

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1461 Reinstatement of Suspended Driver Licenses

SPONSOR(S): Criminal Justice & Public Safety Subcommittee, Driskell

TIED BILLS: IDEN./SIM. **BILLS:** SB 1638

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice & Public Safety Subcommittee	18 Y, 0 N, As CS	Frost	Hall
2) Tourism, Infrastructure & Energy Subcommittee			
3) Appropriations Committee			
4) Judiciary Committee			

SUMMARY ANALYSIS

The Department of Highway Safety and Motor Vehicles (DHSMV) may, at the request of a clerk of court, suspend or revoke the driver license of a person for certain financial reasons, such as failure to pay court costs associated with a criminal case or civil penalties for a traffic violation. Upon referral to collections, an outstanding obligation may also accumulate a collections surcharge of up to 40 percent. A person with a suspended or revoked driver license cannot drive or obtain motor vehicle insurance, which can inhibit his or her ability to work and further compound the problem of outstanding financial obligations. While many counties participate in periodic Operation Green Light events and all counties are required to host Driver License Reinstatement days for at least one day a year, current law does not require any ongoing program to assist individuals with reinstating driver licenses which are suspended for outstanding financial obligations.

CS/HB 1461 creates the Drive for Success Pilot Program (Pilot Program) within the Florida Clerks of Court Operations Corporation (FCCOC) to be administered in at least six counties, selected by the FCCOC. Unlike current Operation Green Light and Driver License Reinstatement Days events, the Pilot Program is not limited to a single yearly event but rather is available year-round to those who qualify. The bill requires the participating clerks of court to:

- Make an effort to contact persons whose driver licenses are suspended for failing to pay court-ordered financial obligations, including unpaid traffic citations or unpaid court costs, fines, or fees and encourage such persons to establish with the clerk a partial payment agreement to fulfill the person’s outstanding financial obligations;
- Test the efficacy of communicating with Pilot Program participants via telephone, text message, email, or other electronic means to provide notification of payment due dates and missed payments; and
- Establish consequences for failing to make timely payments, including, but not limited to, specifying the period of time after which a participant’s license may be re-suspended for failing to make payments.

Under the bill, a person is not eligible for the Pilot Program if his or her driver license is suspended or revoked for enumerated reasons, including failure to pay child support and serious traffic offenses such as driving under the influence and traffic felonies. The bill does not require a participant to pay a driver license reinstatement fee to have his or her driver license reinstated and authorizes a participant’s driver license to be reinstated upon the first payment made under his or her partial payment plan. The bill also requires the participating clerks of court to provide specified data to the FCCOC who must subsequently provide such information along with recommendations related to the Pilot Program to the Governor and specified members of the Legislature. The bill provides that the Pilot Program expires on June 30, 2026, unless otherwise provided by law, but any partial payment plan established prior to June 30, 2026 remains valid.

The bill may have an indeterminate positive fiscal impact to state and local government revenues; an indeterminate, though likely insignificant negative fiscal impact to clerks of court chosen for the Pilot Program; and a negative indeterminate fiscal impact on DHSMV.

The bill provides an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Driving Privileges and Driver Licenses

Florida requires a person to hold a driver license¹ or be exempted from licensure to operate a motor vehicle on the state's roadways.² Exemptions to the licensure requirement include nonresidents who possess a valid driver license issued by their home states, federal government employees operating a government vehicle for official business, and people operating a road machine,³ tractor, or golf cart.⁴ Both licensed drivers and exempted individuals have a driving privilege in Florida.⁵

The Department of Highway Safety and Motor Vehicles (DHSMV) can revoke or suspend a driver license or driving privilege for several driving-related and non-driving-related reasons. Revocation means a termination of the privilege to drive,⁶ while suspension means the temporary withdrawal of the privilege to drive.⁷ Both revocations and suspensions can be indefinite or for a defined period of time, but only revocations in certain circumstances can be permanent.⁸ As both revocations and suspensions functionally prohibit a person from driving, the terms are often used interchangeably in statute.

Examples of driving-related bases for suspension or revocation include:

- A conviction for fleeing or attempting to elude a law enforcement officer;⁹
- Certain noncriminal traffic infractions, such as those causing death or serious bodily injury;¹⁰
- Driving under the influence (DUI);¹¹
- Habitual traffic offender (HTO) classification;¹²
- Refusal to submit to a lawful breath, blood, or urine test in a DUI investigation;¹³
- Accumulation of points¹⁴ on a driving record; and
- Incompetency to drive a motor vehicle.¹⁵

Examples of non-driving-related bases for suspension or revocation include:

- Failure to comply with certain court-imposed obligations;
- Child support delinquency;
- Truancy;
- Adjudication of guilt for certain theft offenses committed by a minor, in lieu of probation;
- Graffiti by a minor; and
- Certain drug convictions.¹⁶

¹ Driver license means a certificate that, subject to all other requirements of law, authorizes an individual to drive a motor vehicle. S. 322.01(17), F.S.

