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HOUSE BILL NO. 440**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee for Courts of Justice

on _____)

(Patron Prior to Substitute—Delegate Mehta)

A *BILL to amend and reenact §§ 5.1-88.3, 5.1-88.9, 46.2-320.1, 46.2-411, 46.2-412, 46.2-708, and 63.2-1916 of the Code of Virginia; to amend the Code of Virginia by adding a section numbered 46.2-706.2; and to repeal Article 13 (§§ 46.2-417 through 46.2-429) of Chapter 3 of Title 46.2 of the Code of Virginia, relating to suspension of driver's licenses and vehicle registrations; child support and certain unsatisfied judgments.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 5.1-88.3, 5.1-88.9, 46.2-320.1, 46.2-411, 46.2-412, 46.2-708, and 63.2-1916 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-706.2 as follows:

§ 5.1-88.3. Certain sections of Code incorporated by reference; definitions.

The provisions of §§ ~~46.2-424~~, 46.2-447, 46.2-448, 46.2-449, 46.2-450, 46.2-451, 46.2-452, 46.2-456, 46.2-457, 46.2-458, 46.2-461, ~~and~~ 46.2-463, *and* 46.2-706.2 shall apply to all policies of insurance or other evidence of financial responsibility furnished hereunder except that whenever the word "Commissioner" appears in any of said sections it shall be taken to mean the Director of the Department of Aviation; and whenever the word "Department" or "Department of Motor Vehicles" appears, it shall be taken to mean as well the Department of Aviation.

§ 5.1-88.9. Certain sections of Code incorporated by reference; definitions.

The provisions of §§ ~~46.2-424~~, 46.2-447 through 46.2-452, 46.2-456 through 46.2-458, 46.2-461, ~~and~~ 46.2-463, *and* 46.2-706.2 shall apply to all policies of insurance or other evidence of financial responsibility hereunder except that whenever the word "Commissioner" appears in any of said sections it shall be taken to mean the Director of the Department of Aviation; and whenever the word "Department" or "Department of Motor Vehicles" appears, it shall also be taken to mean the Department of Aviation and "vehicle" or "motor vehicle" shall be taken to mean "aircraft."

§ 46.2-320.1. Other grounds for suspension; nonpayment of child support; exception.

A. ~~The~~ *Except as provided by subsection E*, the Commissioner may enter into an agreement with the Department of Social Services whereby the Department may suspend or refuse to renew the driver's license of any person upon receipt of notice from the Department of Social Services that the person (i) is delinquent in the payment of child support by 90 days or more or in an amount of \$5,000 or more or (ii) has failed to comply with a subpoena, summons, or warrant relating to paternity or child support proceedings. A suspension or refusal to renew authorized pursuant to this section shall not be effective until 30 days after service on the delinquent obligor of notice of intent to suspend or refusal to renew. The notice of intent shall be served on the obligor by the Department of Social Services (a) by certified mail, return receipt requested, or by electronic means, sent to the obligor's last known addresses as shown in the records of the Department or the Department of Social Services or (b) pursuant to § 8.01-296, or service may be waived by the obligor in accordance with procedures established by the Department of Social Services. The obligor shall be entitled to a judicial hearing if a request for a hearing is made, in writing, to the Department of Social Services within 30 days from service of the notice of intent. Upon receipt of the request for a hearing, the Department of Social Services shall petition the court that entered or is enforcing the order, requesting a hearing on the proposed suspension or refusal to renew. The court shall authorize the suspension or refusal to renew only if it finds that the obligor's noncompliance with the child support order was willful. Upon a showing by the Department of Social Services that the obligor is delinquent in the payment of child support by 90 days or more or in an amount of \$5,000 or more, the burden of proving that the delinquency was not willful shall rest upon the obligor. The Department shall not suspend or refuse to renew the driver's license until a final determination is made by the court.

