

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2021-2022 Regular Session

SB 1055 (Kamlager)
Version: March 24, 2022
Hearing Date: April 5, 2022
Fiscal: Yes
Urgency: No
AWM

SUBJECT

Spousal support enforcement: license suspensions

DIGEST

This bill lengthens the time before which a licensing board, including the Department of Motor Vehicles (DMV) may suspend or revoke the license of a person for owing overdue child or family support, from 30 to 180 days; and provides that the Department of Child Support Services (DCSS) shall not transmit to the DMV for license revocation the name of any support obligor whose income is at or below 60 percent of the county's median income, as defined.

EXECUTIVE SUMMARY

As a condition of receiving certain block grants for state programs aiding low-income individuals, federal law requires California to have a procedure for suspending the licenses, including the drivers' licenses, of persons who are behind on their court-ordered child support payments. California has implemented that requirement by requiring local child support agencies to report to DCSS all obligors more than 30 days in arrears on payments, and DCSS transmits the list to the DMV for the DMV to begin processing suspensions.

According to the author, sponsor, and supporters, suspending a support obligor's driver's license for failing to pay child support is counterproductive. Suspending a parent's license deprives them of an easy means to go to work and earn the money necessary to become current on payments, and instead makes it more likely they will fall further and further behind. To reduce the likelihood of this perverse result, this bill alters the state's driver's license suspension program. First, the bill lengthens the time support payments must be in arrears before the DMV can suspend a parent's license, from 30 days to 180 days. The author has accepted an amendment to make the change more precise. Second, to avoid penalizing the most economically disadvantaged parents, the bill prohibits DCSS from transmitting to the DMV the names of the parents

whose incomes are at or below 60 percent of the median income for the county, based on the most recent available data published by the Department of Housing and Community Development (DHCD) pursuant to section 6932 of Title 25 of the California Code of Regulations, or any successor regulation, thereby preventing their licenses from being suspended.

This bill is sponsored by California Families Rise, Root and Rebound Reentry Advocates, and the Western Center on Law and Poverty, and supported by the California Association of Certified Family Law Specialists and Tipping Point Community. There is no known opposition.

PROPOSED CHANGES TO THE LAW

Existing federal law:

- 1) Provides block grants to states to fund state programs for low-income families with children. (42 U.S.C., ch. 7, subch. IV, §§ 601 et seq.)
- 2) Imposes on the states receiving grants certain requirements relating to the state's collection of child and family support, including the requirement that states have and utilize a procedure for withholding, suspending, or restricting the license(s), including the driver's license, of a person with overdue child or family support obligations. (42 U.S.C. §§ 654(20)(A), 666(16).)
 - a) Federal law does not specify how long a parent's support obligation must be in arrears before the state must take action against the parent's license. (42 U.S.C. § 666(e).)

Existing state law:

- 1) Adopts the following relevant definitions for the suspension of a license of a person with an overdue child or family support obligation:
 - a) "Compliance with a judgment or order for support" is defined as being no more than 30 days in arrears in making payments in full on a court-ordered child or family support obligation. (Fam. Code, § 17520(a)(4).)
 - b) "License" includes membership in the State Bar of California; a certificate, credential, permit, registration, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession; appointment and commission by the Secretary of State as a notary public; any driver's license issued by the DMV; any commercial fishing license issued by the Department of Fish and Wildlife and, to the extent required by federal law or regulations, any license used for recreational purposes; and all licenses, certificates, credentials, permits, registrations, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession. (Fam. Code, § 17520(a)(5).)

