

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; specifying that an
18 obligor whose license and registration has been
19 suspended may petition the court for a driver license
20 restricted to business purposes under specified
21 provisions that require the obligor to agree to a
22 schedule of payment on arrearages and to maintain
23 current obligations; amending s. 322.058, F.S.;
24 requiring that the Department of Highway Safety and
25 Motor Vehicles reinstate the driving privilege and
26 allow registration of a motor vehicle of a person who
27 has a delinquent support obligation or who has failed
28 to comply with a subpoena, order to appear, order to

CS/HB 1023

2012

29 | show cause, or similar order, if the Title IV-D agency
30 | in IV-D cases, or the depository or the clerk of the
31 | court in non-IV-D cases, provides electronic
32 | notification to the department stating that the court
33 | has directed that the person be issued a license for
34 | driving privileges restricted to business purposes
35 | only; providing an effective date.
36 |

37 | Be It Enacted by the Legislature of the State of Florida:
38 |

39 | Section 1. Section 61.13016, Florida Statutes, is amended
40 | to read:

41 | 61.13016 Suspension of driver ~~driver's~~ licenses and motor
42 | vehicle registrations.—

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

CS/HB 1023

2012

57 cases, and upon the request of the obligee, the depository or
58 the clerk of the court must provide notice to the obligor of the
59 delinquency and the intent to suspend by regular United States
60 mail that is posted to the obligor's last address of record with
61 the Department of Highway Safety and Motor Vehicles. ~~In either~~
62 ~~case,~~ The notice must state:

63 (a) The terms of the order creating the support
64 obligation;

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

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

73 1.a. Pays the delinquency in full and any other costs and
74 fees accrued between the date of the notice and the date the
75 delinquency is paid;

76 b. Enters into a written agreement for payment with the
77 obligee in non-IV-D cases or with the Title IV-D agency in IV-D
78 cases; or in IV-D cases, complies with a subpoena or order to
79 appear, order to show cause, or a similar order; or

80 c. Files a petition with the circuit court to contest the
81 delinquency action; and

82 2. Pays any applicable delinquency fees.

83

84 If the obligor in non-IV-D cases enters into a written agreement

85 for payment before the expiration of the 20-day period, the
 86 obligor must provide a copy of the signed written agreement to
 87 the depository or the clerk of the court.

88 (2) (a) If the obligor files a ~~Upon petition filed by the~~
 89 ~~obligor~~ in the circuit court within 20 days after the mailing
 90 date of the notice, the court may, ~~in its discretion,~~ direct the
 91 department to issue a license for driving privileges restricted
 92 to business purposes only, as defined by s. 322.271, if the
 93 person is otherwise qualified for such a license. As a condition
 94 for the court to exercise its discretion under this subsection,
 95 the obligor must agree to a schedule of payment on any child
 96 support arrearages and to maintain current child support
 97 obligations. Before approving the schedule of payment, the court
 98 must find that the obligor has the present ability to pay the
 99 schedule of payment for the child support arrearage and the
 100 current child support obligation.

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

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

CS/HB 1023

2012

113 stays the intent to suspend until the entry of a court order
114 resolving the matter.

115 (3) If the obligor does not, within 20 days after the
116 mailing date on the notice, pay the delinquency, enter into a
117 payment agreement, comply with the subpoena, order to appear,
118 order to show cause, or other similar order, or file a motion to
119 contest, the Title IV-D agency in IV-D cases, or the depository
120 or clerk of the court in non-IV-D cases, shall file the notice
121 with the Department of Highway Safety and Motor Vehicles and
122 request the suspension of the obligor's driver ~~driver's~~ license
123 and motor vehicle registration in accordance with s. 322.058.

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

139 (5) The procedures prescribed in this section and s.
140 322.058 may be used to enforce compliance with an order to

141 appear for genetic testing.

142 (6) A person whose driver license and registration has
 143 been suspended under this section may petition for relief under
 144 subsection (2). A petition under this subsection does not act as
 145 a stay of any suspension.

146 Section 2. Section 322.058, Florida Statutes, is amended
 147 to read:

148 322.058 Suspension of driving privilege ~~privileges~~ due to
 149 support delinquency; reinstatement.—

150 (1) When the department receives notice from the Title IV-
 151 D agency or depository or the clerk of the court that a ~~any~~
 152 person licensed to operate a motor vehicle in the State of
 153 Florida under the provisions of this chapter has a delinquent
 154 support obligation or has failed to comply with a subpoena,
 155 order to appear, order to show cause, or similar order, the
 156 department shall suspend the driver ~~driver's~~ license of the
 157 person named in the notice and the registration of all motor
 158 vehicles owned by that person.

159 (2) (a) The department must reinstate the full driving
 160 privilege and allow registration of a motor vehicle when the
 161 Title IV-D agency in IV-D cases or the depository or the clerk
 162 of the court in non-IV-D cases provides to the department an
 163 electronic notification ~~affidavit~~ stating that:

164 1. ~~(a)~~ The person has paid the delinquency;

165 2. ~~(b)~~ The person has reached a written agreement for
 166 payment with the Title IV-D agency or the obligee in non-IV-D
 167 cases;

168 3. ~~(c)~~ A court has entered an order granting relief to the

169 obligor ordering the reinstatement of the license and motor
 170 vehicle registration; or

171 ~~4.(d)~~ The person has complied with the subpoena, order to
 172 appear, order to show cause, or similar order.

173 (b) The department must reinstate the driving privilege
 174 restricted to business purposes only and allow registration of a
 175 motor vehicle when the Title IV-D agency in IV-D cases or the
 176 depository or the clerk of the court in non-IV-D cases provides
 177 to the department electronic notification stating that a court
 178 has entered an order granting relief to the obligor ordering the
 179 reinstatement of the driver license restricted to business
 180 purposes only and motor vehicle registration pursuant to s.
 181 61.13016(2) or (6).

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

185 (4) This section applies only to the annual renewal in the
 186 owner's birth month of a motor vehicle registration and does not
 187 apply to the transfer of a registration of a motor vehicle sold
 188 by a motor vehicle dealer licensed under chapter 320, except for
 189 the transfer of registrations which is inclusive of the annual
 190 renewals. This section does not affect the issuance of the title
 191 to a motor vehicle, notwithstanding s. 319.23(7)(b).

192 Section 3. This act shall take effect July 1, 2012.