

HOUSE BILL REPORT

HB 1771

As Reported by House Committee On:
Judiciary

Title: An act relating to the child support license suspension program.

Brief Description: Modifying the child support license suspension program.

Sponsors: Representatives Pettigrew, Walsh and Dickerson.

Brief History:

Committee Activity:

Judiciary: 2/12/09, 2/19/09 [DPS].

Brief Summary of Substitute Bill

- Restructures for clarity the statute authorizing the Department of Social and Health Services to suspend a person's driver's license and other licenses if the person fails to pay child support.
- Requires a hearing judge to determine if the parent made a good faith effort to comply with the support order.
- Specifies that a payment plan must take into consideration certain factors, may be for less than current monthly support amount for a reasonable time, and is not required to include a lump sum payment for the amount of past due support.
- Provides that a first offense for driving while license suspended is a civil infraction if the sole reason for the license suspension is the failure to pay child support.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Flannigan, Kelley, Kirby, Ormsby, Roberts, Ross and Warnick.

Staff: Trudes Tango (786-7384)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

Federal law requires states to have procedures for the suspension or restriction of a person's driver's license, professional and occupational license, and recreational and sporting license if the person owes past child support. If the state fails to have such procedures, it may result in the loss of federal funds to the state's Temporary Assistance to Needy Families block grant. Within the directive of the federal law, states have some discretion in implementing their license suspension program.

Under Washington's license suspension program, the Department of Social and Health Services (DSHS) may serve an obligated parent with a notice of noncompliance if the parent fails to pay his or her support when due. By rule, the DSHS uses this enforcement tool when a parent is six months or more behind in child support. Before suspending a parent's licenses, the DSHS serves the parent with a notice informing the parent of the DSHS's intent to submit the parent's name to the Department of Licensing and other licensing entities for license suspension.

A parent may request a hearing within 20 days of service of the notice. The only issues to be considered at the hearing are whether the person named on the notice is the parent, whether the parent is required to pay support under an order, and whether the parent is in compliance with the order. The DSHS must not certify the parent to the licensing entities unless the hearing results in a finding that the parent is not in compliance.

A parent may also contact the DSHS within 20 days of service of the notice and request arrangement of a payment schedule. The DSHS will stay the license suspension action for up to 30 days during negotiations. The DSHS must establish a schedule that is fair and reasonable and that considers the financial situation of the parent and the needs of all children who rely on the parent for support.

The parent may also file a motion in court or with the DSHS to modify the order. The license suspension action may be stayed if there is a reasonable likelihood that the pending motion to modify will significantly change the amount of the child support obligation. The stay cannot exceed six months unless there is good cause to extend the stay.

When the parent comes into compliance with the support order, the DSHS will provide the parent with a release stating the parent is in compliance.

It is unlawful for a person to drive while that person has a suspended or revoked driver's license. Driving while license suspended (DWLS) in the first degree and in the second degree are gross misdemeanors. Driving while license suspended in the third degree is a misdemeanor. The degree of the offense is based on the reason the person's license was suspended. For example, a person is guilty of DWLS in the second degree if his or her license was suspended due to a conviction for driving under the influence. Driving while license suspended in the third degree is charged when the person's license was suspended due to the person's failure to provide proof of insurance or for failure to respond to traffic infractions.

Summary of Substitute Bill:

The statute is restructured for clarity. In addition, when the parent requests a hearing after notice of possible suspension of licenses, the hearing judge must determine whether the parent has made a good faith effort to comply with the support order. The DSHS may only certify the parent to the licensing entities if the hearing results in a finding that the parent is not in compliance and the parent has not made a good faith effort to comply. "Good faith effort to comply" is a factual determination made by the hearing judge based on the parent's payment history, ability to pay, and efforts to find and keep gainful employment.

If the parent is not in compliance but has made a good faith effort to comply, the hearing judge must formulate a payment schedule for the parent. In establishing a payment plan, consideration must be given to the amount of past due support, the amount of current support, the earnings of the parent, and the individual financial circumstances of each parent. A payment schedule may include a graduated payment plan and may require a parent to engage in employment-enhancing activities to attain a satisfactory payment level. A payment schedule may be for the payment of less than the amount of current monthly support for a reasonable time and is not required to include a lump sum payment for the amount of past child support due.

It is a traffic infraction for a first offense of DWLS if the sole reason the person's license is suspended is due to the failure to pay child support. A subsequent DWLS offense committed by the person is a misdemeanor.

Substitute Bill Compared to Original Bill:

The substitute bill: (1) adds language to clarify that the DSHS stays the license suspension request for six months if a parent files an action to modify the support order; (2) defines "good faith effort to comply;" (3) removes current law that allows noncompliance with a residential schedule to be a basis for license suspension; and (4) makes it a traffic infraction for the first offense of DWLS, if the sole reason for the suspended license is noncompliance with a child support order.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill will help those parents trying to pay their child support. Most parents who are having difficulty paying their child support are not making a lot of money. People need to be able to legally drive in order to work. Suspending a person's driver's license has a huge impact on the person's life and ability to work and pay child support. The Senate

committee heard the companion bill and passed it with amendments. The House should adopt the Senate amendments into this bill.

(Opposed) None.

Persons Testifying: David Stillman, Department of Social and Human Services; Mark Mahnkey, Washington Civil Rights Commission; and Sean Copeland, Washington Association of Criminal Defense Lawyers.

Persons Signed In To Testify But Not Testifying: None.