

1 A bill to be entitled
2 An act relating to suspension of driver license and
3 motor vehicle registration; amending s. 61.13016,
4 F.S.; requiring the court to hold a contempt hearing
5 in both IV-D cases and non-IV-D cases before the
6 suspension of an obligor's driver license and motor
7 vehicle registration instead of requiring an obligor
8 to file a petition to contest a delinquency action;
9 revising notice requirements; providing a presumption;
10 requiring an obligor to rebut such presumption at the
11 contempt hearing; requiring the court to enter an
12 order within a specified timeframe and make certain
13 written findings of fact; authorizing the court to
14 make certain orders; requiring that the court order be
15 served on all parties; providing for a delinquency fee
16 and how it may be used; requiring the court to specify
17 the funding source an obligor will use to satisfy
18 certain orders; requiring the court to direct the
19 Department of Highway Safety and Motor Vehicles to
20 issue a restricted license to an obligor if certain
21 conditions are met; authorizing certain entities to
22 provide notice to the department if an obligor fails
23 to comply with the order and to request the suspension
24 of the obligor's driver license and motor vehicle
25 registration; conforming provisions to changes made by

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26 | the act; amending s. 322.245, F.S.; removing the
 27 | requirement that an obligor pay a delinquency fee;
 28 | removing the purpose of the delinquency fee; requiring
 29 | the obligor to comply with a specified court order
 30 | before his or her driver license may be reinstated;
 31 | conforming provisions to changes made by the act;
 32 | providing an effective date.
 33 |

34 | Be It Enacted by the Legislature of the State of Florida:
 35 |

36 | Section 1. Section 61.13016, Florida Statutes, is amended
 37 | to read:

38 | 61.13016 Suspension of driver licenses and motor vehicle
 39 | registrations.—

40 | (1) The driver license and motor vehicle registration of a
 41 | support obligor who is delinquent in payment or who has failed
 42 | to comply with subpoenas or a similar order to appear or show
 43 | cause relating to paternity or support proceedings may be
 44 | suspended. In both IV-D cases and non-IV-D cases, the court must
 45 | hold a contempt hearing before an obligor's driver license and
 46 | motor vehicle registration may be suspended. When an obligor is
 47 | 15 days delinquent making a payment in support or failure to
 48 | comply with a subpoena, order to appear, order to show cause, or
 49 | similar order in IV-D cases, the Title IV-D agency may provide
 50 | notice to the obligor of the delinquency or failure to comply

51 with a subpoena, order to appear, order to show cause, or
 52 similar order and the intent to suspend by regular United States
 53 mail that is posted to the obligor's last address of record with
 54 the Department of Highway Safety and Motor Vehicles. When an
 55 obligor is 15 days delinquent in making a payment in support in
 56 non-IV-D cases, and upon the request of the obligee, the
 57 depository or the clerk of the court must provide notice to the
 58 obligor of the delinquency and the intent to suspend by regular
 59 United States mail that is posted to the obligor's last address
 60 of record with the Department of Highway Safety and Motor
 61 Vehicles. In either case, the notice must state all of the
 62 following:

63 (a) The terms of the order creating the support
 64 obligation.~~†~~

65 (b) The period of the delinquency and the total amount of
 66 the delinquency as of the date of the notice or describe the
 67 subpoena, order to appear, order to show cause, or other similar
 68 order that has not been complied with.~~†~~

69 (c) The date, time, and place of the contempt hearing and
 70 a statement, in type at least as large as the balance of the
 71 document, with the following or substantially similar language:
 72 "FAILURE TO APPEAR AT THE HEARING CONSTITUTES CONSENT TO THE
 73 DELINQUENCY AND THE AMOUNT OF THE DELINQUENCY AND MAY RESULT IN
 74 THE SUSPENSION OF YOUR DRIVER LICENSE AND MOTOR VEHICLE
 75 REGISTRATION."