B. At any time after service of a notice of intent, the person may petition the juvenile and domestic relations district court in the jurisdiction where he resides for the issuance of a restricted license to be used if the suspension or refusal to renew becomes effective. Upon such petition and a finding of good cause, the court may provide that such person be issued a restricted permit to operate a motor vehicle for any of the purposes set forth in subsection E of § 18.2-271.1. A restricted license issued pursuant to this subsection shall not permit any person to operate a commercial motor vehicle as defined in § 46.2-341.4. The court shall order the surrender of the person's license to operate a motor vehicle, to be disposed of in accordance with the provisions of § 46.2-398, and shall forward to the Commissioner a copy of its order entered pursuant to this subsection. The order shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify him.

60 C. The Department shall not renew a driver's license or terminate a license suspension imposed pursuant
 61 to this section until it has received from the Department of Social Services a certification that the person has
 62 (i) paid the delinquency in full; (ii) reached an agreement with the Department of Social Services to satisfy
 63 the delinquency within a period not to exceed 10 years, and at least one payment representing at least five
 64 percent of the total delinquency or \$600, whichever is less, has been made pursuant to the agreement; (iii)
 65 complied with a subpoena, summons, or warrant relating to a paternity or child support proceeding; or (iv)
 66 completed or is successfully participating in an intensive case monitoring program for child support as
 67 ordered by a juvenile and domestic relations district court or as administered by the Department of Social
 68 Services. Certification by the Department of Social Services shall be made by electronic or telephonic
 69 communication and shall be made on the same work day that payment required by clause (i) or (ii) is made.

70 D. If a person who has entered into an agreement with the Department of Social Services pursuant to
 71 clause (ii) of subsection C fails to comply with the requirements of the agreement, the Department of Social
 72 Services shall notify the Department of the person's noncompliance and the Department shall suspend or
 73 refuse to renew the driver's license of the person until it has received from the Department of Social Services
 74 a certification that the person has paid the delinquency in full or has entered into a subsequent agreement with
 75 the Department of Social Services to satisfy the delinquency within a period not to exceed seven years and
 76 has made at least one payment of \$1,200 or seven percent of the total delinquency, whichever is less,
 77 pursuant to the agreement. If the person fails to comply with the terms of a subsequent agreement reached
 78 with the Department of Social Services pursuant to this section, without further notice to the person as
 79 provided in the subsequent agreement, the Department of Social Services shall notify the Department of the
 80 person's noncompliance, and the Department shall suspend or refuse to renew the driver's license of the
 81 person. A person who has failed to comply with the terms of a second or subsequent agreement pursuant to
 82 this subsection may be granted a new agreement with the Department of Social Services if the person has
 83 made at least one payment of \$1,800 or 10 percent of the total delinquency, whichever is less, and agrees to a
 84 repayment schedule of not more than seven years. Upon receipt of certification from the Department of
 85 Social Services of the person's satisfaction of these conditions, the Department shall issue a driver's license to
 86 the person or reinstate the person's driver's license. Certification by the Department of Social Services shall
 87 be made by electronic or telephonic communication and shall be made on the same work day that payment
 88 required by this subsection is made.

89 E. *The provisions of this section shall not apply to a support obligor whose individual income for the*
 90 *current year is not greater than 250 percent of the federal poverty guidelines.*

91 **§ 46.2-411. Reinstatement of suspended or revoked license or other privilege to operate or register a**
 92 **motor vehicle; proof of financial responsibility; reinstatement fee.**

93 A. The Commissioner may refuse, after a hearing if demanded, to issue to any person whose license has
 94 been suspended or revoked any new or renewal license, or to register any motor vehicle in the name of the
 95 person, whenever he deems or in case of a hearing finds it necessary for the safety of the public on the
 96 highways in the Commonwealth.

97 B. Before granting or restoring a license or registration to any person whose driver's license or other
 98 privilege to drive motor vehicles or privilege to register a motor vehicle has been revoked or suspended
 99 pursuant to § 46.2-389, 46.2-391, or 46.2-391.1; ~~or 46.2-417,~~ the Commissioner shall require proof of
 100 financial responsibility in the future as provided in Article 15 (§ 46.2-435 et seq.), but no person shall be
 101 licensed who may not be licensed under the provisions of §§ 46.2-389 through 46.2-431.

