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Bill Analysis

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Primary Sponsors: Reps. West and Kick

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SUMMARY

Limited driving privileges

- Requires a court to grant limited driving privileges to any person, including a minor, in relation to a driver's license suspension when the suspension is imposed for certain nonvehicle-related criminal offenses. (Current law authorizes, but does not require, a court to grant limited driving privileges.)
- Requires a court to grant the limited driving privileges described above to a person whose driver's license is currently suspended and does not have limited driving privileges, but who would have been granted those privileges if the bill had been in effect at the time of the suspension.

Child support: driver's license suspensions

- Modifies the administrative driver's license suspension process for suspensions imposed for failure to pay child support.
- Guarantees limited driving privileges to a person whose driver's license is suspended for failure to pay child support, provided that:
 - The person appears at a specified court hearing to request the privileges; and
 - The person's license is not suspended for any prior offense for which that person was not granted limited driving privileges.
- Requires a juvenile or domestic relations court with jurisdiction over child support orders to schedule regular dates and times, at least once every two weeks, to grant limited driving privileges to a person who fails to pay child support.
- Alters the effective date of a driver's license suspension for failure to pay child support from the date the Registrar of Motor Vehicles receives notice of the failure, as under

current law, to the date of the court hearing at which the limited driving privileges are granted.

Child support: community service

- Authorizes a court with jurisdiction over a child support order to impose specified community service requirements on a person who has defaulted on child support payments two or more times.

Examination of driver's competency

- Authorizes a judge, during any proceeding, who has good cause to believe that a defendant who holds a driver's license or commercial driver's license is incompetent, or otherwise not qualified to be licensed, to submit a report to that effect to the Registrar.
- Authorizes the Registrar, based on the report described above, to subsequently require the licensee to submit to a driver's license examination, a physical examination, or both, to determine that individual's competency.
- Authorizes the Registrar to suspend the individual's driver's license based on the results of the examination.

Reinstatement and immobilization fees

- Decreases the reinstatement fee for a driver's license that was suspended for driving without automobile insurance from \$100 for first-time offenders, \$300 for second-time offenders, and \$600 for third-time and subsequent offenders to \$25 in all circumstances.
- Eliminates provisions of law that require a portion of the proceeds of the driver's license reinstatement fees specified above to be deposited in the Indigent Defense Support Fund.
- Decreases, from \$100 to \$25, the fee to release an immobilized vehicle when the vehicle is immobilized for specified motor vehicle offenses, including driving under a suspension and impaired driving.

DETAILED ANALYSIS

Limited driving privileges

The bill requires a court to grant limited driving privileges to a person, including a minor, in relation to a driver's license suspension¹ for a criminal offense provided that no element of the offense for which the suspension is being imposed relates to either:

¹ Under the bill, a driver's license, commercial driver's license, temporary instruction permit, probationary license, and nonresident operating privilege are all included.

1. The operation or physical control of a motor vehicle; or
2. The failure to comply with a requirement for the use, possession, or registration of a motor vehicle.²

With regard to offenses related to the operation or physical control of a motor vehicle, or the use, possession, or registration of a motor vehicle, a court retain its discretion to grant limited driving privileges.

Current law authorizes, but does not require, a court to grant limited driving privileges during a court-ordered suspension, provided that the offense does not expressly prohibit the granting of such privileges.³ Limited driving privileges may be granted for any of the following purposes:

1. Occupational, educational, vocational, or medical purposes;
2. Taking the driver's or commercial driver's license examination;
3. Attending court-ordered treatment;
4. Attending any court proceeding related to the offense for which the offender's suspension was imposed;
5. Transporting a minor to a child care provider, day-care, preschool, school, or to any other location for purposes of receiving child care; and
6. Any other purpose the court determines to be appropriate.

Under current law, unchanged by the bill, the court must specify the purposes, times, and places of the privileges and may impose any other reasonable conditions on the person's driving of a motor vehicle in relation to the limited driving privileges.⁴

Prior offenders

The bill requires a court to grant limited driving privileges in accordance with the bill's provisions to a person whose license was suspended prior to the bill's effective date, but who did not receive limited driving privileges. The person whose license was suspended must apply to the court, however, in order to obtain the limited driving privileges.⁵

² R.C. 4510.023.

³ A court generally is not authorized to grant limited driving privileges during an administrative suspension, imposed by the Bureau of Motor Vehicles, unless the law expressly says otherwise. R.C. 4510.021(B), not in the bill.

⁴ R.C. 4510.021(A), not in the bill.

⁵ Section 3.

