

	INDIANA DEPARTMENT OF CHILD SERVICES TITLE IV-D POLICY MANUAL	
	Chapter 12: Enforcement	Effective Date: 3/1/19
	Section 4.1: Driver's License Suspension	Version: 1.0 Revision Date: 2/26/19

BACKGROUND

Federal law requires that all states have laws requiring procedures to withhold, suspend, or restrict driver's licenses of individuals owing overdue child support.¹ A driver's license may be suspended by processes initiated by the Title IV-D agency, either through an administrative action or a judicial action.

If the suspension process is through an administrative action, an obligor may not seek relief from the suspension in the courts until all administrative remedies have been exhausted.² Once the license has been suspended administratively, an obligor may file a petition with the court requesting specialized driving privileges.³

If a driver's license is suspended by order of the court, only the court may issue a stay of the ordered suspension.

POLICY

When an obligor has an arrearage of at least \$2,000.00 or is past due three (3) months of court ordered child support on a case, regardless of whether or not the order is for current support or arrears only, the Title IV-D Prosecutor may initiate administrative or judicial proceedings to suspend the obligor's driver's license with the Bureau of Motor Vehicles (BMV).⁴

REFERENCES

- [IC 9-25-6-15](#): Driving privileges reinstatement fee
- [IC 9-30-16-4](#): Petition for specialized driving privileges
- [IC 31-16-12-7](#): Suspension of delinquent person's driving privileges
- [IC 31-25-4-2](#): "Delinquent"
- [IC 31-25-4-32](#): Finding obligor delinquent; notice; order to suspend driving privileges; licenses and permits; sanctions
- [IC 31-25-4-33](#): Objections to order; hearing
- [465 IAC 3-3-3](#): Request for hearing
- [465 IAC 3-3-8](#): Appointment of administrative law judges
- [465 IAC 3-3-9](#): Scheduling of hearings
- [42 U.S.C. § 666](#): Requirement of statutorily prescribed procedures to improve effectiveness of child support enforcement

¹ 42 U.S.C. § 666(a)(16)

² *Martin v. Monroe County Plan Commission*, 660 N.E.2d 1073 (Ind. Ct. App. 1996)

³ IC 9-30-16-4

⁴ IC 31-16-12-7; IC 31-25-4-2; IC 31-25-4-32(a)

- [45 C.F.R. § 303.2](#): Establishment of cases and maintenance of case records
- [Martin v. Monroe County Plan Commission, 660 N.E.2d 1073 \(Ind. Ct. App. 1996\)](#)

PROCEDURE

1. Administratively Initiated Suspension

Administratively initiated driver’s license suspensions are processed together with Department of Natural Resources license suspensions through CSB’s License Suspension (LS) Application. The LS Application is a web-based software application that interfaces with the statewide child support system to identify child support obligors in Title IV-D cases eligible for license suspension. Title IV-D Prosecutors access the LS Application from the Child Support Resources (CSR) website.

a. Warning Letter

When a child support obligor is eligible for BMV/DNR license suspension, the Title IV-D Prosecutor receives notification through the LS Application. Upon notification, the Title IV-D Prosecutor may initiate the process through a warning letter generated through the LS Application. This warning letter notifies the obligor of the child support delinquency and directs the obligor to contact the Title IV-D Prosecutor’s office to make arrangements to avoid suspension of licenses issued by BMV and/or DNR.

The warning letter is not required and can be issued or not without triggering the required Notice of Intent (NOI).

b. Notice of Intent

To formally initiate administrative license suspension, the Title IV-D agency sends an NOI to the obligor at the obligor’s last known address of record.⁵ In this instance, the Title IV-D agency uses the last known MAIL address on file in the statewide child support system. The NOI is generated through the LS Application, either manually or automatically.

The NOI includes the following information:

- i. Statement that the obligor is delinquent;⁶
- ii. Statement of the arrearage;⁷
- iii. Statement that the Title IV-D agency shall issue an order to the BMV and DNR that the obligor’s hunting, fishing, or driver’s licenses shall be suspended unless the obligor does one of the following:
 1. Pays the arrearage in full;
 2. Establishes a payment plan with the Title IV-D Prosecutor which includes an income withholding order (IWO); or
 3. Requests a hearing in writing within 20 days;⁸

⁵ IC 31-25-4-32(a); IC 31-25-4-32(l)

⁶ IC 31-25-4-32(a)(1)

⁷ IC 31-25-4-32(a)(2)

⁸ IC 31-25-4-32(a)(3); IC 31-25-4-32(a)(7)

