

	INDIANA DEPARTMENT OF CHILD SERVICES TITLE IV-D POLICY MANUAL	
	Chapter 12: Enforcement	Effective Date: 1/23/19
	Section 5.2: Bureau of Motor Vehicle (BMV) Liens	Version: 1.0 Revision Date: 1/16/19

BACKGROUND

The federal government requires each state to have laws and procedures in place to provide for and improve the effectiveness of the Title IV-D program.¹ Title IV-D agencies are required to enact procedures for the use of personal property liens, such as motor vehicle liens, as an administrative enforcement tool to collect past-due child support from obligors.²

POLICY

Liens may be placed on titled vehicles reported by the Bureau of Motor Vehicles (BMV) to the Child Support Bureau (CSB), such as passenger cars, sport utility vehicles, pickup trucks, motorcycles, and mobile homes. The arrears threshold criteria for BMV lien submission is \$1,000.00, or three (3) months of delinquent child support payments.³

REFERENCES

- [IC 4-21.5-5-4](#): Exhaustion of administrative remedies; waiver of right to review
- [IC 9-22-6-2](#): Lien for labor on, materials for, storage of, towing of, or repair of vehicles
- [IC 26-1-9.1-333](#): Priority of certain liens arising by operation of law
- [IC 31-25-4-30](#): Child support obligation lien list; motor vehicle liens
- [42 U.S.C. § 666](#): Requirement of statutorily prescribed procedures to improve effectiveness of child support enforcement
- [45 C.F.R. § 302.70](#): Required state laws: procedures for the imposition of liens against the real and personal property of noncustodial parents who owe overdue support
- [CSB-AT-160](#): Bureau of Motor Vehicles (BMV) Lien Processing Interface
- [CSB-AT-219](#): BMV Lien Procedures Update
- [CSB-AT-284](#): BMV Lien Procedures Update
- [CSB-AT-404](#): Updated Vehicle Lien Release Process
- [Martin v. Monroe County Plan Commission, 660 N.E.2d 1073 \(Ind. Ct. App. 1996\)](#): The court decided that any available administrative remedies must be pursued before the claimant is allowed access to the courts.

PROCEDURE

1. Automated BMV Lien Procedures

¹ 42 U.S.C. § 666(a)(4); 45 C.F.R. § 302.70(a)(4)

² 45 C.F.R. § 302.70(a)(4)

³ CSB-AT-284

The BMV processes all requests for motor vehicle titles in Indiana. The procedure to place a lien on a motor vehicle is an automated administrative action between the CSB's automated system and the BMV's automated system.

Weekly, the statewide child support system will automatically submit a list of obligors who meet the threshold for lien processing to the BMV. When a match is found, BMV will relay the following information back to the statewide child support system:

- a. The obligor's name(s) and Social Security number (SSN);
- b. Vehicle title number;
- c. The lienholder information;
- d. The vehicle's make, model, and year;
- e. The purchase date; and
- f. The vehicle identification number (VIN).⁴

A worklist item is generated to the Title IV-D Prosecutor when an obligor applies for a replacement title or a title for a newly purchased vehicle and the obligor is on the BMV lien submission list. The Title IV-D Prosecutor has two (2) days from the time they receive the worklist to enter a response (e.g., "ACCEPT" or "REJECT") on the Create/Update Lien Record (ASELNB) screen in the statewide child support system. If the Title IV-D Prosecutor does not respond within the allotted two (2) day time frame, the statewide child support system transmits the lien request to the BMV on the third day.⁵ When a lien is placed on a vehicle, BMV sends the title to the first lien holder.

If CSB is named as a lien holder, it will send the obligor notice that a lien has been placed on his/her vehicle. Notices for liens will be automatically produced by CSB's print vendor and mailed to the obligor to the last known address in the statewide child support system. If the notice is returned due to an invalid address, CSB will initiate the locate process and another notice will be sent to the obligor when a valid address has been verified.