102 C. Whenever the driver's license or registration cards, license plates and decals, or other privilege to drive
 103 or to register motor vehicles of any resident or nonresident person is suspended or revoked by the
 104 Commissioner or by a district court or circuit court pursuant to the provisions of Title 18.2 or this title, or any
 105 valid local ordinance, the order of suspension or revocation shall remain in effect and the driver's license,
 106 registration cards, license plates and decals, or other privilege to drive or register motor vehicles shall not be
 107 reinstated and no new driver's license, registration cards, license plates and decals, or other privilege to drive
 108 or register motor vehicles shall be issued or granted unless such person, in addition to complying with all
 109 other provisions of law, pays to the Commissioner a reinstatement fee of \$30. The reinstatement fee shall be
 110 increased by \$30 whenever such suspension or revocation results from conviction of involuntary
 111 manslaughter in violation of § 18.2-36.1; conviction of maiming resulting from driving while intoxicated in
 112 violation of § 18.2-51.4; conviction of driving while intoxicated in violation of § 18.2-266 or 46.2-341.24;
 113 conviction of driving after illegally consuming alcohol in violation of § 18.2-266.1 or failure to comply with
 114 court imposed conditions pursuant to subsection D of § 18.2-271.1; unreasonable refusal to submit to drug or
 115 alcohol testing in violation of § 18.2-268.2; conviction of driving while a license, permit or privilege to drive
 116 was suspended or revoked in violation of § 46.2-301 or 46.2-341.21; disqualification pursuant to
 117 § 46.2-341.20; violation of driver's license probation pursuant to § 46.2-499; failure to attend a driver
 118 improvement clinic pursuant to § 46.2-503 or interventions pursuant to former § 46.2-351.1; conviction of
 119 eluding police in violation of § 46.2-817; conviction of hit and run in violation of § 46.2-894; conviction of
 120 reckless driving in violation of Article 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2 or a conviction,
 121 finding or adjudication under any similar local ordinance, federal law or law of any other state. Five dollars

122 of the additional amount shall be retained by the Department as provided in this section and \$25 shall be
 123 transferred to the Commonwealth Neurotrauma Initiative Trust Fund established pursuant to Article 12
 124 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5. When three years have elapsed from the termination date of
 125 the order of suspension or revocation and the person has complied with all other provisions of law, the
 126 Commissioner may relieve him of paying the reinstatement fee.

127 D. No reinstatement fee shall be required when the suspension or revocation of license results from the
 128 person's suffering from mental or physical infirmities or disabilities from natural causes not related to the use
 129 of self-administered intoxicants or drugs. No reinstatement fee shall be collected from any person whose
 130 license is suspended by a court of competent jurisdiction for any reason, other than a cause for mandatory
 131 suspension as provided in this title, provided the court ordering the suspension is not required by § 46.2-398
 132 to forward the license to the Department during the suspended period.

133 E. Except as otherwise provided in this section and § 18.2-271.1, reinstatement fees collected under the
 134 provisions of this section shall be paid by the Commissioner into the state treasury and shall be set aside as a
 135 special fund to be used to meet the expenses of the Department.

136 F. Before granting or restoring a license or registration to any person whose driver's license or other
 137 privilege to drive motor vehicles or privilege to register a motor vehicle has been revoked or suspended, the
 138 Commissioner shall collect from such person, in addition to all other fees provided for in this section, an
 139 additional fee of \$40. The Commissioner shall pay all fees collected pursuant to this subsection into the
 140 Trauma Center Fund, created pursuant to § 18.2-270.01, for the purpose of defraying the costs of providing
 141 emergency medical care to victims of automobile accidents attributable to alcohol or drug use.

142 G. Whenever any person is required to pay a reinstatement fee pursuant to subsection C or pursuant to
 143 subsection E of § 18.2-271.1 and such person has more than one suspension or revocation on his record for
 144 which reinstatement is required, then such person shall be required to pay one reinstatement fee, the amount
 145 of which shall equal the full reinstatement fee attributable to the one of his revocations or suspensions that
 146 would trigger the highest reinstatement fee, plus an additional \$5 fee for administrative costs associated with
 147 compliance for each additional suspension or revocation. Fees collected pursuant to this subsection shall be
 148 set aside as a special fund to be used to meet the expenses of the Department.