Child support: driver's license suspensions

Background

Under current law, the Bureau of Motor Vehicles (BMV) is required to impose an administrative driver's license suspension on a person when the BMV receives notice from a child support enforcement agency (CSEA) that the person is failing to make child support payments. The administrative suspension lasts until the Registrar of Motor Vehicles receives another notice from the CSEA that the person is either no longer in default on the child support payments, has complied with a subpoena or warrant related to the default, or is actively working with the agency to resolve the default.⁶ Current law authorizes (but does not require) a court to grant limited driving privileges to a person whose driver's license is suspended for failure to pay child support only if the person is a party to a contempt action for the failure to pay child (or spousal) support.⁷

New procedures

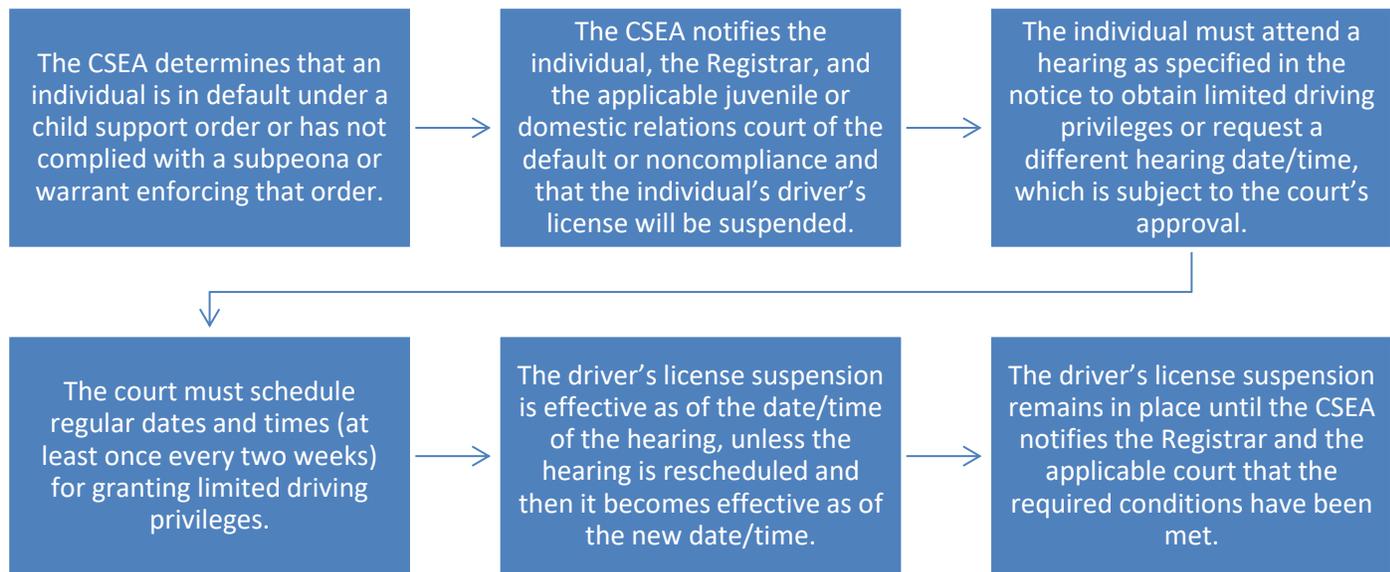
The bill modifies the administrative driver's license suspension process for suspensions imposed for failure to pay child support. Rather than the suspension process involving primarily the CSEA and the BMV, with limited court intervention, the bill requires juvenile or domestic relations courts with jurisdiction over child support orders to be an immediate part of the process. Under the bill, the court must schedule regular hearings to hear petitions for limited driving privileges independent of any contempt action. Once petitioned, the court must grant the limited driving privileges contemporaneously with the start of the administrative driver's license suspension. Thus, a person in default for failure to pay child support automatically receives limited driving privileges as long as the person petitions for the privileges (provided the license is not otherwise under a suspension in which limited driving privileges were not granted).

The new procedures are described in brief in the following chart:⁸

⁶ R.C. 3123.56, 3123.58, and 3123.59.

⁷ R.C. 2705.031 and 3123.58(B).

⁸ Provisions in the chart are based on R.C. 3123.54 to 3123.58, and 3123.63, as amended by the bill.



The Director of Job and Family Services must adopt rules to assist in coordinating the required communication between the CSEAs, the courts, and the Registrar and the new administrative procedures.⁹

Notice requirements

The bill modifies current law's notice requirements to include the bill's new procedures. Thus, the notice sent by a CSEA to an individual in default must include the next reasonable hearing date and time obtained from the schedule provided by the juvenile or domestic relations court.¹⁰ Additionally, the notice must inform the individual that the individual will be granted limited driving privileges if:

1. The individual appears at the date and time set for the hearing; and
2. The individual's driver's license is not suspended for any other prior offense for which the individual has not been granted limited driving privileges (e.g., multiple operating a motor vehicle while impaired suspensions).¹¹

The notice must also inform the individual that the individual may request a different hearing date and time. The court may disapprove the request if the court determines that the reason for the change is not valid. If the court approves the new date and time, the court

⁹ R.C. 3123.63.