Any obligor whose case(s) no longer meets the submission criteria will be omitted from the next week's BMV submission file. Removing an obligor's name from the BMV submission file has no effect on already established liens. A case no longer meets the submission criteria when:

- a. The case is closed to Title IV-D services;
- b. The arrears fall below \$1,000.00 or are no longer three (3) months delinquent; or
- c. "STOP" is entered in the SPLH or BMV Liens field on the Enforcement Activities Screen.⁶

2. Priority of the CSB Lien on a Vehicle with Multiple Liens

CSB's lien on a vehicle title is subordinate to a prior perfected security interest, such as a lien held by a bank or lessor.⁷ CSB's lien may also become subordinate to after-

⁴ CSB-AT-160

⁵ CSB-AT-284

⁶ CSB-AT-219

⁷ IC 31-25-4-30(b)

acquired interests in situations where there is a possessory lien such as a mechanic's lien for unpaid labor on, materials for, storage of, towing of, or repair of the vehicle.⁸

If CSB is the first lien holder and holds the title, CSB's lien takes priority over any subsequent liens from other agencies, such as the Internal Revenue Service (IRS) or a financial institution. After the Title IV-D Prosecutor releases the lien on the statewide child support system, CSB will then mail the vehicle title to the second lien holder.

3. When Obligor No Longer Owns the Vehicle

a. Sale or Trade-In

Sale of a vehicle with a lien is ordinarily contingent on the release of that lien. The Title IV-D Prosecutor has the discretion to determine the lump sum amount it will accept to satisfy the lien. The lump sum amount is negotiated between the Title IV-D Prosecutor and the obligor. If the obligor sells the vehicle, the purchaser (e.g., as a trade-in to a dealership or as a private sale to an individual) is responsible for performing a title search to find out if there are liens on the vehicle. If the purchaser neglects to perform a title search before purchasing the vehicle from the obligor, the Title IV-D Prosecutor may require the purchaser to make a lump sum payment to satisfy the lien. Proceeds from the sale of the vehicle should be divided among the lien holders based on priority.

b. Repossession

If CSB is the first lien holder when the vehicle is repossessed, CSB and the Title IV-D Prosecutor communicate by email or phone to negotiate a lump sum payment amount to be paid by the car lot, dealership, bank, or loan company before the title is released. When the CSB is listed as the subordinate lien holder, it will release its lien upon receipt of the certificate of repossession from the first lien holder.

c. Totaled Vehicle

If the vehicle is involved in a car accident and "totaled out" by an auto insurance company, the insurance company will determine the vehicle's value and the settlement amount. The insurance company will notify CSB or the Title IV-D Prosecutor of the accident and settlement amount. CSB or the Title IV-D Prosecutor is responsible for obtaining the insurance claim number, the name of a contact person, and phone and fax numbers for future correspondence.

After the Title IV-D Prosecutor determines the lump sum payment amount it will accept to release the vehicle lien, CSB will send the insurance company a letter of guarantee. The letter of guarantee is sent in an attempt to get the insurance company to agree to send a portion, or all, of the settlement amount to the Indiana State Central Collection Unit (INSCCU) to satisfy the lien and assume ownership of the title.

⁸ IC 9-22-6-2(a)(b); IC 26-1-9.1-333

Once the settlement payment has been posted by INSCCU, and the Title IV-D Prosecutor has entered the lien release date in the statewide child support system, CSB may send the lien release letter and vehicle title to the insurance company upon receipt of a limited power of attorney.

If the insurance company does not agree to send a portion of the settlement amount to satisfy the lien, the Title IV-D Prosecutor has the option to either release the lien without payment or refuse to release the vehicle lien until payment is received from the obligor.

4. Lump Sum Payment Guidelines

The vehicle lien release lump sum payment amount is set at the sole discretion of the Title IV-D Prosecutor, up to the amount of the obligor's arrears balance. The Title IV-D Prosecutor has the authority to negotiate a lower amount to be paid on these cases and does not need the approval of CSB.

