

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1023 Suspension of Driver Licenses and Motor Vehicle Registrations

**SPONSOR(S):** Civil Justice Subcommittee; Costello

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 914

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	15 Y, 0 N, As CS	Cary	Bond
2) Transportation & Highway Safety Subcommittee			
3) Appropriations Committee			
4) Judiciary Committee			

### SUMMARY ANALYSIS

Current law provides that a person's driver license and motor vehicle registration may be suspended for failure to pay child support. On a timely application by an obligor facing suspension, a court can order issuance of a business use driver license rather than full suspension if the obligor agrees to a payment plan. This bill provides that:

- The court must find that the obligor has the ability to make the required payments pursuant to a payment plan before approving a business use exception license.
- The court cannot suspend the driver license for failure to make payments pursuant to the payment plan without a finding that the obligor had the ability to make the payments.
- A court may reinstate a suspended driver license with a business use driver license if the obligor agrees to an acceptable payment plan.

This bill may have an insignificant nonrecurring fiscal impact on the Department of Highway Safety and Motor Vehicles. This bill does not appear to have a fiscal impact on local governments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

The driver license and motor vehicle registration of a person may be suspended if the person is delinquent in paying child support obligations.<sup>1</sup> Once an obligor is 15 days or more delinquent, notice is furnished warning of the potential suspension. To avoid suspension of the license and registration, the obligor has 20 days from mailing of the notice to pay any delinquency fees plus do one of the following:

- Pay the delinquency in full.
- Come to an agreement for repayment.<sup>2</sup>
- File a petition with the circuit court contesting the suspension.

Where the obligor timely files a petition with the circuit court, the court has the discretion to direct the issuance of a driver license 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 and for medical purposes.<sup>3</sup> However, a circuit court cannot direct issuance of a license restricted to business purposes only unless the obligor agrees to maintain current payments and agrees to a schedule for payment of the arrearage acceptable to the court. This bill amends s. 61.13016(2)(a), F.S., to further require that the court must find that the obligor has the present ability to make these payments.

If the obligor fails to comply with the schedule of payments previously approved by the court, the court must order suspension of the driver license. This bill amends s. 61.13016(2), F.S., to require that the court find that the court find that the obligor had the present ability to have made the payments before suspending the driver license. The requirement to find a present ability to have made the payments reflects a current case law requirement.<sup>4</sup> An obligor facing suspension may apply to the circuit court for a payment plan. The bill allows an obligor who has already been suspended to apply to the circuit court for a payment plan that would allow a business use license.

Once a suspension is in place, the license and registration may be reinstated should the obligor pay the delinquency in full, come to an agreement for repayment, or should the circuit court order relief. This bill amends s. 322.058, F.S., to provide that a court may reinstate a driver license restricted to business purposes only upon the court finding an acceptable payment plan. The bill also allows for the department to provide electronic notifications rather than by affidavit.

#### B. SECTION DIRECTORY:

Section 1 amends s. 61.13016, F.S., regarding suspension of driver license for failure to pay child support.

Section 2 amends s. 322.058, F.S., regarding suspension of driving privilege for failure to pay child support.

Section 3 amends s. 409.256, F.S., to update a cross-reference changed in Section 2.

Section 4 provides an effective date of July 1, 2012.

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<sup>1</sup> Section 61.13016(1), F.S. The driver license is also subject to suspension for failure to cooperate with genetic testing for paternity or failure to appear at a paternity hearing, but those provisions are not implicated by the changes made in this bill.

<sup>2</sup> The agreement for repayment is made with the obligee in non-Title IV-D cases, or with the Title IV-D agency in Title IV-D cases.

<sup>3</sup> Section 322.271(1)(c)1., F.S.

<sup>4</sup> *Larsen v. Larsen*, 901 So.2d 327 (Fla. 5th DCA 2005); *Gregory v. Rice*, 727 So.2d 251 (Fla. 1999).

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill does not appear to have any impact on state revenues.

#### 2. Expenditures:

The Department of Highway Safety and Motor Vehicles estimates nonrecurring reprogramming costs of \$8,000 to implement this bill. The cost can be incorporated into normal workload.<sup>5</sup>

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The bill does not appear to have any impact on local government revenues.

#### 2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any direct economic impact on the private sector.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

#### 2. Other:

None.

### B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 18, 2012, the Civil Justice Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment provides a new provision in s. 61.13016, F.S., clarifying that an obligor who has already been suspended may apply to the circuit court for a payment plan that would allow a business use license. The amendment also provides for electronic notification in lieu of

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<sup>5</sup> Department of Highway Safety and Motor Vehicles bill analysis dated December 30, 2011.

an affidavit. This analysis is drafted to the committee substitute as passed by the Civil Justice Subcommittee.