

Department of Finance and Administration

Legislative Impact Statement

Bill: SB113

As Engrossed: 1/18/2017

Bill Subtitle: TO REMOVE A DRIVER'S LICENSE SUSPENSION OR REVOCATION AS AN AVAILABLE PENALTY FOR OFFENSES NOT RELATED TO DRIVING A MOTOR VEHICLE.

Basic Change :

Sponsor: Senator Hutchinson

Amendment 1 to SB113, as engrossed on January 18, 2017, adds a new Section 7 that provides circuit and district courts with discretion to assess up to \$105 in court costs for a violation of (1) Nonsupport, § 5-26-401; (2) Theft of Motor Fuel, § 5-36-120; (3) Failure to Appear, § 5-54-120; (4) a controlled substance violation as prohibited by § 5-64-101 *et seq*; (5) an offense committed by a minor committed on school property or in a school bus as prohibited by §§ 5-73-101 or -201 *et seq*; or an offense relating to handicapped parking permits or parking spaces as prohibited by § 27-15-305. The court costs collected by the new Section 7 of the bill are to be remitted to the Arkansas State Police Retirement Fund.

SB113 would continue to repeal and eliminate the suspension of commercial and non-commercial driver's licenses, as well as all professional, occupational, business, and recreational licenses and permanent vehicle license plates, as a tool in the enforcement of child support obligations. In addition, the bill would continue to repeal and eliminate the imposition of the suspension of driving privileges that is provided in the following Arkansas statutes: (1) Theft of Motor Fuel, § 5-36-120; (2) a controlled substances violation under §§ 5-64-710 and 27-16-915; (3) offenses upon property of public Schools, § 5-73-128; (4) unexcused absences at school, § 6-18-222; (5) failure to pay child support, §§ 9-14-239 and 27-23-125; (6) juvenile delinquency, 9-27-330; (7) failure to pay fines, § 16-13-708; (8) Failure to Appear, § 16-17-131; (9) providing false information to obtain a special license plate or parking in disabled parking, § 27-15-305.

Revenue Impact :

During calendar year 2016, approximately \$4.5 million in reinstatement fees were assessed by the Office of Driver Services. During the same period, approximately \$3.2 million was paid. These funds are payable to the Arkansas State Police Fund and the Arkansas State Police Retirement Fund. No reinstatement fees are charged to reinstate a driver's license for non-payment of child support.

During calendar year 2016, there were 69 Nonsupport convictions involving cases enforced by the Office of Child Support Enforcement (OCSE) and it is estimated that up to \$7,245.00 in court costs may be generated and payable to the Arkansas State Police Retirement Fund. It should be noted that not all convictions of this nature involve cases enforced by OCSE and therefore the actual revenue might be somewhat higher. For the remaining offenses impacted by Section 7, it is unknown the amount of court costs that will be collected and deposited into the Arkansas State Police Retirement Fund.

Taxpayer Impact :

A person who has not paid his or her child support or committed the specified offenses in the bill will no longer have his or her driver's license or permanent license plate suspended. In addition, a person who has not paid his or her child support will no longer have his or her business or professional licenses suspended.

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During calendar year 2016, the Office of Child Support Enforcement (OCSE) issued 15,485 notices of intent to suspend driver's, professional, occupational, and recreational licenses and permanent vehicle license plates to non-custodial parents who were delinquent in their child support obligations. Non-custodial parents holding about 34% of those licenses made arrangements to pay their child support obligation and avoid suspension. A total of 10,155 licenses were suspended during 2016. For about 92% of the licenses suspended, the non-custodial parent made arrangement to resume payment and have his or her license reinstated.

Under this bill, a person would no longer have his or her driver's license suspended or be required to pay reinstatement fees for convictions of non-moving violations in a motor vehicle. During the calendar year of 2016 there were 45,817 suspensions for non-moving violations of which 41,000 were for failure to pay a fine or failure to appear.

Resources Required :

The license suspension remedy is integrated into the OCSE data system. In order to stop this function, it is estimated the cost solely related to data system processes would be about \$85,000. Additional staff time would be dedicated to rewriting existing training materials as well as training personnel. The various licensing entities which interface with the child support data system would also be affected. There would be some cost savings related to stopping various IT support functions and new development. It is anticipated the savings would be approximately \$100,000 over the next twelve months. Costs related to printing and mailing would also be saved.

Time Required :

Approximately three months to complete the necessary data system work, develop new training materials, and retrain staff.

Procedural Changes :

DFA and the courts will be required to develop new procedures to implement this bill.

Other Comments :

None.

Legal Analysis :

SB113 seeks to eliminate driver's license suspensions and revocations as a penalty for offenses not related to driving a motor vehicle. Also, the bill attempts to repeal § 27-23-125, which currently makes all types of commercial driver licenses subject to the suspension for nonpayment of child support. This change would put Arkansas out of compliance with federal requirements. This bill would jeopardize federal funding for the child support program administered by OCSE. States are required to have in effect laws requiring use of certain procedures to increase the effectiveness of the child support program. One of those procedures is the "authority to withhold or suspend, or restrict the use of driver's

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licenses, professional and occupational licenses, and recreational and sporting licenses of individuals owing overdue support, or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings." See 42 U.S.C. § 666(a)(16). State laws are required to provide a plan for child support. See 42 U.S.C. § 654(20). The federal portion of the budget for OCSE for the current fiscal year is approximately \$35 million dollars.

If a state child support program is out of compliance with Federal requirements, funding for Temporary Assistance for Needy Families ("TANF") may also be put in jeopardy. Additionally, in order to be eligible for the TANF block grant, the state must operate a child support program under an approved state plan. See 42 U.S.C. § 602(a)(2).

Regarding the bill's provision to no longer allow a suspension for the offense of Theft of Motor Fuel, this bill does not appear to be consistent with the title of the bill because the offense of Theft of Motor Fuel involves knowingly operating an automobile or other vehicle after stealing the fuel.

Regarding the bill's provision to no longer allow a suspension for the offense of Illegal Possession or Use of a Controlled Substance, it is unclear whether the bill would have its intended effect by deleting the definitions in § 5-64-710. This provision may also not be consistent with the title and intent of the bill because § 5-64-710(a)(1)(B) references the operation of a motor vehicle under the influence of any substance the possession of which is prohibited under this chapter.

Likewise, the bill's provision to remove the suspension for Improper Use of Designated Disabled Parking does not appear consistent with the title of the bill because the offense of Improper Use of Designated Disabled Parking involves the use of a motor vehicle and improperly parking it.