

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Children, Families, and Elder Affairs Committee

BILL: SB 914

INTRODUCER: Senator Oelrich

SUBJECT: Suspension of Driver Licenses and Motor Vehicle Registrations

DATE: February 21, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Daniell	Farmer	CF	Pre-meeting
2.			TR	
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill amends Florida law relating to the suspension of driver’s licenses and motor vehicle registration. The bill provides that a court must find that an obligor has the present ability to pay before approving a schedule of payment as a condition for an obligor to obtain a license for driving privileges restricted to business purposes only. Also, a court can only direct the Department of Highway Safety and Motor Vehicles (DHSMV) to suspend the obligor’s license if the obligor fails to comply with the schedule of payment *and* if the obligor has the present ability to pay.

Additionally, the bill directs the DHSMV to reinstate the driving privilege – for business purposes only – and allow registration of a motor vehicle of an obligor if the DHSMV receives an affidavit stating that the obligor has agreed to a schedule of payment on child support arrearages and to maintain support obligations.

This bill amends the following sections of the Florida Statutes: 61.13016, 322.058, and 409.256.

II. Present Situation:

Child support enforcement is a federally funded program that has been administered by the Department of Revenue (DOR or department) since 1994. A “Title IV-D case” is defined as any case in which the child support enforcement agency is enforcing the child support order pursuant

to Title IV-D of the Social Security Act.¹ The department provides services under the federally required program in 65 counties and through contracts in two counties.²

Child support orders are enforced by DOR, as well as the receipt and disbursement of collections. In 2009, over \$1.41 billion was collected and distributed, with 98 percent of collections distributed within 24 hours. Of all parents in the DOR caseload, fewer than 30 percent pay their full child support obligation on a monthly basis. In addition, DOR initiated enforcement actions on 92 percent of the support collections eventually received.³

The department has several methods for trying to collect past due child support. One method available to DOR is to suspend the obligor's driver's license.⁴ Pursuant to s. 61.13016, F.S., a person (the obligor) who is 15 days delinquent in paying child support may have his or her driver's license suspended after notice and an opportunity for a hearing in circuit court. The obligor may avoid suspension by paying the full amount of the delinquency, entering into a written agreement to pay the past due amount,⁵ or filing a petition in circuit court to contest suspension.⁶ Although not provided for in statute, DOR also allows an obligor to begin paying a delinquent support order by income deduction in order to avoid license suspension. According to DOR, income deduction is the most reliable way to obtain child support payments.⁷

If an obligor timely files a petition with the circuit court, the court has the discretion to direct the issuance of a driver's license that is restricted to business purposes only. A driving privilege "restricted to business purposes only" means a driving privilege that is limited to any driving necessary to maintain livelihood, including driving to and from work, necessary on-the-job driving, driving for educational purposes, and driving for church or medical purposes.⁸ The court may only issue the restricted license if the obligor agrees to a schedule for payment on any arrearages and to maintain current child support obligations.⁹ If the obligor fails to comply with the schedule of payment, the court shall direct the Department of Highway Safety and Motor Vehicles (DHSMV) to suspend the obligor's driver's license.

If the obligor does not pay the delinquency, enter into a payment agreement, or file a motion to contest, the Title IV-D agency, or the depository or clerk of the court, shall file the notice of the delinquency with DHSMV and request the suspension of the obligor's driver's license and motor vehicle registration.¹⁰

¹ See s. 61.046(9), F.S.

² Miami-Dade County cases are handled by the state attorney's office, and Manatee County cases are handled by the clerk of court.

³ See Comm. on Judiciary, *Bill Analysis and Fiscal Impact Statement, CS/CS/SB 694* (Mar. 29, 2010), available at <http://archive.flsenate.gov/data/session/2010/Senate/bills/analysis/pdf/2010s0694.ju.pdf> (last visited Feb. 1, 2012).

⁴ Section 322.01(17), F.S., defines a "driver's license" as a certificate that, subject to all other requirements of law, authorizes an individual to drive a motor vehicle and denotes and operator's license as defined in 49 U.S.C. s. 30301.

⁵ The agreement for repayment is entered into by the obligor and the obligee in non-Title IV-D cases, or by the obligor and the Title IV-D agency (DOR) in Title IV-D cases.

