

1 A bill to be entitled
2 An act relating to suspension of driver licenses and
3 motor vehicle registrations; amending s. 61.13016,
4 F.S.; revising provisions providing for an obligor who
5 is delinquent in support payments to petition the
6 circuit court to direct the Department of Highway
7 Safety and Motor Vehicles to issue to the obligor a
8 driver license restricted to business purposes only;
9 requiring that the court, before approving a schedule
10 for an obligor's delinquent support payments, find
11 that the obligor has the present ability to pay the
12 child support arrearage and support obligation;
13 requiring that the court direct the Department of
14 Highway Safety and Motor Vehicles to suspend the
15 obligor's driver license if the obligor fails to
16 comply with the schedule of payments and if the
17 obligor has the ability to pay; amending s. 322.058,
18 F.S.; requiring that the Department of Highway Safety
19 and Motor Vehicles reinstate the driving privilege and
20 allow registration of a motor vehicle of a person who
21 has a delinquent support obligation or who has failed
22 to comply with a subpoena, order to appear, order to
23 show cause, or similar order, if the Title IV-D agency
24 in IV-D cases, or the depository or the clerk of the
25 court in non-IV-D cases, provides an affidavit to the
26 department stating that the court has directed that
27 the person be issued a license for driving privileges
28 restricted to business purposes only; amending s.

29 409.256, F.S.; revising provisions to conform to
 30 changes made by the act; providing an effective date.

31

32 Be It Enacted by the Legislature of the State of Florida:

33

34 Section 1. Section 61.13016, Florida Statutes, is amended
 35 to read:

36 61.13016 Suspension of driver ~~driver's~~ licenses and motor
 37 vehicle registrations.—

38 (1) The driver ~~driver's~~ license and motor vehicle
 39 registration of a support obligor who is delinquent in payment
 40 or who has failed to comply with subpoenas or a similar order to
 41 appear or show cause relating to paternity or support
 42 proceedings may be suspended. When an obligor is 15 days
 43 delinquent making a payment in support or failure to comply with
 44 a subpoena, order to appear, order to show cause, or similar
 45 order in IV-D cases, the Title IV-D agency may provide notice to
 46 the obligor of the delinquency or failure to comply with a
 47 subpoena, order to appear, order to show cause, or similar order
 48 and the intent to suspend by regular United States mail that is
 49 posted to the obligor's last address of record with the
 50 Department of Highway Safety and Motor Vehicles. When an obligor
 51 is 15 days delinquent in making a payment in support in non-IV-D
 52 cases, and upon the request of the obligee, the depository or
 53 the clerk of the court must provide notice to the obligor of the
 54 delinquency and the intent to suspend by regular United States
 55 mail that is posted to the obligor's last address of record with
 56 the Department of Highway Safety and Motor Vehicles. ~~In either~~

57 ~~ease,~~ The notice must state:

58 (a) The terms of the order creating the support
59 obligation;

60 (b) The period of the delinquency and the total amount of
61 the delinquency as of the date of the notice or describe the
62 subpoena, order to appear, order to show cause, or other similar
63 order that ~~which~~ has not been complied with;

64 (c) That notification will be given to the Department of
65 Highway Safety and Motor Vehicles to suspend the obligor's
66 driver ~~driver's~~ license and motor vehicle registration unless,
67 within 20 days after the date the notice is mailed, the obligor:

68 1.a. Pays the delinquency in full and any other costs and
69 fees accrued between the date of the notice and the date the
70 delinquency is paid;

71 b. Enters into a written agreement for payment with the
72 obligee in non-IV-D cases or with the Title IV-D agency in IV-D
73 cases; or in IV-D cases, complies with a subpoena or order to
74 appear, order to show cause, or a similar order; or

75 c. Files a petition with the circuit court to contest the
76 delinquency action; and

77 2. Pays any applicable delinquency fees.
78

79 If the obligor in non-IV-D cases enters into a written agreement
80 for payment before the expiration of the 20-day period, the
81 obligor must provide a copy of the signed written agreement to
82 the depository or the clerk of the court.

83 (2) (a) If the obligor files a ~~Upon petition filed by the~~
84 ~~obligor~~ in the circuit court within 20 days after the mailing

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85 date of the notice, the court may, ~~in its discretion,~~ direct the
86 department to issue a license for driving privileges restricted
87 to business purposes only, as defined by s. 322.271, if the
88 person is otherwise qualified for such a license. As a condition
89 for the court to exercise its discretion under this subsection,
90 the obligor must agree to a schedule of payment on any child
91 support arrearages and to maintain current child support
92 obligations. Before approving the schedule of payment, the court
93 must find that the obligor has the present ability to pay the
94 schedule of payment for the child support arrearage and the
95 current child support obligation.

96 (b) If the obligor fails to comply with the schedule of
97 payment and if the obligor has the present ability to do so, the
98 court shall direct the Department of Highway Safety and Motor
99 Vehicles to suspend the obligor's driver ~~driver's~~ license.

100 (c) ~~(b)~~ The obligor must serve a copy of the petition on
101 the Title IV-D agency in IV-D cases or on the depository or the
102 clerk of the court in non-IV-D cases. When an obligor timely
103 files a petition to set aside a suspension, the court must hear
104 the matter within 15 days after the petition is filed. The court
105 must enter an order resolving the matter within 10 days after
106 the hearing, and a copy of the order must be served on the
107 parties. The timely filing of a petition under this subsection
108 stays the intent to suspend until the entry of a court order
109 resolving the matter.

