishment and tax refund intercepts. These collection mechanisms both require the parent to have lawful, steady employment—to which driver’s license suspension is an impediment.

Three bills have been introduced to Maryland’s legislative body this session presenting potential solutions to this problem. This bill, **SB 0106**, directly addresses MLA’s concerns about the lack of due process within the current suspension system. It presents a systemic fix, where a parent’s driver’s license could only be suspended after a judicial determination of appropriateness has been made, based on a number of factors that take into account the parent’s ability to pay and the individual circumstances of the family as a whole. **SB 0015** does not directly address the due process concerns, but it creates a much-needed exemption to license suspension for low-income parents that, if implemented correctly, would help MLA clients and low-income communities tremendously. **SB 0195** also addresses the harms of license suspensions for low-income families, but, rather than creating an affirmative exemption to screen out low-income parents as SB 0015 does, it allows parents to request an investigation of the suspension based on their low-income status.

SB 0106 ensures parents are provided due process (**notice and the opportunity for a hearing**) before their driver’s license is suspended. It establishes criteria for when suspending a license for alleged child support arrears is **appropriate**, pursuant to the controlling federal law (discussed further below). And, it specifies that license suspension is only appropriate for those who have the **ability to pay** but are making the free and conscious choice to withhold payments, or are voluntarily impoverishing themselves.

This bill will help children and families by making license suspensions **more effective** as a child support enforcement mechanism—by targeting those who have the ability to pay, rather than ensnaring every parent who has 60 days or more of arrears into a system that (currently) automatically refers them to the MVA for license suspension, without regard for whether they fit into an already enumerated exception in the law.

***The numbers and the absence of due process.***

In 2023, the MVA, at the express direction of CSA, suspended 20,512 licenses for alleged child support arrears. **Of those 20,512 suspensions, only 34 hearing requests** were made to the Office of Administrative Hearings (“OAH”). This astonishing disparity is a predictable consequence of CSA’s consistent failure to inform parents of their rights<sup>1</sup> to request an investigation, to receive a decision with the results of said investigation in writing, and to appeal that decision to OAH. Failure to inform parents of those rights violates constitutional due process, Md. Code, Family Law § 10-119, and COMAR 07.07.15.05. Certainly, if parents were informed of their right to request a hearing with OAH prior to suspension, more than 34 hearing requests would have been made out of the 20,512 suspensions in 2023.

**“Adequate notice is integral to the due process right to a fair hearing because the ‘right to be heard has little reality or worth unless one is informed.’” *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950).**

SB 0106 will significantly reduce the number of license suspensions in Maryland by implementing a judicial process where driver’s license suspensions are only used *when appropriate*, rather than as a blanket punishment for all parents who fall behind on their child support. This bill creates a safeguard that is desperately needed against erroneous and egregious license suspensions.

***Many parents have no idea their license is suspended until they are pulled over for a traffic stop.***

What would have been a minor traffic violation then turns into a criminal citation. A criminal citation serves as another barrier to employment and carries with it collateral consequences ranging from their car being impounded, job loss, missed shifts and lost wages, court dates, points on their license, increased insurance costs, fines, and even incarceration.

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<sup>1</sup> Md. Code, Family Law § 10-119 and COMAR 07.07.15.05

***The current automated system keeps many low-income parents in a perpetual cycle of threatened or actual license suspension.***

On its face, the current law already has enumerated exceptions that limit when CSA can suspend driver's licenses. The text of Md. Code, Family Law § 10-119 has exceptions for parents with a disability, parents who are making consistent payments on their arrearage balance per a payment agreement, and parents who need their license for employment. But MLA regularly sees clients who fit squarely into an exception and still have their driver's license suspended.

MLA assists clients who fall under exceptions in the law with license reinstatement. However, reinstatement is merely a temporary solution. If the parent still has an arrearage balance of 60 days or more, it is only a matter of time before they are re-selected and again referred to the MVA for suspension. Replacing the current automated system with the judicial process set forth in SB 0106 will enable CSA to reduce their time and resources spent on handling reinstatements of inappropriate and erroneous license suspensions. Rather, they could focus their resources on pursuing those specific cases where the parent has the ability to pay but is purposefully hiding or withholding money, or voluntarily impoverishing themselves.

