

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:** CS/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	14 Y, 0 N	Kiner	Kruse
3) Judiciary Committee	15 Y, 0 N	Cary	Havlicak

SUMMARY ANALYSIS

The Florida Department of Highway Safety and Motor Vehicles ("DHSMV") may, upon notification from the Florida Department of Revenue's ("DOR") Child Support Enforcement Program, suspend an obligor's driver's license and motor vehicle registration for failure to pay child support. Upon a timely application by an obligor facing suspension, a court can order the issuance of a business purposes only ("BPO") driver's license in lieu of full suspension. To qualify for the BPO, the obligor must agree to a payment plan.

The 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 BPO license;
- the court cannot suspend the obligor's driver's license for failure to make payments pursuant to the payment plan without a finding that the obligor has the ability to make the payments; and
- the court may order reinstatement of a suspended driver's license with a BPO license if the obligor agrees to an acceptable payment plan; and
- DHSMV is required to reinstate the obligor's driver's license (unrestricted) upon electronic notification from DOR, in lieu of an affidavit, that the obligor has paid the delinquency in full, entered into a written agreement for repayment, or the circuit court has ordered relief.

This bill may have an insignificant nonrecurring fiscal impact on DHSMV. This bill does not appear to have a fiscal impact on local governments.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

DOR's Child Support Enforcement Program electronically notifies DHSMV when an obligor is not current with his or her child support obligations. In these instances, the driver's license and motor vehicle registration of a delinquent obligor may be suspended.¹ Once an obligor is 15 days or more delinquent, notice is furnished warning of potential suspension. To avoid suspension, the obligor has 20 days from mailing of the notice to pay any delinquency fees. Additionally, the obligor must do one of the following:

- pay the delinquency in full;
- come to an agreement for repayment;² or
- file a petition with the circuit court contesting the suspension.

If the obligor timely files a petition with the circuit court, the court has the discretion to direct issuance of a BPO license. A BPO license is limited to any driving that is necessary to maintain one's livelihood – including driving to and from work, necessary on-the-job driving, educational purposes, church, and medical purposes.³ However, a circuit court cannot direct issuance of a BPO unless the obligor agrees to maintain current payments and agrees to a schedule for payment of the arrearage acceptable to the court. If the obligor fails to comply with the schedule of payments previously approved by the court, the court must order suspension of the driver's license. Once a suspension is in place, the license and registration may be reinstated if the obligor pays the delinquency in full (affidavit required), comes to a written agreement for repayment (affidavit required), or the circuit court orders relief (affidavit required).

Effect of Proposed Changes

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 BPO license;
- the court cannot suspend the obligor's driver's license for failure to make payments pursuant to the payment plan without a finding that the obligor has the ability to make the payments;
- the court may order reinstatement of a suspended driver's license with a BPO license if the obligor agrees to an acceptable payment plan; and
- DHSMV is required to reinstate the obligor's driver's license (unrestricted) upon electronic notification from DOR, in lieu of an affidavit, that the obligor has paid the delinquency in full, entered into a written agreement for repayment, or the circuit court has ordered relief.

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

B. SECTION DIRECTORY:

Section 1: amends s. 61.13016, F.S., regarding suspension of driver's 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: provides an effective date.

¹ Section 61.13016(1), F.S.

² 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.

³ Section 322.271(1)(c)1., F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

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.⁴

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

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:

Not applicable. 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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

⁴ Department of Highway Safety and Motor Vehicles bill analysis dated December 30, 2011.

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