² S. 322.03(1), F.S.

³ Road machines are road construction equipment. *Marrero v. State*, 921 So.2d 748, 750 (Fla. 5th DCA 2006).

⁴ S. 322.04, F.S.

⁵ *State v. Miller*, 227 So.3d 562, 564 (Fla. 2017) ("the Legislature's use of 'driving privilege' refers to all individuals who may lawfully operate vehicles on Florida's roads, even if they do not possess a Florida driver license").

⁶ S. 322.01(37), F.S.

⁷ S. 322.01(41), F.S.

⁸ Ss. 322.26(1)(a) and 322.26(2), F.S.

⁹ S. 316.1935(5), F.S.

¹⁰ Ss. 318.14, 318.15, and 322.26, F.S.

¹¹ Ss. 322.26, 322.271, and 322.28, F.S.

¹² A person is designated HTO after accumulating three or more enumerated traffic convictions or 15 or more other moving violations on convictions within a five-year period. S. 322.264, F.S.

¹³ S. 322.2615(1)(b), F.S.

¹⁴ S. 322.27(3), F.S. There is an established point system for evaluating traffic violations to determine a person's continuing qualification to operate a motor vehicle. S. 322.27(3), F.S.

¹⁵ S. 322.27(1)(c), F.S.

¹⁶ Ss. 318.15, 832.09, 322.245, 322.058, 322.091, 812.0155, 806.13, and 322.055, F.S.

Suspension for Failure to Meet Court-Imposed Obligations

The clerk of court can notify DHSMV to suspend a license for failing to comply with a court-imposed obligation, such as a person's failure to:

- Timely comply with certain civil penalties;
- Enter into or comply with the terms of a penalty payment plan¹⁷ with the clerk of court;
- Attend driver improvement school;
- Appear for a court appearance;¹⁸
- Pay criminal financial obligations; or
- Pay child support.¹⁹

Upon notification from the clerk, the DHSMV provides notice to the individual that his or her license will be suspended by a specified date if he or she fails to comply with whatever action is necessary to prevent the suspension. If the person does not timely comply, his or her license is suspended. The suspension remains in place until he or she is compliant with the court's requirements for reinstatement²⁰ or, in the case of criminal financial obligations, the court grants relief from the suspension,²¹ and the individual pays all administrative fees and reinstatement fees to the DHSMV.²² The base fee²³ for driver license reinstatement after:²⁴

- General suspension is \$45;
- D-6²⁵ suspension is \$60;
- Court ordered child support suspension is \$60;²⁶
- Department of Revenue (DOR) child support suspension is \$45;²⁷ and
- Revocation is \$75.

Suspension for Failure to Pay Child Support

When an obligor fails to pay child support, ch. 61, F.S., outlines the procedure for suspending his or her driver license based on a request by the obligee or DOR, including, but not limited to, notice requirements and specific deadlines for response. A driver who receives notice of a driver license suspension for outstanding child support may avoid the suspension by complying with the requirements of s. 61.13016(1)(c), F.S. For example, the obligor may pay the applicable delinquency fee²⁸ and: pay the delinquent amount in full,²⁹ enter into a written agreement for payment with the obligee or DOR,³⁰ demonstrate that he or she receives Social Security Disability payments,³¹ or demonstrate that he or she is making payments in accordance with a confirmed bankruptcy plan.^{32, 33}

¹⁷ Pursuant to ss. 318.14 or 28.246, F.S.

¹⁸ S. 318.15, F.S.

¹⁹ S. 322.245, F.S.

²⁰ Such as completing driver improvement school or paying a traffic fine. Ss. 318.15(2) and 322.245(5), F.S.

²¹ S. 322.245(5)(b), F.S.

²² S. 322.245(5), F.S.

²³ Some violations also require paying for and completing certain driver improvement or substance abuse courses and paying additional fees. For example, the administrative fee for a drug or alcohol offense is \$130.

²⁴ Department of Highway Safety and Motor Vehicles, *Fees*, <https://www.flhsmv.gov/fees/> (last visited Feb. 8, 2022).

²⁵ A D-6 suspension is a court-ordered suspension for reasons such as failing to: pay a traffic ticket; appear for a traffic summons; or complete traffic school after electing to do so.