- 2) Establishes the following procedures for implementing the license suspension program:
 - a) A local child support agency must maintain a list of the persons who are not in compliance with court-ordered child or family support payments (i.e., more than 30 days in arrears) and submit an updated version of the list to the Department of Child Support Services (DCSS) on a monthly basis. (Fam. Code, § 17520(b).)
 - b) DCSS must consolidate the lists it receives from local child support agencies and, within 30 days of receipt, provide a copy of the consolidated list to each board responsible for issuing licenses subject to suspension. (Fam. Code, § 17520(c).)
 - c) In cases involving licenses other than a non-commercial driver's license, if a licensing board determines that an applicant for licensure or renewal is on the most recent list but is otherwise eligible for licensure, the board may withhold issuance or renewal of the license. (Fam. Code, § 1750(e)(1).)
 - d) For driver's licenses, other than a commercial license, the DMV shall notify the obligor of the overdue payments and issue a 150-day temporary license to give the obligor time to pay the overdue child or family support. The 150-day temporary license may be renewed for one additional 150-day period upon a showing of good cause. The DMV may issue a non-temporary license to the applicant only if the applicant pays the overdue child or family support. (Fam. Code, § 17520(e)(2).)
 - e) DCSS may, when economically feasible, provide a list of the support obligors who are more than four months in arrears on child or family support payments to the covered licensing boards and request that these obligors have their licenses suspended. The board must provide a notice of the intent to suspend the license in 150 days if the obligor does not pay the overdue child or family support; this temporary license may not be renewed. (Fam. Code, § 17520(e)(3).)
 - f) When the obligor becomes in compliance with a support order, the local child support agency must issue a notice to the obligor and the relevant board(s) stating that the obligor is in compliance. Upon receipt, the board shall process the release and issue the requested license for the remainder of the licensing term. (Fam. Code, § 17520(l).)

- 3) Requires DHCD to set income thresholds for persons or families of low income, moderate income, and median income, based on the median income in the geographic area, for purpose of determining eligibility for certain public benefits, and to set forth the income levels in regulations. (Health & Saf. Code, § 50093.)

This bill:

- 1) Modifies the definition of “compliance with a judgment or order for support” to mean no more than six months in arrears in making payments in full on a court-ordered child or family support order.
- 2) Provides that DCSS shall not transmit to the DMV, for purposes of suspending a driver’s license for failure to pay child support, the name of any support obligor whose annual household income is at or below 60 percent of the median income for the county, based on the most recent available data published by the DHCD pursuant to section 6932 of Title 25 of the California Code of Regulations, or any successor regulation.

COMMENTS

1. Author’s comment

According to the author:

California must not continue to punish a caregiver who may be in a terrible financial circumstance. It is simply cruel and punitive. SB 1055 updates the framework for the California Department of Child Support Services driver’s license suspension mandate to protect caregivers that may be struggling financially, while still encouraging the safety net that child support gives to children. California currently has incredibly high punitive measures in place for child support arrears. In addition to driver’s license suspension, the state also imposes a 10 percent interest rate on missed payments and passport denial for balances that reach \$2,500. These are overtly punitive measures that harshly impact lives and they have shown no evidence of increasing child support payments. We must provide some level of support and protection to those that find themselves in child support arrears due to financial struggle.

2. The correlation between access to a vehicle and income stability

California is, for the most part, notoriously difficult to live in without a car. Certain urban areas are manageable, of course, but many of these areas have some of the highest costs of living in the county: San Francisco and Oakland, named by one real estate site as the first and tenth best cities in the country for people without cars,¹ have also been identified as the country’s second and sixth most expensive places to live.² In

¹ Musser, *The Best Cities for Living Without a Car*, Redfin News (Oct. 6, 2017), <https://www.redfin.com/news/the-best-cities-for-living-without-a-car/> (last visited Mar. 24, 2022).

² Goetz, *Top 10 Most Expensive Cities in the U.S.*, Investopedia (Jun. 1, 2021), <https://www.investopedia.com/articles/personal-finance/080916/top-10-most-expensive-cities-us.asp> (last visited Mar. 24, 2022).

other parts of the state, however, public transportation is sparse, unreliable, or nonexistent, requiring people without cars to take extraordinary measures to ensure they can get to work, school, or medical appointments.³

Lack of access to a car is not just an inconvenience; it has a significant impact on a person's well-being. "[I]ndividuals without reliable access to automobiles can reach far fewer opportunities within a reasonable travel time compared with those who travel by automobile" – meaning fewer job opportunities, and fewer opportunities for economic advancement.⁴ Moreover, "[c]ars facilitate searching for and commuting to jobs and therefore increase the likelihood of finding and retaining employment."⁵ In other words, "it is unsurprising that private automobiles are positively associated with employment opportunities for low-income and minority adults."⁶

When a car is so vital to maintaining employment, the loss of a car – or a license – can be ruinous. California has already recognized the perversity of suspending a person's driver's license for failure to pay, in legislation enacted in 2017 to prohibit license suspensions for failure to pay traffic fines.⁷ As then-Governor Jerry Brown noted, the suspension did not help the state collect on unpaid fines, but could "send low-income people into a cycle of job losses and more poverty."⁸ Relatedly, a 2021 federal bill would have created incentives for states to stop license suspensions for unpaid fines and fees.⁹ The bill was supported by a diverse coalition of civil rights organizations, law enforcement, social justice groups, and even Grover Norquist, who reasoned that " 'Denying a person a driver's license because they owe money creates a modern version of the debtors prison – you cannot leave your house until you pay your debts, but you cannot pay your debt if you cannot go to work. This is wrong.' "¹⁰

³ E.g., Bergstrom, *Are Fresno's car-less residents being left behind? What it means to our community*, Fresno Bee (Feb. 6, 2022), available at <https://www.fresnobee.com/fresnoland/article255147402.html> (last visited Mar. 24, 2022).