¹⁰ R.C. 3123.54.

¹¹ R.C. 3123.54(A) and 3123.55(A)(5).

must notify the CSEA and the Registrar.¹² The license suspension becomes effective as of the date and time of the originally scheduled or the rescheduled hearing, as applicable.¹³

Court appearance for limited driving privileges

As indicated above, if an individual appears at the date and time set for the scheduled or rescheduled hearing and the individual's driver's license is not suspended for any other prior offense for which the individual has not been granted limited driving privileges, the court must grant limited driving privileges to the individual.¹⁴ The limited driving privileges may be for any of the purposes specified above (see "**Limited driving privileges**," above).¹⁵

If the individual does not appear at the scheduled or rescheduled hearing, the individual's driver's license is still suspended. The individual, however, will not have limited driving privileges under that suspension unless that individual applies to the juvenile or domestic relation court with jurisdiction over the child support order and arranges a new hearing date with the court. If the individual appears at the hearing and the individual's driver's license is not suspended for any other prior offense for which the individual has not been granted limited driving privileges, then the court must grant limited driving privileges to the individual.¹⁶

Child support: community service

The bill establishes community service requirements that a court may impose on a person who is repeatedly in default for failing to pay child support. The community service is in addition to any other penalties imposed by law on that person. The court may require the person to perform the community service in accordance with the following table:

| Community Service for Child Support Default¹⁷ | |
|---|--|
| Number of prior default determinations | Amount of community service |
| 2 | Up to 5 hours per week for up to 6 months |
| 3 | Up to 10 hours per week for up to 6 months |

¹² R.C. 3123.55(A)(5).

¹³ R.C. 3123.58(A)(2) and (3); R.C. 4506.071 and 4507.111, not in the bill.

¹⁴ R.C. 3123.58(B)(1)(a).

¹⁵ R.C. 4510.021(A), not in the bill.

¹⁶ R.C. 3123.58(B)(1)(b).

¹⁷ R.C. 3123.61.

| Community Service for Child Support Default ¹⁷ | |
|---|--|
| Number of prior default determinations | Amount of community service |
| 4+ | Up to 10 hours per week for up to 1 year |

Examination of driver's competency

The bill authorizes a judge, during any proceeding, who has good cause to believe that a defendant who holds a driver's license or commercial driver's license is incompetent, or otherwise not qualified to be licensed, to submit a report to that effect to the Registrar.¹⁸ On receiving the report, the Registrar may require the person who is the subject of the report to submit to a driver's license examination, a physical examination, or both, in order to determine that individual's competency. If the person either fails the required examination, refuses to submit to the examination, or fails to submit to the examination by the time mandated by the Registrar, the Registrar may suspend that person's driver's license.¹⁹ A driver's license suspension under this provision is not eligible for limited driving privileges under current law or under the bill.

Reinstatement and immobilization fees

The bill decreases the reinstatement fees required under current law to reinstate a driver's license after it is suspended for failure to maintain proof of financial responsibility (i.e., proof of automobile insurance). Current law requires a \$100 reinstatement fee after a first offense, a \$300 reinstatement fee after a second offense within five years, and a \$600 reinstatement fee after a third or subsequent offense within five years. The bill decreases the reinstatement fee to \$25, regardless of the number of violations.²⁰

Consistent with this decrease, the bill removes the requirement that a portion of the reinstatement fees collected from license suspensions for failure to maintain proof of automobile insurance be deposited in the Indigent Defense Support Fund. Under current law, \$25 of the \$100 reinstatement fee, \$50 of the \$300 reinstatement fee, and \$100 of the \$600 reinstatement fee is deposited into that fund.²¹

¹⁸ R.C. 4507.20(C).

¹⁹ R.C. 4507.20(A).

²⁰ R.C. 4509.101(A)(5)(a).

²¹ R.C. 120.08 and 4509.101(E).

The bill also decreases, from \$100 to \$25, the fee to release an immobilized vehicle when the vehicle is immobilized for specified motor vehicle offenses.²² Offenses that require a motor vehicle to be immobilized for a period of time include operating a motor vehicle under certain driver's license suspensions, wrongful entrustment of a motor vehicle, and operating a vehicle while impaired.²³

HISTORY

| Action | Date |
|------------|----------|
| Introduced | 01-21-20 |

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²² R.C. 4503.233(A)(3).

²³ R.C. 4503.233(A)(1).