²⁶ Under s. 61.13016, F.S., the driver license and motor vehicle registration of a person owing child support ("obligor") may be suspended.

²⁷ In Title IV-D cases, DOR provides child support services within the scope of Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq. There are two main categories of child support cases in Florida: "Title IV-D case" and non-IV-D cases. A Title IV-D case is a case or proceeding dealing with only child support matters involving the Florida Department of Revenue (DOR) as the agency responsible for collecting and enforcing child support.

²⁸ S. 61.13016(1)(c)2., F.S.

²⁹ S. 61.13016(1)(c)1.a., F.S.

³⁰ S. 61.13016(1)(c)1.b., F.S.

³¹ S. 61.13016(1)(c)1.e., F.S.

³² S. 61.13016(1)(c)1.g., F.S.

³³ An obligor may also petition the court for a hardship license, and the court may, in its discretion, direct DHSMV to issue a driver license for driving privilege restricted to business purposes only. However, the obligor must enter into a specified payment plan or schedule before the court can consider granting a hardship license. S. 61.13016(2)(a), F.S.

Payment Plans, Community Service Options, and Collections Process

Court costs, fees, and other fines related to a court disposition are enforced by court order and collected by the clerks of court. A person may apply to the clerk of court to enter into a payment plan if the person is indigent.³⁴ The clerk of court must establish all terms of a payment plan, and is required to accept partial payment of court-related fees, service charges, costs, or fines in accordance with the terms of an established payment plan. The court may review the reasonableness of the payment plan. An individual who is released from incarceration and has outstanding court obligations is responsible for contacting the clerk within 30 days after his or her release to pay any fees, service charges, court costs, and fines in full, or to apply for enrollment in a payment plan.³⁵

A monthly payment amount, calculated based upon all fees and all anticipated fees, service charges, court costs, and fines, must correspond to a person's ability to pay.³⁶ The court may convert a statutory financial obligation in a criminal case or a noncriminal traffic infraction into a requirement to perform community service.³⁷

The clerk of court must pursue the collection of any financial obligations that remain unpaid after 90 days by referring the account to a private attorney or collection agent. The clerk must have attempted to collect the unpaid obligation through a collection court, collections docket, or any other collections process prior to referring the account for collection, find the referral to be cost-effective, and follow any applicable procurement processes. A collection fee of up to 40 percent of the amount owed at the time the account is referred may be added to the outstanding balance.³⁸

Hardship License

Upon the request of a person whose driver license is suspended, cancelled, or revoked under ch. 322, F.S., DHSMV must provide a hearing within 30 days³⁹ wherein the person may show that such suspension, cancellation, or revocation causes a serious hardship and precludes him or her from carrying out his or her normal business occupation, trade, or employment, that the person's driver license is used in the normal course of his or her business, and a driver license is necessary to provide proper support of the person or his or her family. In addition to requesting a hearing, the driver must also complete the applicable driver training course and evaluation or DUI program substance abuse education course and evaluation, if applicable.⁴⁰ Following such a hearing, DHSMV must either affirm, suspend, or modify the suspension, cancellation, or revocation and may do so by granting what is commonly referred to as a "hardship license," meaning the person's driving privilege is restored on a limited basis for business or employment⁴¹ use only.⁴²

The costs associated with obtaining a hardship license include:

- A \$12 hardship hearing filing fee;⁴³
- Any cost associated with the required driver improvement school (currently \$63) or DUI education course (currently \$280 for a first time DUI);

³⁴ A person is considered indigent if he or she has an income equal to or below 200 percent of the federal poverty guidelines, or is receiving: Temporary Assistance for Needy Families -Cash Assistance; Poverty-related veterans' benefits; or Supplemental Security Income. S. 27.52, F.S.

³⁵ S. 28.246, F.S.

³⁶ A monthly payment amount is presumed to correspond to the person's ability to pay if the amount does not exceed 2 percent of the person's annual net income, divided by 12. S. 28.246(4), F.S.

³⁷ Ss. 938.30(2) and 318.18(8)(b)1.a., F.S. The hourly conversion rate for community service is equal to the federal minimum wage, unless the person has a trade or profession for which there is a community service need, in which case the rate is the prevailing wage rate for that trade or profession. S. 318.18(8)(b), F.S.

³⁸ S. 28.246(6), F.S.

³⁹ Except a person whose driver license is revoked as an HTO under s. 322.27(5), F.S., or a person who is ineligible to be granted the privilege of driving on a limited or restricted basis under s. 322.271(2), F.S., must wait 12 months from the date of the revocation.

⁴⁰ S. 322.271(2), F.S.