Several factors may be considered to determine the lump sum lien release payment amount, such as the facts of the case, the amount of the arrears, and the estimated value of the vehicle based on its condition and/or mileage, if known.⁹ The Title IV-D Prosecutor may use online vehicle appraisal websites, such as the National Automobile Dealers Association, Edmunds, or Kelley Blue Book, to determine the estimated value of the obligor's vehicle(s).

The Title IV-D Prosecutor may choose to set a lien release payment amount that is equal to a percentage of the vehicle's estimated value, taking into account the obligor's ability to pay or other relevant circumstances of the case.

5. Releasing a Lien

When the arrears are paid in full, the lien is automatically released in the statewide child support system.¹⁰ There are three instances when the Title IV-D Prosecutor may need to manually release the BMV lien:

- a. The obligor may contact the Title IV-D Prosecutor to negotiate the release of the vehicle lien on his/her case. The Title IV-D Prosecutor may require the obligor make a lump sum payment that will either pay the arrears in full or bring the arrears below the \$1,000.00 or three (3) months delinquent threshold. The Title IV-D Prosecutor also has the discretion to negotiate a payment plan that does not meet the aforementioned criteria; however, please note that the obligor will continue to be submitted on the BMV lien submission list. (Please see FAQ #1.) The Title IV-D Prosecutor may manually release the lien when the obligor fulfills the payment arrangement agreed to by the Title IV-D Prosecutor or at the Title IV-D Prosecutor's discretion;
- b. When closing a case to Title IV-D services, the Title IV-D Prosecutor may review whether there is a BMV lien in place and choose to release the lien;¹¹ or

⁹ CSB-AT-404

¹⁰ CSB-AT-219

¹¹ CSB-AT-219

- c. Circumstances may necessitate that all enforcement actions, or BMV lien enforcement, on a case be temporarily stopped. Upon entering a “STOP” on the SPLH or BMV Liens field on the Enforcement Activities Screen, the Title IV-D Prosecutor may review whether there is a BMV lien in place and choose to release that lien.¹²

Please note that if the obligor has multiple Title IV-D cases that meet the delinquency threshold, all cases must satisfy the lien release requirements before the lien is completely released in the statewide child support system.¹³

After determining that a lien release is appropriate, the Title IV-D Prosecutor must manually enter the “Date Released” and “Released Reason” on the Create/Update Lien Record (ASELNB) screen in the statewide child support system. This will create a Case Event that will alert CSB to send a lien release letter. CSB will only mail the lien release letter (and the title, if available) to the obligor after the liens have been released in all of the obligor’s cases in all counties.

If CSB is the first lien holder and the “Date Released” and “Released Reason” are completed for all applicable cases on the statewide child support system, the case(s) will appear on CSB’s weekly “Potential Title Release (485) Report”. This report alerts CSB to mail the title to the obligor. However, if an additional lien holder is listed on the vehicle title, CSB will mail the title to the second lien holder.

If CSB is the second lien holder, the statewide child support system will automatically generate the release notice to the obligor and to the first lien holder.¹⁴ These releases are printed and mailed by CSB’s print vendor.

FORMS AND TOOLS

[Certificate of Repossession – Indiana State Form 39738](#)

FREQUENTLY ASKED QUESTIONS

1. Q. If the Title IV-D Prosecutor releases a vehicle lien in the statewide child support system after the obligor makes a payment to satisfy the lien, but the arrearage still meets the threshold criteria, will a new lien be placed on the vehicle? (Example: The arrearage is \$5,000.00, the value of the car is \$1,000.00 and the obligor makes a payment of \$1,000.00. However, the arrearage is still over the threshold amount of \$1,000.00.)
 - A. The Title IV-D Prosecutor will continue to receive a worklist item with notice that the obligor is on the BMV lien submission list and a new lien may be placed on a vehicle title if the arrearage meets the threshold amount of at least \$1,000.00 or three (3) months of delinquent child support.