***The current system does not protect parents from license suspension when custody has changed and the former non-custodial parent is now the primary caretaker of the child.***

Child custody can change rapidly in low-income families. For example, custody may vary depending on which parent has more reliable housing or income at any given point in time. While a change in custody might happen overnight, a legal modification of a custody or child support order in the Circuit Court takes at minimum a year, and often longer. It is sometimes while waiting on this lengthy court process that MLA clients (who now have custody of their child) have their license suspended.

***MLA clients have their licenses suspended and are often denied reinstatement requests by CSA, even when:***

- Custody has changed, and the child now lives with them;
- They are making payments towards their arrearage balance;
- They need their driver's license for their current job or a potential job opportunity or interview;
- The suspension causes them to lose their job;
- They have a verified disability and inability to work and make payments; and
- They need their license to be an involved and active parent.

***The following are examples of MLA clients who have suffered the harmful consequences of improper and inappropriate driver's license suspension:***

- Mr. R is an MLA client who was granted sole custody of his daughter in the Juvenile Court, after the mother was found to be unfit due to abuse and neglect. He provided a copy of the custody order to CSA, showing that custody had changed and he is now the custodial parent. **Mr. R's driver's license was still suspended**, which he learned only after being pulled over for a minor driving infraction. Mr. R received a criminal citation for driving on a suspended license.
- Mr. P is an MLA client who was granted sole custody of his son in the Circuit Court. The Circuit Court also granted Mr. P's request to officially terminate his obligation to pay child support, in light of the change in custody. Mr. P provided copies of the court orders to CSA, but **his driver's license was still suspended**. Mr. P drives trucks for a living, and **he was terminated from his job** due to his suspended license.
- Mr. G is an MLA client who drives rideshare. Mr. G provided proof to CSA of his weekly Uber rides and the fact that his license suspension would cause him to lose his employment and therefore his income, but **CSA refused to lift his license suspension unless he made a large lump sum payment**.
- Mr. M is an MLA client whose children are all now adults. He still owes child support arrears, but he has a disability and his only source of income is Supplemental Security Income ("SSI") disability benefits. Mr. M has been threatened with license suspensions **five times in a one-year period**. Each time, he goes to his local child support office and provides proof of his disability and continued receipt of SSI. CSA requires him to make a lump sum payment to have his license reinstated, despite the fact that he is supposed to be excepted from license suspension under Maryland law, and SSI is exempt from collections for child support under both Maryland and federal law.

***SB 0106 will ensure Maryland's compliance with federal law.***

Concerns have been raised about Maryland's federal funding, but this bill will in no way negatively impact Maryland's federal funding. The controlling federal laws, 42 U.S.C. §§ 666(a)(16) and 654(20), require only that states have the authority to suspend or restrict driver's licenses "*in appropriate cases*," to "increase the effectiveness of the program." This bill establishes criteria for when suspending a license for child support is *appropriate*—keeping Maryland very much in line with the controlling federal laws. This bill will help to stop the inappropriate and erroneous suspensions that have harmed MLA clients, such as the ones described above. The Maryland judiciary and federal experts on child support have also advised that nothing in this bill would violate any federal laws or rules.

SB 0106 calls for the implementation of a system of due process that will in fact ensure the constitutionality of Maryland's procedures for suspending driver's licenses for alleged child

support arrears. **The U.S. Supreme Court has found that driver’s licenses are essential in the pursuit of a livelihood** and cannot be taken away without the procedural due process required by the Fourteenth Amendment.<sup>2</sup> This bill is also in line with the 2020 legislation introduced by then-Attorney General Frosh and passed by the Maryland legislature that stopped the MVA from suspending driver’s licenses for fines and fees. The logic behind the passage of that legislation was simple: people need driver’s licenses to secure and maintain employment so that they are able to pay their fines and fees. That simple logic applies here: **parents need driver’s licenses to secure and maintain employment so that they are able to pay their child support.**

The current driver’s license suspension system perpetuates the cycle of poverty, but, if this legislation passes, it will have long-term positive impacts on low-income communities and on Maryland’s economy as a whole. MLA thanks you for the opportunity to provide input and urges the committee to **pass SB 0106.**

If you have any questions, please contact:

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<sup>2</sup> *Sniadach v. Family Finance Corp.*, 395 U.S. 337, 89 S.Ct. 1820, 23 L.Ed.2d 349 (1969); *Goldberg v. Kelly*, 397 U.S. 254, 90 S.Ct. 1011, 25 L.Ed.2d 287 (1970); *Bell v. Burson*, 402 U.S. 535, 539, 91 S. Ct. 1586, 1589, 29 L. Ed. 2d 90 (1971).