149 **§ 46.2-412. Time suspension or revocation.**

150 Every suspension or revocation shall remain in effect and the Commissioner shall not issue any new or
 151 renewal license or register in his name any motor vehicle, until permitted under the provisions of this chapter.
 152 When three years shall have elapsed from the date of the termination of the revocation provided by
 153 § 46.2-389 or § 46.2-391; ~~or in the case of a suspension pursuant to the provisions of § 46.2-417, when three~~
 154 ~~years has elapsed from the date of satisfaction of the judgment or judgments,~~ the person may be relieved of
 155 giving proof of his financial responsibility in the future, provided he is not required to furnish or maintain
 156 proof of financial responsibility under any other provision of this chapter. The requirement of this section for
 157 giving and maintaining proof of financial responsibility shall not, however, apply in the case of a person
 158 whose license has been suspended under § 46.2-400.

159 **§ 46.2-706.2. Duty of insurance carrier after notice of accident; report of omissions by insurers to**
 160 **Commission; investigation and assessment for omissions.**

161 *On receipt of the certificate of insurance, the insurance carrier or surety company named in the*
 162 *certificate of insurance shall determine whether the policy or bond was applicable to liability, if any, as to*
 163 *the named insured. Thereupon and not later than 30 days following receipt of the certificate of insurance, the*
 164 *insurance company or surety company shall cause to be filed with the Commissioner a written notice if the*
 165 *policy or bond was not applicable to liability, if any, as to the named insured resulting from the accident. The*
 166 *Commissioner shall prescribe the manner in which the written notice shall be made.*

167 *If the records of the Department reasonably indicate that any insurance carrier or surety company does*
 168 *not cause to be filed the notice herein required, the Commissioner shall report every such omission to the*
 169 *Commission.*

170 *The Commission shall investigate every such report of omission. If the Commission finds that any*
 171 *insurance carrier or surety company licensed to transact business in the Commonwealth has failed, without*
 172 *good reason, to cause to be filed the notice required hereunder, the Commission may assess the carrier or*
 173 *company \$50 for each omission.*

174 **§ 46.2-708. Suspension of driver's license and registration when uninsured motor vehicle is involved**
 175 **in reportable accident; hearing prior to suspension.**

176 When it appears to the Commissioner from the records of his office or from a report submitted by an
 177 insurance company licensed to do business in the Commonwealth that an uninsured motor vehicle as defined
 178 in § 46.2-705, subject to registration in the Commonwealth, is involved in a reportable accident in the
 179 Commonwealth resulting in death, injury, or property damage, the Commissioner shall; ~~in addition to~~
 180 ~~enforcing the applicable provisions of Article 13 (§ 46.2-417 et seq.) of Chapter 3,~~ suspend such owner's
 181 driver's license and all of his license plates and registration certificates until such person ~~has complied with~~
 182 ~~Article 13 of Chapter 3 and~~ has paid to the Commissioner a noncompliance fee of \$600, to be disposed of as
 183 provided by § 46.2-710, with respect to the motor vehicle involved in the accident and furnishes proof of

184 financial responsibility in the future in the manner prescribed in Article 15 (§ 46.2-435 et seq.) of Chapter 3.
 185 However, no order of suspension required by this section shall become effective until the Commissioner has
 186 offered the person an opportunity for an administrative hearing to show cause why the order should not be
 187 enforced. Notice of the opportunity for an administrative hearing may be included in the order of suspension.
 188 Any request for an administrative hearing made by such person must be received by the Department within
 189 180 days of the issuance date of the order of suspension unless the person presents to the Department
 190 evidence of military service as defined by the federal Servicemembers Civil Relief Act (50 U.S.C. § 3901 et
 191 seq.), incarceration, commitment, hospitalization, or physical presence outside the United States at the time
 192 the order of suspension was issued.

193 However, when three years have elapsed from the effective date of the suspension herein required, the
 194 Commissioner may relieve such person of the requirement of furnishing proof of financial responsibility in
 195 the future. The presentation by a person subject to the provisions of this section of a certificate of insurance,
 196 executed by an agent or representative of an insurance company qualified to do business in this
 197 Commonwealth, showing that on the date and at the time of the accident the vehicle was an insured motor
 198 vehicle as herein defined shall be sufficient bar to the suspension provided for in this section.