- iv. The procedure for contesting an order to suspend the obligor's hunting, fishing, and driver's licenses;
- v. Statement that the only basis for contesting the suspension is a mistake of fact;⁹ and
- vi. The procedures for avoiding license suspension or license denial by payment of arrears in full or by establishing a payment plan with the Title IV-D Prosecutor.¹⁰

c. Administrative Appeal

Upon receiving the NOI, the obligor may formally appeal the finding of delinquency by sending a written request for an administrative hearing to the Centralized Enforcement Unit (CEU) within 20 days of the date the notice of intent was mailed.¹¹ The only basis for appeal is mistake of fact:

- i. The person to whom the notice was sent is not the person to whom the notice applies; or
- ii. The arrearage is less than the amount required to initiate the action.¹²

After reviewing the appeal request, CEU will contact the order county to obtain copies of court orders, payment history, and arrearage calculation. It is imperative that the county respond promptly to this request as the hearing shall be set within 25 days of receiving the obligor's request.¹³ The appeal hearing is conducted by an Administrative Law Judge appointed by DCS.¹⁴ A representative from the Child Support Bureau (CSB) appears on behalf of the Title IV-D agency.

d. Payment Plan

At any time in the license suspension process, the obligor may establish a payment plan with the Title IV-D Prosecutor. This includes during the pendency of an administrative appeal. The Title IV-D Prosecutor may have a uniform payment plan proposal or may propose payment plans on a case by case basis. It is strongly encouraged that the payment plan be in writing. A note shall be entered into the statewide child support system documenting the terms of the payment plan.¹⁵ The payment plan should also be entered into the LS Application, which can be set to monitor compliance with the terms of the payment plan. The ultimate goal of the payment plan is not to penalize the obligor, but is to provide consistent child support payments to families.

If the payment plan is entered into the LS application and the obligor goes two (2) consecutive months with no payments, the license suspension process will automatically continue from the point where it was stopped when the payment plan was entered.

⁹ IC 31-25-4-32(a)(6)

¹⁰ IC 31-25-4-32(a)(8)

¹¹ IC 31-25-4-33(a); 465 IAC 3-3-3(i)

¹² IC 31-25-4-33(b); 465 IAC 3-3-3(k)

¹³ IC 31-25-4-33(c); 465 IAC 3-3-9(c)(3)

¹⁴ 465 IAC 3-3-8; 465 IAC 3-3-9(b)

¹⁵ 45 C.F.R. § 303.2(c)

e. Order to the BMV

If the obligor does not pay the arrearage in full, establish a payment plan with the Title IV-D Prosecutor, or request an appeal hearing, or if the obligor requests an appeal hearing which results in a delinquency finding or requests an appeal hearing and then fails to appear, the Child Support Bureau (CSB) issues an order to the BMV via an automated interface between the agencies. CSB's order instructs BMV to suspend the obligor's existing driving privileges and prohibits BMV from issuing a new driver's license or permit to the obligor until further order by CSB.¹⁶

Upon receipt of CSB's order, BMV sends a notice of suspension to the obligor, directing the obligor to contact the Title IV-D Prosecutor's office for details on reinstatement of the suspended license. The driver's license suspension becomes effective 20 days after the date of the BMV notice of suspension.

f. Reinstatement

The Title IV-D Prosecutor may initiate a reinstatement request of an administratively suspended driver's license on their own or following a request by the obligor. This process is subject to prosecutorial discretion. The Title IV-D Prosecutor should initiate reinstatement of a suspended license when:

- i. The arrears balance is paid in full;
- ii. A payment plan is established with the Title IV-D Prosecutor;
- iii. The case becomes a non-Title IV-D case; or
- iv. The case closes to Title IV-D services.

When a payment plan is established and an IWO is implemented, the IV-D Prosecutor should initiate the request to reinstate an administratively suspended driver's license or permit. The Title IV-D Prosecutor may wish to consider past compliance with previously established payment plans when considering the appropriate timing for initiating a request to reinstate a license. The LS Application contains functions to monitor compliance with established payment plans.

The Title IV-D Prosecutor may request the suspended license be reinstated through the LS application, which forwards the reinstatement order to BMV.

The license may be also reinstated manually by contacting CEU. If the reinstatement is manually initiated, CEU sends the order to the BMV through the LS Application.

When an obligor is party to multiple Title IV-D cases, license reinstatement will only take effect upon meeting conditions for reinstatement in all Title IV-D cases where the obligor's license has been administratively suspended.