⁴ Pendall, et al., Urban Institute, Report: *Driving to Opportunity: Understanding the Links among Transportation Access, Residential Outcomes, and Economic Opportunity for Housing Voucher Recipients* (Mar. 2014), at p. 3.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ See AB 103 (Assembly Committee on Public Safety, Ch. 17, Stats. 2017).

⁸ Associated Press, *California no longer will suspend driver's licenses for traffic fines*, Los Angeles Times (Jun. 20, 2017), <https://www.latimes.com/local/lanow/la-me-ln-driver-license-fees-20170629-story.html> (last visited Mar. 24, 2024).

⁹ H.R. No. 2453, 117th Cong., 1st Sess. (2021) (Driving for Opportunity Act).

¹⁰ See Sen. Chris Coons, Press Release, Sens. Coons, Wicker introduce bipartisan bill targeting debt-based driver's license suspensions (Jul. 2, 2020), <https://www.coons.senate.gov/sens.-coons-wicker-introduce-bipartisan-bill-targeting-debt-based-drivers-license-suspensions> (last visited Mar. 24, 2022).

3. This bill modifies when a person's driver's license may be suspended for the failure to pay court-ordered child support

California and other states are required by federal law to have a program for suspending the driver's licenses of parents who have fallen behind on child support payments.¹¹ The governing federal statute does not, however, prescribe the nature of the state's program. Accordingly, states have a wide range of different approaches to when a parent's license may be suspended for failure to pay court-ordered child support.

California's scheme is unusual. The state currently requires a local child support agency to transmit the names of parents who are 30 days or more in arrears on child support to DCSS for license suspension,¹² which appears to be one of the most stringent regimes in the nation.¹³ Only Delaware¹⁴ and New Mexico¹⁵ match California's 30-day timeline, and only one state imposes an even shorter one: Florida, with a 15-day window.¹⁶ However, once the DMV has the support obligor's name on its list, the DMV must notify the obligor of the overdue child support, suspend the license, and issue a 150-day temporary license.¹⁷ The temporary license will expire after the 150 days, unless the obligor becomes current on their child support debt or shows good cause for a one-time additional 150-day extension.¹⁸ If the obligor is more than four months overdue, the 150-day license may not be extended.¹⁹ Supporters of the bill, such as co-sponsor Western Center on Law and Poverty, argue that California's approach is overly severe and likely disproportionately affects low-income parents and parents who are Black or people of color.

¹¹ See 42 U.S.C. §§ 654(20)(A), 666(16).

¹² Fam. Code, § 17520.

¹³ See National Conference of State Legislatures, License Restrictions for Failure to Pay Child Support (Oct. 14, 2020), <https://www.ncsl.org/research/human-services/license-restrictions-for-failure-to-pay-child-support.aspx> (last visited Mar. 24, 2022). This chart lists two additional states with 30-day windows, apparently in error. Mississippi requires its child support office to provide 90 days' notice to a parent that they are out of compliance before proceeding with a license suspension. (Miss. Stats. § 93.11.157.) North Carolina requires its child support office to notify the licensing board within 30 days of a receiving notice that the parent is behind on child support, but a parent's name may not be added to the list until they are at least 90 days in arrears. (N.C. Stats. §§ 110-142.1, 110.142.2.)

¹⁴ Del. Stats., tit. 13, § 516(g). Delaware's law is still less stringent than California's because license suspension is not an automatic administrative task; instead, it requires a court finding that the obligor is over 30 days late in payment, and that the amount in arrears is over \$1,000. (*Ibid.*).

¹⁵ N.M. Stats. §§ 40-5A-6, 40-5A-7.

¹⁶ Fla. Stats. § 61.13016. Legislation is currently pending before the Florida Legislature that would require a contempt hearing before a parent's license could be suspended for failure to pay support. (See Fla. H.B. 1111 (2022).)