76 (2) The original order of the court creating the support
 77 obligation creates a presumption that the obligor has the
 78 present ability to pay the support. At the contempt hearing, the
 79 obligor has the burden of proof to show he or she lacks the
 80 ability to pay the support. The court must enter an order
 81 resolving the matter within 10 days after the contempt hearing,
 82 and a copy of the order must be served on the parties. The court
 83 must make written findings of fact regarding the obligor's
 84 ability to pay and may order the obligor to:

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

89 (a)1.a. Pay Pays the delinquency in full, including a
 90 delinquency fee of \$25, and any other costs and fees accrued
 91 between the date of the notice and the date the delinquency is
 92 paid. The delinquency fee may be retained by the depository or
 93 the office of the clerk to defray the operating costs of the
 94 office after the clerk remits \$15 to the department for deposit
 95 into the General Revenue Fund;

96 (b)b. Enter Enters into a written agreement for payment
 97 with the obligee in non-IV-D cases or with the Title IV-D agency
 98 in IV-D cases; or in IV-D cases, comply ~~complies~~ with a subpoena
 99 or order to appear, order to show cause, or a similar order,
 100 which may include a reasonable period of payment deferral to

101 accommodate an obligor's good faith job-seeking efforts;
 102 (c)e. Seek employment ~~Files a petition with the circuit~~
 103 ~~court to contest the delinquency action;~~
 104 (d) File periodic reports with the court, or with the
 105 department if the department is providing Title IV-D services,
 106 detailing the obligor's efforts to seek and obtain employment
 107 during the reporting period;
 108 (e) Notify the court or the department, as appropriate,
 109 upon obtaining employment, income, or property;
 110 (f) Participate in job training, job placement, work
 111 experience, or other work programs that may be available under
 112 chapter 445, chapter 446, or any other source; or
 113 (g)d. Demonstrate ~~Demonstrates~~ that he or she:
 114 1. Receives reemployment assistance or unemployment
 115 compensation under ~~pursuant to~~ chapter 443;
 116 2.e. Demonstrates that he or she ~~Is~~ disabled and incapable
 117 of self-support or that he or she receives benefits under the
 118 federal Supplemental Security Income program or Social Security
 119 Disability Insurance program;
 120 3.f. Demonstrates that he or she ~~Receives~~ temporary cash
 121 assistance under ~~pursuant to~~ chapter 414; or
 122 4.g. Demonstrates that he or she ~~Is~~ making payments in
 123 accordance with a confirmed bankruptcy plan under chapter 11,
 124 chapter 12, or chapter 13 of the United States Bankruptcy Code,
 125 11 U.S.C. ss. 101 et seq.; ~~and~~

126 ~~2. Pays any applicable delinquency fees.~~

127 (3) If an obligor proves he or she does not have the
 128 ability to pay the delinquency at the contempt hearing and the
 129 court enters an order requiring the obligor to pay the
 130 delinquency or enter into a written agreement for payment as
 131 authorized under paragraph (2) (a) or paragraph (2) (b),
 132 respectively, the court must specify the funding source the
 133 obligor will use to satisfy the order.

134 (4) If an obligor in a non-IV-D case enters into a written
 135 agreement for payment as authorized under paragraph (2) (b)
 136 ~~before the expiration of the 20-day period,~~ the obligor must
 137 provide a copy of the signed written agreement to the depository
 138 or the clerk of the court. If an obligor seeks to satisfy
 139 paragraph (2) (g)1. sub-subparagraph 1.d., paragraph (2) (g)2.
 140 sub-subparagraph 1.e., paragraph (2) (g)3. sub-subparagraph 1.f.,
 141 or paragraph (2) (g)4. sub-subparagraph 1.g. before expiration of
 142 ~~the 20-day period,~~ the obligor must provide the applicable
 143 documentation or proof to the depository or the clerk of the
 144 court.

145 ~~(5)-(2)(a) Upon petition filed by the obligor in the~~
 146 ~~circuit court within 20 days after the mailing date of the~~
 147 ~~notice, The court must may, in its discretion,~~ direct the
 148 Department of Highway Safety and Motor Vehicles to issue a
 149 license for driving privilege restricted to business purposes
 150 only, as defined by s. 322.271, if the person is otherwise

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151 qualified for such a license. As a condition for the Department
152 of Highway Safety and Motor Vehicles ~~court~~ to issue a restricted
153 driver license ~~exercise its discretion~~ under this subsection,
154 the obligor must agree to a schedule of payment on any child
155 support arrearages and to maintain current child support
156 obligations. If the obligor fails to comply with the schedule of
157 payment, the court shall direct the Department of Highway Safety
158 and Motor Vehicles to suspend the obligor's driver license.