⁶ Section 61.13016(1)(c), F.S.

⁷ E-mail from Debbie Thomas, Dep't of Revenue, to Senate professional staff (Dec. 12, 2011) (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁸ Section 322.271(1)(c)1., F.S.

⁹ Section 61.13016(2), F.S.

¹⁰ Section 61.13016(3), F.S.

Once a suspension is in place, the license and registration must be reinstated if the Title IV-D agency, or the depository or clerk of the court, provides an affidavit to DHSMV stating that:

- The person has paid the delinquency;
- The person has reached a written agreement for payment; or
- A court has entered an order granting relief to the obligor ordering reinstatement.¹¹

III. Effect of Proposed Changes:

This bill amends Florida law relating to the suspension of driver licenses and motor vehicle registration. First, the bill amends s. 61.13016, F.S., to provide that a court must find that an obligor has the present ability to pay before approving a schedule of payment as a condition for an obligor to obtain a license for driving privileges restricted to business purposes only. Also, a court can only direct the Department of Highway Safety and Motor Vehicles (DHSMV) to suspend the obligor's license if the obligor fails to comply with the schedule of payment *and* if the obligor has the present ability to pay. Accordingly, it appears that under the bill, the court cannot direct DHSMV to suspend an obligor's driver license if the obligor fails to comply with the schedule of payment, but he or she does not have the present ability to pay.

The bill also amends s. 322.058, F.S., requiring the DHSMV to reinstate the driving privilege – for business purposes only – and allow registration of a motor vehicle of an obligor if the Title IV-D agency, or the depository or clerk of the court, provides an affidavit to the DHSMV stating that the obligor has agreed to a schedule of payment on child support arrearages and to maintain support obligations. In addition to the affidavit, the court must also direct the DHSMV to issue a license for driving privileges restricted to business purposes only to the obligor.

Finally, the bill changes the term “driver’s license” to “driver license” in certain provisions of law, and the bill also makes other technical and conforming changes.

The bill provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹¹ Section 322.058(2), F.S.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Highway Safety and Motor Vehicles estimates non-recurring reprogramming costs of \$8,000 to implement the bill.¹²

According to the Department of Revenue, there should not be a fiscal impact on the department.¹³

The bill requires a court to find that an obligor has the present ability to pay the schedule of payments for any child support arrearages and the current child support obligation before approving a schedule of payment. According to the Office of the State Courts Administrator, this requirement should have a minimal impact on judicial or court workload.¹⁴

VI. Technical Deficiencies:

According to the Department of Revenue (DOR or department), it currently provides the Department of Highway Safety and Motor Vehicles (DHSMV) with a daily data file of suspensions and reinstatements that automatically updates the DHSMV system. The department recommends amending the bill to authorize notice by interagency data exchange (rather than just by affidavit).¹⁵

Also, according to the DHSMV, it is unclear how it will receive notification to allow an obligor to upgrade from a business purposes only license to an unrestricted license. Currently, if the DHSMV issues a license with business purposes only restrictions, the restrictions have an expiration date.¹⁶

Finally, the bill changes the term “driver’s license” to “driver license” in ss. 61.13016, 322.058, and 409.256, F.S. Chapter 322, F.S., currently defines the term “driver’s license” (rather than “driver license”); however, the bill does not amend this definition,

¹² Dep’t of Highway Safety and Motor Vehicles, *Agency Bill Analysis, HB 1023* (Dec. 30, 2011) (on file with the Senate Committee on Children, Families, and Elder Affairs). HB 1023, prior to being amended, was identical to SB 914.

¹³ Dep’t of Revenue, *2012 Bill Analysis, SB 914* (Dec. 27, 2011) (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹⁴ Office of the State Courts Admin., *2012 Judicial Impact Statement, SB 914* (Dec. 7, 2011) (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹⁵ Dep’t of Revenue, *supra* note 13.

¹⁶ Dep’t of Highway Safety and Motor Vehicles, *supra* note 12.

nor does it change the terminology throughout the entire chapter. The Legislature may wish to amend the definition of “driver’s license” within ch. 322, F.S., as well as change the terminology throughout ch. 322, F.S., in order to avoid any conflict or inconsistencies in interpretation.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.