199 **§ 63.2-1916. Notice of administrative support order; contents; hearing; modification.**

200 The Commissioner may proceed against a noncustodial parent whose support debt has accrued or is
 201 accruing based upon subrogation to, assignment of, or authorization to enforce a support obligation. Such
 202 obligation may be created by a court order for support of a child or child and spouse or decree of divorce
 203 ordering support of a child or child and spouse. In the absence of such a court order or decree of divorce, the
 204 Commissioner may, pursuant to this chapter, proceed against a person whose support debt has accrued or is
 205 accruing based upon payment of public assistance or who has a responsibility for the support of any
 206 dependent child or children and their custodial parent. The administrative support order shall also provide
 207 that support shall continue to be paid for any child over the age of 18 who is (i) a full-time high school
 208 student, (ii) not self-supporting, and (iii) living in the home of the parent seeking or receiving child support,
 209 until such child reaches the age of 19 or graduates from high school, whichever comes first. The
 210 Commissioner shall initiate proceedings by issuing notice containing the administrative support order which
 211 shall become effective unless timely contested. The notice shall be served upon the debtor (a) in accordance
 212 with the provisions of § 8.01-296, 8.01-327 or 8.01-329 or (b) by certified mail, return receipt requested, or
 213 by electronic means, or the debtor may accept service by signing a formal waiver. A copy of the notice shall
 214 be provided to the obligee. The notice shall include the following:

215 1. A statement of the support debt or obligation accrued or accruing and the basis and authority under
 216 which the assessment of the debt or obligation was made. The initial administrative support order shall be
 217 effective on the date of service and the first monthly payment shall be due on the first of the month following
 218 the date of service and the first of each month thereafter. A modified administrative support order shall be
 219 effective the date that notice of the review is served on the nonrequesting party, and the first monthly
 220 payment shall be due on the first day of the month following the date of such service and on the first day of
 221 each month thereafter. In addition, an amount shall be assessed for the partial month between the effective
 222 date of the order and the date that the first monthly payment is due. The assessment for the initial partial
 223 month shall be prorated from the effective date through the end of that month, based on the current monthly
 224 obligation. All payments are to be credited to current support obligations first, with any payment in excess of
 225 the current obligation applied to arrearages, if any;

226 2. A statement of the name, date of birth, and last four digits of the social security number of the child or
 227 children for whom support is being sought;

228 3. A statement that support shall continue to be paid for any child over the age of 18 who is (i) a full-time
 229 high school student, (ii) not self-supporting, and (iii) living in the home of the party seeking or receiving
 230 child support, until such child reaches the age of 19 or graduates from high school, whichever comes first;

231 4. A demand for immediate payment of the support debt or obligation or, in the alternative, a demand that
 232 the debtor file an answer with the Commissioner within 10 days of the date of service of the notice stating his
 233 defenses to liability;

234 5. If known, the full name, date of birth, and last four digits of the social security number of each parent of
 235 the child; however, when a protective order has been issued or the Department otherwise finds reason to
 236 believe that a party is at risk of physical or emotional harm from the other party, only the name of the party at
 237 risk shall be included in the order;

238 6. A statement that if no answer is made on or before 10 days from the date of service of the notice, the
 239 administrative support order shall be final and enforceable, and the support debt shall be assessed and
 240 determined subject to computation, and is subject to collection action;

241 7. A statement that the debtor may be subject to mandatory withholding of income, the interception of
 242 state or federal tax refunds, interception of payments due to the debtor from the Commonwealth, notification
 243 of arrearage information to consumer reporting agencies, passport denial or suspension, or incarceration and
 244 that the debtor's property will be subject to lien and foreclosure, distraint, seizure and sale, an order to
 245 withhold and deliver, or withholding of income;

246 8. A statement that the parents shall keep the Department informed regarding access to health insurance
 247 coverage and health insurance policy information and a statement that health care coverage shall be required
 248 for the parents' dependent children if available at reasonable cost as defined in § 63.2-1900, or pursuant to
 249 subsection A of § 63.2-1903. If a child is enrolled in Department-sponsored health care coverage, the
 250 Department shall collect the cost of the coverage pursuant to subsection E of § 20-108.2;