¹⁷ Fam. Code, § 17520(e).

¹⁸ *Ibid.*

¹⁹ *Ibid.*

Committee staff is not aware of any evidence indicating that the suspension of driver's licenses increases child support payments or noncustodial parents' involvement in their children's lives. Indeed, the opposite may be true: "some evidence suggests that low-income parents facing substantial debts and wage withholding are more likely to become discouraged and leave formal employment."²⁰ Taking away a license and making it harder for the parent to work may also lead to a debt spiral, as additional months' of child support pile on and the parent has no way to become current. The likelihood of a debt spiral is exacerbated by two quirks of California's child support laws: the state takes an unusually high portion of child support payments and charges an unusually high interest rate of 10 percent annually on past-due payments.²¹

This bill increases the time by which a support obligor has to be behind on their child support payments before the suspension process begins, from 30 days to six months. To clarify that this extended window applies only to driver's licenses and not to other licenses (e.g., recreational licenses), the author has agreed to the clarifying amendment set forth in Part 4 of this analysis. The move from 30 days to six months would bring California's license suspension timeline in line with that of several other states,²² though as noted above, most states do not have California's 150-day temporary license window.

This bill also prohibits entirely the suspension of licenses for support obligors whose incomes are at 60 percent or below the median income for their county, as established by DHCD. This prohibition is effectuated by prohibiting DCSS from transmitting to the DMV the names of any obligors whose income falls below that threshold. Committee staff is not aware of any other state imposing an income-based floor for license suspensions, but doing so does not appear to be precluded by the statute or enacting regulations.

DHCD's median income numbers are based on the United States Department of Housing and Urban Development's (HUD) Unadjusted Area Median Income data for California²³ and generally updated annually. Because the DHCD income figures are

²⁰ Cancian, Heinrich, & Chung, *Does Debt Discourage Employment of Child Support? Evidence from a Natural Experiment*, Institute for Research on Poverty (Jul. 2009), at p. 2.

²¹ E.g., Cimini, *California Keeps Millions In Child Support While Parents Drown In Debt*, CapRadio (May 3, 2021), <https://www.capradio.org/articles/2021/05/03/california-keeps-millions-in-child-support-while-parents-drown-in-debt/> (Mar. 24, 2022). SB 1200 (Skinner, 2022) would reduce the amount of interest owed on debts to the state to three percent. SB 1200 will be heard before this Committee on the same date as this bill. A pilot program in San Francisco that allowed noncustodial parents to receive relief from state-owed arrears in exchange for consistent current support payments showed that participants made more consistent and timely payments than parents not in the program. (See Good+ Foundation & The Aspen Institute, *Reducing Arrears: Child Support Policy Fact Sheet* (Aug. 2020).)

²² See, e.g., Ala. Stats. §§ 30-3-170-30-3-172; Az. Stats. § 25-517; Ky. Stats. § 205.712(10); Mont. Stats. §§ 40-5-701-40-5-704; N.J. Stats., § 2A:17-56.41; Wash. Code, §§ 74.20A.020(18), 74.20.A.320.; W. Va. Stats., § 48-15-202.

²³ Health & Saf. Code, § 50093.

based on the median income of each county, instead of on a statewide or national basis, they are generally a more accurate baseline for whether a person qualifies as low-income. The county median incomes currently in place range from \$70,700 on the low end to \$149,600.²⁴ The bill prohibits license suspension for anyone at or below 60 percent of the county's median income, which, depending on the obligor's household size, would put the obligor somewhere in the low to very-low income range. This measure is intended to allow persons who are already likely living paycheck to paycheck to avoid another financial setback, which could be the last straw before bankruptcy or other severe financial hardship.

The bill's sponsors and supporters argue that the changes in this bill will result in better child support outcomes. For example, bill co-sponsor Root & Rebound Reentry Advocates argues that reducing license suspensions will "allow for a more support-driven approach to child support enforcement while centering on those that suffer the most from overly punitive mandates." The Child Support Directors Association, which takes a support-if-amended position, supports the general goal of the bill but asks that the time period for arrears be reduced to six months of when the overdue support exceeds \$1,000, whichever occurs first.