⁴¹ "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. "A driving privilege restricted to employment purposes only" means a driving privilege that is limited to driving to and from work and any necessary on-the-job driving required by an employer or occupation.

⁴² S. 322.271(3), F.S.

⁴³ Or \$25 formal/informal review hearing fee, pursuant to s. 322.2615, F.S.

- Any associated administrative fees (such as the \$130 administrative fee for drug or alcohol offenses); and
- Any reinstatement fees associated with the person's particular type of suspension, cancellation, or revocation. These fees are paid prior to a person receiving his or her hardship license and are not required to be paid again for the same sanctions when his or her revocation or suspension period has ended and he or she is ready to apply for reinstatement of his or her unrestricted driver license.⁴⁴

Driver License Reinstatement Clinics

A person with a suspended or revoked driver license cannot drive or obtain motor vehicle insurance, which can inhibit his or her ability to work and further compound the problem of outstanding financial obligations. Several counties have held events to assist individuals whose driver licenses are suspended for financial reasons related to civil penalties or criminal financial obligations.

Operation Green Light

Clerks of Court throughout the state may participate in a short-term event known as Operation Green Light to help residents pay outstanding court fees, tickets and other fines, and have their driver licenses reinstated. For example, in October 2019, 64 counties throughout the state participated in Operation Green Light events, resulting in: \$2.7 million collected for the state, local governments, and clerks of court; 22,502 cases placed on a payment plan; 10,264 cases paid in full; 9,849 driver licenses made eligible for reinstatement; and 1,782 driver licenses reinstated.⁴⁵

Driver License Reinstatement Days

In 2019, the Legislature required the Clerk of Court in each judicial circuit to work collaboratively with DHSMV, the state attorney's office, the public defender's office, the circuit and county courts, the clerk of court, and any interested community organization, to hold a yearly event to assist drivers with the reinstatement of suspended driver licenses.⁴⁶ The program must occur at least once a year, and clerks are encouraged to offer the event outside of regular business hours or on a weekend. Participants must pay the full license reinstatement fee, however, the clerk may compromise or waive other fees and costs to facilitate reinstatement.

A person is eligible for the Driver License Reinstatement Days program if his or her driver license or driving privilege was suspended for:

- Driving without a valid license;
- Driving with a suspended license;
- Failing to make a payment on penalties in collection;
- Failing to appear in court for a traffic violation; or
- Failing to comply with directives for a traffic infraction or driver license offense.

A person is not eligible for reinstatement under the program if his or her driver license or driving privilege is suspended or revoked:

- Because the person failed to fulfill a court-ordered child support obligation;
- For DUI;
- Because the person has not completed a required driver training program, driver improvement course, or alcohol or substance abuse education or evaluation program;
- For a traffic-related felony; or
- Because the person is a habitual traffic offender.

⁴⁴ Email from Rachel Jarriel, Legislative Liaison, FLHSMV Office of Legislative Affairs, Re: SL Suspension Data Collection (Sept. 13, 2021).

⁴⁵ Facts About Your Clerk of Court's Operation Green Light, https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/2019operationgreenlight/ogl_posteventhandout-1206201.pdf (last visited Feb. 8, 2022).

⁴⁶ Ch. 2019-167, Laws of Fla.; S. 322.75, F.S.

While both Operation Green Light and Driver License Reinstatement Days provide short term opportunities for a person to have his or her driver license reinstated with lowered fees and the opportunity to establish a payment plan, current law does not provide for any such program year-round.

Effect of Proposed Changes

CS/HB 1461 creates the Drive for Success Pilot Program (Pilot Program) within the Florida Clerks of Court Operations Corporation (FCCOC) to be administered in at least six counties, selected by the FCCOC. Unlike current Operation Green Light and Driver License Reinstatement Days events, the Pilot Program is not limited to a single yearly event but rather is available year-round to those who qualify.

The bill requires the participating clerks of court to:

- Make an effort to contact persons whose driver licenses are suspended for failing to pay court-ordered financial obligations, including unpaid traffic citations or unpaid court costs, fines, or fees and encourage such persons to establish with the clerk a partial payment agreement to fulfill the person's outstanding financial obligations;
- Test, at a minimum, the efficacy of communicating with Pilot Program participants via telephone, text message, email, or other electronic means to provide notification of payment due dates and missed payments; and
- Establish consequences for failing to make timely payments, including, but not limited to, specifying the period of time after which a participant's license may be re-suspended for failing to make payments.

The bill authorizes each clerk of court participating in the Pilot Program to collaborate with the Florida Association of Court Clerks and Comptrollers to promote and develop communications regarding the pilot program.