251 9. A statement of each party's right to appeal and the procedures applicable to appeals from the decision of
 252 the Commissioner;

253 10. A statement that the obligor's income shall be immediately withheld to comply with this order unless
 254 the obligee, or the Department, if the obligee is receiving public assistance, and obligor agree to an
 255 alternative arrangement;

256 11. A statement that any determination of a support obligation under this section creates a judgment by
 257 operation of law and as such is entitled to full faith and credit in any other state or jurisdiction;

258 12. A statement that each party shall give the Department written notice of any change in his address,
 259 including email address, or phone number, including cell phone number, within 30 days;

260 13. A statement that each party shall keep the Department informed of (i) the name, telephone number,
 261 and address of his current employer; (ii) any change to his employment status; and (iii) if he has filed a claim
 262 for or is receiving benefits under the provisions of Title 60.2. The statement shall further specify that any
 263 such change in employment status or filing of a claim shall be communicated to the Department in writing
 264 within 30 days of such change or filing;

265 14. A statement that if any arrearages for child support, including interest or fees, exist at the time the
 266 youngest child included in the order emancipates, payments shall continue in the total amount due (current
 267 support plus amount applied toward arrearages) at the time of emancipation until all arrearages are paid;

268 15. A statement that a petition may be filed for suspension of any license, certificate, registration, or other
 269 authorization to engage in a profession, trade, business, occupation, or recreational activity issued by the
 270 Commonwealth to a parent as provided in § 63.2-1937 upon a delinquency for a period of 90 days or more or
 271 in amount of \$5,000 or more. The order shall indicate whether either or both parents currently hold such an
 272 authorization and, if so, the type of authorization held;

273 16. A statement that, *except as provided by subsection E of § 46.2-320.1*, the Department of Motor
 274 Vehicles may suspend or refuse to renew the driving privileges of any person upon receipt of notice from the
 275 Department of Social Services that the person (i) is delinquent in the payment of child support by 90 days or
 276 in an amount of \$5,000 or more or (ii) has failed to comply with a subpoena, summons, or warrant relating to
 277 paternity or child support proceedings; and

278 17. A statement that on and after July 1, 1994, the Department of Social Services, as provided in
 279 § 63.2-1921 and in accordance with § 20-108.2, may initiate a review of the amount of support ordered by
 280 any court.

281 If no answer is received by the Commissioner within 10 days of the date of service or acceptance, the
 282 administrative support order shall be effective as provided in the notice. The Commissioner may initiate
 283 collection procedures pursuant to this chapter, Chapter 11 (§ 16.1-226 et seq.) of Title 16.1 or Title 20. The
 284 debtor and the obligee have 10 days from the date of receipt of the notice to file an answer with the
 285 Commissioner to exercise the right to an administrative hearing.

286 Any changes in the amount of the administrative order must be made pursuant to this section. In no event
 287 shall an administrative hearing alter or amend the amount or terms of any court order for support or decree of
 288 divorce ordering support. No administrative support order may be retroactively modified, but may be
 289 modified from the date that notice of the review has been served on the nonrequesting party. Notice of each
 290 review shall be served on the nonrequesting party (1) in accordance with the provisions of § 8.01-296,
 291 8.01-327, or 8.01-329, (2) by certified mail, return receipt requested, (3) by electronic means, or (4) by the
 292 nonrequesting party executing a waiver. The existence of an administrative order shall not preclude either an
 293 obligor or obligee from commencing appropriate proceedings in a juvenile and domestic relations district
 294 court or a circuit court.

295 **2. That Article 13 (§§ 46.2-417 through 46.2-429) of Chapter 3 of Title 46.2 of the Code of Virginia is**
 296 **repealed.**

297 **3. That the provisions of this act shall become effective on January 1, 2027.**

298 **4. That the provisions of this act shall be retroactive so that any license or registration suspended,**
 299 **denied, or revoked prior to the enactment of this act is eligible for reinstatement pursuant to the**
 300 **provisions of this act.**