4. Amendments

As noted above, the author has agreed to amend the bill to clarify that the redefinition of being out of compliance with an order of support is being extended from 30 to 180 days is only for driver's licenses, and not for the other licenses covered by the statute. It is possible that extending all licenses would be good policy, but doing so is beyond the scope of the bill as presented by the author. Accordingly, the author has agreed to the following amendments:

Amendment 1

On page 3, in line 14, strike out ""Compliance with a judgment or order for support"" and insert "(A) Except as provided in subparagraph (B), "compliance with a judgment or order of support""

Amendment 2

On page 3, in line 16, strike out "six months" and insert "30 calendar days"

²⁴ See Cal. Code Regs., tit. 25, § 6932.

Amendment 3

On page 3, between lines 28 and 29, insert “(B) With respect to a driver’s license, “compliance with a judgment or order of support” means that the obligor is no more than six months in arrears as making payments described in subparagraph (A).”

5. Arguments in support

According to Tipping Point Community, writing in support:

SB 1055 will address the issue of aggressive child support mandates with a twofold approach. The state laws outlining this issue can be found in Family Code section 17520. Specifically, this bill will add a requirement that disallows the Department of Child Support Services from suspending the license of those in child support arrears that make at or below [60 percent of the county median income]. Also, this bill will extend the current Department of Child Support Services’ practice of DMV notifications after 30 days of overdue child support payments to no more than 6 months. Both of these substantive changes will allow for a more support-driven approach to child support enforcement, while centering those that will suffer the most from the overly punitive mandates.

Taking away driver’s licenses robs low-income, non-custodial parents of the opportunity to earn income, for example, by barring them from working as a Lyft or Uber driver. Tipping Point funded a pilot program with the San Francisco Department of Child Support Services to pay off government-owed arrears for a group of parents. The Urban Institute found that one of the biggest benefits to participants in this pilot was the ability to drive again, effectively reinstating their earning potential.

Low-income parents in California need our support. The current policy of withholding issuance or renewal of driver’s licenses for those with government-owed child support debt does considerable harm to those parents and prohibits them from supporting themselves or their families.

SUPPORT

Root and Rebound (co-sponsor)
Western Center on Law and Poverty (co-sponsor)
California Association of Family Law Specialists
Tipping Point Community

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation:

SB 1200 (Skinner, 2022) would reduce the amount of annual interest paid on child support owed to the state from ten percent to three percent. SB 1200 is pending before this Committee and will be heard on the same date as this bill.

SB 454 (Bates, 2021) increases the threshold for the attachment of a child support lien from one month of past-due support to the lower of three months of past-due support or \$1,000. SB 454 was held on suspense in the Assembly Appropriations Committee.

Prior Legislation:

AB 2325 (Carrillo, Ch. 217, Stats. 2020) reestablished, until January 1, 2023, a program to suspend a parent's obligation to pay child support if the parent is incarcerated or involuntarily institutionalized, unless they have the means to pay or are incarcerated for domestic violence.

AB 2046 (Voepel, 2020) limited the amount of child support arrears that can be collected from a low-income child support obligor who is also a disabled veteran receiving disability compensation to five percent of their monthly disability compensation. AB 2046 was vetoed by Governor Gavin Newsom, who stated in his veto message that he was concerned that the bill would increase confusion related to if and when veteran-related benefits could be garnished.

AB 1498 (Lackey, 2019) would have required DCSS to create an internet website and make publicly available information regarding persons who are delinquent in the payment of court-ordered child support, as specified, including the obligor's name, photograph, and the amount of child support owed. AB 1498 died in the Assembly Judiciary Committee.

AB 1091 (Jones-Sawyer, 2019) would have extended a pilot program that provides for the suspension of child support for incarcerated obligors. The bill was held on the Assembly Floor.

SB 337 (Skinner, 2019) would have increased the amount of child support passed through to families receiving public assistance, but was vetoed; Governor Gavin Newsom stated in his veto message that, while he was supportive of increasing the amount of child support passed through to families, the impact of such a measure on the General Fund meant that the issue should be considered as part of the budget process. Provisions similar to SB 337 were included in the 2020 budget.

AB 103 (Assembly Committee on Public Safety, Ch. 17, Stats. 2017) among other things, repealed the authority of a court to notify the DMV when a person failed to pay specified traffic fines or bail, thereby removing the DMV's authority to suspend a person's driver's license for failure to pay.

AB 610 (Jones Sawyer, Ch. 629, Stats. 2015) provided that, until January 1, 2020, the suspension of a child support order occurs by operation of law when an obligor is incarcerated or involuntarily institutionalized, unless the obligor was incarcerated for domestic violence or failure to pay child support or has the ability to pay.
