

By Senator Oelrich

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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

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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 ~~case,~~ The notice must state:

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

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

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

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

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

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

76 2. Pays any applicable delinquency fees.
77

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

82 (2) (a) If the obligor files a ~~Upon petition filed by the~~
83 ~~obligor~~ in the circuit court within 20 days after the mailing
84 date of the notice, the court may, ~~in its discretion,~~ direct the
85 department to issue a license for driving privileges restricted
86 to business purposes only, as defined by s. 322.271, if the
87 person is otherwise qualified for such a license. As a condition

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88 for the court to exercise its discretion under this subsection,
89 the obligor must agree to a schedule of payment on any child
90 support arrearages and to maintain current child support
91 obligations. Before approving the schedule of payment, the court
92 must find that the obligor has the present ability to pay the
93 schedule of payment for the child support arrearage and the
94 current child support obligation.

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

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

109 (3) If the obligor does not, within 20 days after the
110 mailing date on the notice, pay the delinquency, enter into a
111 payment agreement, comply with the subpoena, order to appear,
112 order to show cause, or other similar order, or file a motion to
113 contest, the Title IV-D agency in IV-D cases, or the depository
114 or clerk of the court in non-IV-D cases, shall file the notice
115 with the Department of Highway Safety and Motor Vehicles and
116 request the suspension of the obligor's driver ~~driver's~~ license

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117 and motor vehicle registration in accordance with s. 322.058.

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

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

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

138 322.058 Suspension of driving privilege ~~privileges~~ due to
139 support delinquency; reinstatement.—

140 (1) When the department receives notice from the Title IV-D
141 agency or depository or the clerk of the court that a ~~any~~ person
142 licensed to operate a motor vehicle in the State of Florida
143 under the provisions of this chapter has a delinquent support
144 obligation or has failed to comply with a subpoena, order to
145 appear, order to show cause, or similar order, the department

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146 shall suspend the driver ~~driver's~~ license of the person named in
147 the notice and the registration of all motor vehicles owned by
148 that person.

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

161 (3) ~~(2)~~ The department shall also ~~must~~ reinstate the driving
162 privilege and allow registration of a motor vehicle when the
163 Title IV-D agency in IV-D cases or the depository or the clerk
164 of the court in non-IV-D cases provides to the department an
165 affidavit stating that:

166 (a) The person has paid the delinquency;

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

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

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

174 (4) ~~(3)~~ The department is ~~shall not be held~~ liable for a ~~any~~

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175 license or vehicle registration suspension resulting from the
176 discharge of its duties under this section.

177 (5)~~(4)~~ This section applies only to the annual renewal in
178 the owner's birth month of a motor vehicle registration and does
179 not apply to the transfer of a registration of a motor vehicle
180 sold by a motor vehicle dealer licensed under chapter 320,
181 except for the transfer of registrations which is inclusive of
182 the annual renewals. This section does not affect the issuance
183 of the title to a motor vehicle, notwithstanding s.
184 319.23(7) (b).

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

187 409.256 Administrative proceeding to establish paternity or
188 paternity and child support; order to appear for genetic
189 testing.—

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

195 (a) Commence a proceeding to suspend the driver ~~driver's~~
196 license and motor vehicle registration of the person ordered to
197 appear, as provided in s. 61.13016;

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

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

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

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