159 ~~(b) The obligor must serve a copy of the petition on the~~
160 ~~Title IV-D agency in IV-D cases or on the depository or the~~
161 ~~clerk of the court in non-IV-D cases. When an obligor timely~~
162 ~~files a petition to set aside a suspension, the court must hear~~
163 ~~the matter within 15 days after the petition is filed. The court~~
164 ~~must enter an order resolving the matter within 10 days after~~
165 ~~the hearing, and a copy of the order must be served on the~~
166 ~~parties. The timely filing of a petition under this subsection~~
167 ~~stays the intent to suspend until the entry of a court order~~
168 ~~resolving the matter.~~

169 ~~(6)(3)~~ If the obligor does not comply with the court order
170 issued under subsection (2), ~~within 20 days after the mailing~~
171 ~~date on the notice, pay the delinquency; enter into a written~~
172 ~~agreement; comply with the subpoena, order to appear, order to~~
173 ~~show cause, or other similar order; file a motion to contest; or~~
174 ~~satisfy sub-subparagraph (1)(c)1.d., sub-subparagraph~~
175 ~~(1)(c)1.e., sub-subparagraph (1)(c)1.f., or sub-subparagraph~~

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176 ~~(1)(c)1.g.,~~ the Title IV-D agency in IV-D cases, or the
177 depository or clerk of the court in non-IV-D cases, may file the
178 notice with the Department of Highway Safety and Motor Vehicles
179 and request the suspension of the obligor's driver license and
180 motor vehicle registration in accordance with s. 322.058.

181 ~~(4) The obligor may, within 20 days after the mailing date~~
182 ~~on the notice of delinquency or noncompliance and intent to~~
183 ~~suspend, file in the circuit court a petition to contest the~~
184 ~~notice of delinquency or noncompliance and intent to suspend on~~
185 ~~the ground of mistake of fact regarding the existence of a~~
186 ~~delinquency or the identity of the obligor. The obligor must~~
187 ~~serve a copy of the petition on the Title IV-D agency in IV-D~~
188 ~~cases or depository or clerk of the court in non-IV-D cases.~~
189 ~~When an obligor timely files a petition to contest, the court~~
190 ~~must hear the matter within 15 days after the petition is filed.~~
191 ~~The court must enter an order resolving the matter within 10~~
192 ~~days after the hearing, and a copy of the order must be served~~
193 ~~on the parties. The timely filing of a petition to contest stays~~
194 ~~the notice of delinquency and intent to suspend until the entry~~
195 ~~of a court order resolving the matter.~~

196 ~~(7)(5)~~ The procedures prescribed in This section and s.
197 322.058 may be used to enforce compliance with an order to
198 appear for genetic testing.

199 Section 2. Subsections (2) and (4) of section 322.245,
200 Florida Statutes, are amended to read:

201 322.245 Suspension of license upon failure of person
 202 charged with specified offense under chapter 316, chapter 320,
 203 or this chapter to comply with directives ordered by traffic
 204 court or upon failure to pay child support in non-IV-D cases as
 205 provided in chapter 61 or failure to pay any financial
 206 obligation in any other criminal case.-

207 (2) In non-IV-D cases, if a person fails to pay child
 208 support under chapter 61 and the obligee so requests, the
 209 depository or the clerk of the court shall mail in accordance
 210 with s. 61.13016 the notice specified in that section, notifying
 211 the obligor ~~him or her~~ that if he or she does not comply with
 212 the requirements of that section ~~and pay a delinquency fee of~~
 213 ~~\$25 to the depository or the clerk,~~ his or her driver license
 214 and motor vehicle registration will be suspended. ~~The~~
 215 ~~delinquency fee may be retained by the depository or the office~~
 216 ~~of the clerk to defray the operating costs of the office after~~
 217 ~~the clerk remits \$15 to the Department of Revenue for deposit~~
 218 ~~into the General Revenue Fund.~~

219 (4) After suspension of the driver license of a person
 220 pursuant to subsection (1), subsection (2), or subsection (3),
 221 the license may not be reinstated until the person complies with
 222 all court directives imposed upon him or her, including payment
 223 of the delinquency fee imposed by subsection (1), and presents
 224 certification of such compliance to a driver licensing office
 225 and complies with the requirements of this chapter or, in the

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226 | case of a license suspended for nonpayment of child support in
227 | non-IV-D cases, until the person complies with the court order
228 | issued under s. 61.13016(2) and the reinstatement provisions of
229 | s. 322.058 ~~and makes payment of the delinquency fee imposed by~~
230 | ~~subsection (2).~~

231 | Section 3. This act shall take effect July 1, 2022.