When an obligor's driver's license is suspended administratively for reasons other than child support delinquency or is suspended by judicial order,

¹⁶ IC 31-25-4-33(e)(2)

reinstatement initiated by the Title IV-D Prosecutor or by CEU will only address the administrative suspension for the Title IV-D case(s) it is requested under.

2. Judicial Suspension

Most driver's license suspensions for delinquent child support in Indiana Title IV-D cases are accomplished administratively. Indiana Code provides for a judicial suspension process that Title IV-D Prosecutors may utilize instead.

a. Petition

The Title IV-D Prosecutor may file a petition with the court stating the obligor has an arrearage of at least \$2,000.00 or is three (3) months past due in current support as a result of an intentional violation of a support order. This petition may be filed as an individual motion or be part of another motion, such as rule to show cause, felony non-support, etc. The court may also find the obligor delinquent and order the license suspension without a petition filed by the Title IV-D Prosecutor.¹⁷

b. Court Order to BMV

If the court finds the obligor has an arrearage of at least \$2,000.00 or is three (3) months past due in current support as a result of an intentional violation of a support order, the court shall issue an order to the BMV instructing BMV to suspend the obligor's existing driving privileges due to a finding of child support delinquency and prohibiting BMV from issuing a new driver's license or permit to the obligor until further order of the court.¹⁸

c. Reinstatement

In the case of a judicial suspension only, the Title IV-D Prosecutor should file a motion requesting the court to issue an order to the BMV rescinding the suspension of the obligor's driver's license for the child support delinquency when:

- i. A payment plan is established which includes an IWO; or
- ii. The arrears balance is paid in full;

An obligor may also file a request for reinstatement directly with the court.

A court may only order reinstatement of judicially ordered license suspensions ordered within the court's jurisdiction. When an obligor's driver's license is also suspended administratively or is suspended by another county's judicial order (for a different child support case with a delinquency), an obligor's license remains suspended until reinstatement requirements are met and reinstatement ordered under all current suspension orders.

¹⁷ IC 31-16-12-7

¹⁸ IC 31-16-12-7

3. Specialized Driving Privileges

When the obligor's driver's license has been suspended administratively or judicially, the obligor may petition the court for specialized driving privileges.¹⁹ The BMV and the Prosecutor shall be served when the petition is filed.²⁰

If the Title IV-D Prosecutor becomes aware that the obligor has petitioned the court for specialized driving privileges in a county where the license was not suspended, the Title IV-D Prosecutor is strongly encouraged to search the statewide child support system and notify the county(s) where the license is suspended. The Prosecutor is encouraged to collect the appropriate information from said county(s) and appear in the hearing to let the judge know the state's position on behalf of the other county(s).

If the Title IV-D Prosecutor becomes aware that the obligor has petitioned the court for specialized driving privileges in the county where the license was suspended, the Title IV-D Prosecutor is strongly encouraged to search the statewide child support system and gather the appropriate information from other county(s) with a driver's license suspension on the same obligor and present all information to the court.

FORMS AND TOOLS

1. [License Suspension Case Event Codes in ISETS](#)
2. [License Suspension Eligibility Checklist](#)
3. [LS Process Overview](#)
4. [License Suspension Application Smart Guide](#)
5. [License Suspension Timelines](#)

FREQUENTLY ASKED QUESTIONS

1. Q. How long does it take for the administratively initiated suspension to take effect after the BMV receives the order?
 - A. The suspension goes into effect 20 days after the BMV sends a notice to the obligor. When the suspension is processed electronically, the BMV sends the letter out the next day. If a manual suspension is processed it could take approximately three (3) days for the letter to go out; that timeframe depends on the workload of the BMV.
2. Q. When will an administrative license suspension process not be initiated by the License suspension application?
 - A. A driver's license suspension will not be initiated when there is no address or Social Security number for the obligor, the obligor lives in a different state, or the obligor is paying per the court order or the payment plan if entered into the application.

¹⁹ IC 9-30-16-4(a)

²⁰ IC 9-30-16-4(b)(6)

3. Q: Is there a reinstatement fee from the BMV?

A: The BMV does not charge a fee for child support reinstatements. IC 9-25-6-15 covers reinstatement fees and was amended in 2010 to exclude child support reinstatements. Child support suspensions are not “suspended under this article”; therefore, they do not qualify for a reinstatement fee.

4. Q: How long will the reinstatement take?

A: When an electronic reinstatement is sent to the BMV, the license will generally be reinstated the next day. When a manual reinstatement is sent to the BMV, it can take up to ten (10) business days for the license to be reinstated. An obligor can check on the status of their driver’s license at www.in.gov/bmv.

RELATED INFORMATION

[License Suspension History](#)