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HOUSE BILL NO. 1611

Offered January 11, 2017

Prefiled January 3, 2017

A *BILL to amend and reenact § 46.2-320.1 of the Code of Virginia, relating to child support arrearages; suspension of driver's license.*

Patron—Leftwich

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 46.2-320.1 of the Code of Virginia is amended and reenacted as follows:****§ 46.2-320.1. Other grounds for suspension; nonpayment of child support.**

A. 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 10 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.

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

D. If a person who has entered into an agreement with the Department of Social Services pursuant to clause (ii) of subsection C fails to comply with the requirements of the agreement, the Department of Social Services shall notify the Department of the person's noncompliance and the Department shall suspend or refuse to renew the driver's license of the person until it has received from the Department

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59 of Social Services a certification that the person has paid the delinquency in full or has entered into a
60 subsequent agreement with the Department of Social Services to satisfy the delinquency within a period
61 not to exceed seven years and has made at least one payment of \$1,200 or five percent of the total
62 delinquency, whichever is greater, pursuant to the agreement. If the person fails to comply with the
63 terms of a subsequent agreement reached with the Department of Social Services pursuant to this
64 section, without further notice to the person as provided in the subsequent agreement, the Department of
65 Social Services shall notify the Department of the person's noncompliance, and the Department shall
66 suspend or refuse to renew the driver's license of the person. A person who has failed to comply with
67 the terms of a second or subsequent agreement pursuant to this subsection may be granted a new
68 agreement with the Department of Social Services if the person has made at least one payment of
69 \$1,800 or five percent of the total delinquency, whichever is greater, and agrees to a repayment schedule
70 of not more than seven years. Upon receipt of certification from the Department of Social Services of
71 the person's satisfaction of these conditions, the Department shall issue a driver's license to the person or
72 reinstate the person's driver's license. Certification by the Department of Social Services shall be made
73 by electronic or telephonic communication and shall be made on the same work day that payment
74 required by this subsection is made.

75 *E. Notwithstanding clause (ii) of subsection C and subsection D, the Department shall renew a*
76 *driver's license or terminate a license suspension imposed pursuant to this section when it receives from*
77 *the Department of Social Services a certification that (i) the person has reached an agreement with the*
78 *Department of Social Services to satisfy the delinquency and has begun paying current support and*
79 *arrears pursuant to an income withholding order or (ii) the person is indigent and has reached an*
80 *agreement with the Department of Social Services to satisfy the delinquency based on the person's*
81 *ability to pay. If a person who has entered into an agreement with the Department of Social Services*
82 *pursuant to this subsection fails to comply with the requirements of the agreement, the Department of*
83 *Social Services may notify the Department of the person's noncompliance and the Department shall*
84 *suspend or refuse to renew the person's driver's license until it has received from the Department of*
85 *Social Services a certification that the person has paid the delinquency in full or has entered into a*
86 *subsequent agreement with the Department of Social Services.*