110 (3) If the obligor does not, within 20 days after the
111 mailing date on the notice, pay the delinquency, enter into a
112 payment agreement, comply with the subpoena, order to appear,

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113 order to show cause, or other similar order, or file a motion to
 114 contest, the Title IV-D agency in IV-D cases, or the depository
 115 or clerk of the court in non-IV-D cases, shall file the notice
 116 with the Department of Highway Safety and Motor Vehicles and
 117 request the suspension of the obligor's driver ~~driver's~~ license
 118 and motor vehicle registration in accordance with s. 322.058.

119 (4) The obligor may, within 20 days after the mailing date
 120 on the notice of delinquency or noncompliance and intent to
 121 suspend, file in the circuit court a petition to contest the
 122 notice of delinquency or noncompliance and intent to suspend on
 123 the ground of mistake of fact regarding the existence of a
 124 delinquency or the identity of the obligor. The obligor must
 125 serve a copy of the petition on the Title IV-D agency in IV-D
 126 cases or depository or clerk of the court in non-IV-D cases.
 127 When an obligor timely files a petition to contest, the court
 128 must hear the matter within 15 days after the petition is filed.
 129 The court must enter an order resolving the matter within 10
 130 days after the hearing, and a copy of the order must be served
 131 on the parties. The timely filing of a petition to contest stays
 132 the notice of delinquency and intent to suspend until the entry
 133 of a court order resolving the matter.

134 (5) The procedures prescribed in this section and s.
 135 322.058 may be used to enforce compliance with an order to
 136 appear for genetic testing.

137 Section 2. Section 322.058, Florida Statutes, is amended
 138 to read:

139 322.058 Suspension of driving privilege ~~privileges~~ due to
 140 support delinquency; reinstatement.—

141 (1) When the department receives notice from the Title IV-
 142 D agency or depository or the clerk of the court that a ~~any~~
 143 person licensed to operate a motor vehicle in the State of
 144 Florida under the provisions of this chapter has a delinquent
 145 support obligation or has failed to comply with a subpoena,
 146 order to appear, order to show cause, or similar order, the
 147 department shall suspend the driver ~~driver's~~ license of the
 148 person named in the notice and the registration of all motor
 149 vehicles owned by that person.

150 (2) The department shall reinstate the driving privilege
 151 and allow registration of the motor vehicle of a person who has
 152 a delinquent support obligation or who has failed to comply with
 153 a subpoena, order to appear, order to show cause, or similar
 154 order, if the Title IV-D agency in IV-D cases, or the depository
 155 or the clerk of the court in non-IV-D cases, provides to the
 156 department an affidavit stating that the person has agreed to a
 157 schedule of payment on child support arrearages and to maintain
 158 support obligations, and the court has directed that the person
 159 be issued a license for driving privileges restricted to
 160 business purposes only, as defined by s. 322.271 and pursuant to
 161 s. 316.13016.

162 (3)~~(2)~~ The department shall also ~~must~~ reinstate the
 163 driving privilege and allow registration of a motor vehicle when
 164 the Title IV-D agency in IV-D cases or the depository or the
 165 clerk of the court in non-IV-D cases provides to the department
 166 an affidavit stating that:

- 167 (a) The person has paid the delinquency;
- 168 (b) The person has reached a written agreement for payment

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169 with the Title IV-D agency or the obligee in non-IV-D cases;

170 (c) A court has entered an order granting relief to the
 171 obligor ordering the reinstatement of the license and motor
 172 vehicle registration; or

173 (d) The person has complied with the subpoena, order to
 174 appear, order to show cause, or similar order.

175 (4)~~(3)~~ The department is ~~shall~~ not ~~be held~~ liable for a
 176 ~~any~~ license or vehicle registration suspension resulting from
 177 the discharge of its duties under this section.

178 (5)~~(4)~~ This section applies only to the annual renewal in
 179 the owner's birth month of a motor vehicle registration and does
 180 not apply to the transfer of a registration of a motor vehicle
 181 sold by a motor vehicle dealer licensed under chapter 320,
 182 except for the transfer of registrations which is inclusive of
 183 the annual renewals. This section does not affect the issuance
 184 of the title to a motor vehicle, notwithstanding s.

185 319.23(7) (b) .

186 Section 3. Subsection (7) of section 409.256, Florida
 187 Statutes, is amended to read:

188 409.256 Administrative proceeding to establish paternity
 189 or paternity and child support; order to appear for genetic
 190 testing.—

191 (7) FAILURE OR REFUSAL TO SUBMIT TO GENETIC TESTING.—If a
 192 person who is served with an order to appear for genetic testing
 193 fails to appear without good cause or refuses to submit to
 194 testing without good cause, the department may take one or more
 195 of the following actions:

196 (a) Commence a proceeding to suspend the driver ~~driver's~~

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197 license and motor vehicle registration of the person ordered to
198 appear, as provided in s. 61.13016;

199 (b) Impose an administrative fine against the person
200 ordered to appear in the amount of \$500; or

201 (c) File a petition in circuit court to establish
202 paternity, obtain a support order for the child, and seek
203 reimbursement from the person ordered to appear for the full
204 cost of genetic testing incurred by the department.

205
206 As provided in s. 322.058(3) ~~s. 322.058(2)~~, a suspended driver
207 ~~driver's~~ license and motor vehicle registration shall ~~may~~ be
208 reinstated when the person ordered to appear complies with the
209 order to appear for genetic testing. The department may collect
210 an administrative fine imposed under this subsection by using
211 civil remedies or other statutory means available to the
212 department for collecting support.

213 Section 4. This act shall take effect July 1, 2012.