Under the bill, a person is not eligible for the Pilot Program if his or her driver license is suspended or revoked for:

- Failing to fulfill a court-ordered child support obligation;
- A DUI offense;
- Failing to complete a required driver training program, driver improvement course, or alcohol or substance abuse education or evaluation program;
- A traffic-related felony; or
- Being designated as a habitual traffic offender.

The bill does not require a participant to pay a driver license reinstatement fee to have his or her license reinstated and authorizes a participant's driver license to be reinstated upon the first payment made under his or her partial payment plan.

The bill requires each clerk of court participating in the Pilot Program to submit, by December 31, 2024, a report to the FCCOC including the following information:

- The number of cases paid in full.
- The number of cases for which a partial payment agreement is established.
- The number of driver license reinstatements.
- The number of driver licenses made eligible for reinstatement.
- The amount of fees and costs collected during the three years preceding the administration of the Pilot Program and throughout the duration of the Pilot Program.
- The personnel, operating, security, and other expenditures incurred by the clerk of court.
- The number of cases that fail to comply with a partial payment plan and subsequently result in driver license suspension.

By February 28, 2025, the FCCOC must compile the reports provided from each clerk of court participating in the Pilot Program and submit the reported information, along with a list of the FCCOC's findings and recommendations regarding the Pilot Program, to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of the Senate and the House of Representatives.

The bill provides that the Pilot Program expires on June 30, 2026, unless otherwise provided by law, but provides that any partial payment plan established prior to June 30, 2026, remains valid even if the Pilot Program expires by operation of law.

The bill provides an effective date of July 1, 2022.

B. SECTION DIRECTORY:

Section 1: Creates s. 322.755, F.S., relating to Drive for Success Pilot Program.

Section 2: Provides an effective date of July 1, 2022.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may have an indeterminate, positive impact to state revenues. For driver license suspensions, individuals must pay a \$45 fee, of which \$15 is deposited into the General Revenue Fund and \$30 into the Highway Safety Operating Trust Fund when the reinstatement is performed by DHSMV. For driver license revocations, individuals must pay a \$75 fee, of which \$35 is deposited into the General Revenue Fund and \$40 into the Highway Safety Operating Trust Fund when the reinstatement is performed by DHSMV. It is unknown how many individuals will take advantage of the Pilot Program who would not otherwise pay to have their licenses reinstated during the same fiscal year; therefore, the positive fiscal impact to state revenues is indeterminate. Additionally, to the extent that additional court fees are collected for reinstatements, there may be an indeterminate, positive fiscal impact to the State Attorney Trust Fund, Indigent Criminal Defense Trust Fund, and the State Courts Revenue Trust Fund.

2. Expenditures:

The bill may have a negative indeterminate fiscal impact on DHSMV by authorizing a Pilot Program participant's license to be reinstated without paying a reinstatement fee.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may assist the clerks in recouping outstanding court costs and fees not otherwise recoverable.

2. Expenditures:

The bill will require additional work for clerks of court in the six counties implementing the Pilot Program, however, any additional expenditures required to complete the extra work will likely be insignificant, particularly in light of the potential for recouping outstanding obligations from persons with suspended driver licenses.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may allow individuals with financially-based driver license revocations or suspensions to reinstate their licenses, purchase motor vehicle insurance, and travel to work, which may have an overall positive financial impact for such individuals.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The county/municipal mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill requires six counties to participate in the Pilot Program. However, an exception may apply because funding the Pilot Program will likely have an insignificant impact, particularly in light of the potential for recouping outstanding obligations from persons with suspended driver licenses.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 8, 2022, the Criminal Justice & Public Safety Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment made the following changes to the bill:

- Renamed the Pilot Program the “Drive for Success Pilot Program.”
- Created the program within the FCCOC to be administered in at least six counties, selected by the FCCOC.
- Required the participating clerks of court to:
 - Contact persons whose driver licenses are suspended rather than requiring such persons to contact the clerk;

- Test, at a minimum, the efficacy of communicating with Pilot Program participants via telephone, text message, e-mail, or other electronic means to notify participants of payment due dates and missed payments; and
- Establish consequences for participants who fail to make timely payments, including, but not limited to, specifying the period of time after which a participant's license may be re-suspended for failing to make payments.
- Did not require a participant to pay a driver license reinstatement fee to have his or her license reinstated.
- Required the participating clerks of court to report specified data to the FCCOC and required the FCCOC to subsequently provide such information, along with recommendations regarding the Pilot Program, to the Governor and specified members of the Legislature.
- Provided that the Pilot Program expires on June 30, 2026.