¹² CSB-AT-219

¹³ CSB-AT-404

¹⁴ CSB-AT-219

The Title IV-D Prosecutor has two (2) days from the time they receive the worklist to enter “ACCEPT” or “REJECT” on the Create/Update Lien Record (ASELNB) screen in the statewide child support system. If the Title IV-D Prosecutor does not respond within the allotted two (2) day time frame, the statewide child support system transmits the lien request to the BMV on the third day.¹⁵

In order to prevent receiving a worklist every week, the Title IV-D Prosecutor may consider placing a “STOP” on the BMV lien. It is imperative that the Title IV-D Prosecutor calendar the case to review at a later date to determine if the STOP is still warranted.

The obligor’s name will remain on the BMV lien submission list until the arrearage falls below the threshold.

2. Q. What happens to a vehicle lien if the obligor dies?
 - A. If the obligor dies, CSB continues to maintain the title lien indefinitely. The executor of the obligor’s estate or a family member may call CSB to request a release of the lien. If CSB has not previously confirmed the obligor’s date of death, the executor of the estate or family member may be asked to provide CSB with a copy of the obligor’s death certificate. Once the Title IV-D Prosecutor’s office has been notified of the obligor’s death, it may decide to either release the lien or refuse to release the lien until after a payment has been made. CSB and the Title IV-D Prosecutor communicate by email or phone to negotiate the lump sum payment to satisfy the lien and CSB relays the terms of the lien release to the executor of the estate. CSB is usually the primary point of contact during these negotiations. However, the executor of the estate may communicate directly with the Title IV-D Prosecutor if that is his/her preference.
3. Q. What happens to a vehicle lien if the obligor is incarcerated?
 - A. An obligor’s incarceration does not automatically release a vehicle lien. The Title IV-D Prosecutor may review the obligor’s case to determine whether the lien should be released while the obligor is incarcerated. In making its decision, the Title IV-D Prosecutor may consider the length of incarceration, the ability of the obligor (or someone on his/her behalf) to make payments during long term incarceration, the value of the vehicle, or a payment towards the arrears. The Title IV-D Prosecutor has the option not to release the lien until a payment has been made on the case.

Due to a Department of Corrections policy, CSB will not send the title to the obligor at a correctional facility’s address if the vehicle lien is satisfied. CSB will mail the obligor a “Vehicle Title Lien Release” letter and authorization form on which the obligor will provide an alternate address to where CSB can mail the vehicle title. Once CSB receives the completed authorization form from the obligor, it will mail the title to the individual at an alternate address designated by the obligor.

4. Q. Can a lien be placed on a vehicle that is owned by the obligor and another

¹⁵ CSB-AT-284

individual?

- A. Yes, CSB may submit a lien request on a vehicle title that is owned by the obligor and another individual. Joint-ownership of a vehicle does not make it ineligible for lien submission. However, the Title IV-D Prosecutor has the discretion to release the lien if it receives a complaint from the co-owner listed on the vehicle's title.
- 5. Q. Does a trial court have authority to release a vehicle lien placed by the Title IV-D Prosecutor's office?
 - A. A trial court does not have authority to release a vehicle lien placed through an administrative enforcement process by a Title IV-D Prosecutor's office. IC 31-25-4-30 grants the Title IV-D Prosecutor administrative authority to place and release a vehicle lien. The trial court does not have the authority to conduct a judicial review until the obligor has exhausted the administrative remedies for lien release.¹⁶
- 6. Q. What happens to a vehicle lien if the obligor files for bankruptcy?
 - A. If an obligor files for bankruptcy, regardless of the bankruptcy type, CSB will continue to hold the vehicle lien. CSB or the Title IV-D Prosecutor will release the lien at the instruction of a bankruptcy court order. Once the lien is released, CSB will mail the title as directed by the bankruptcy court.

RELATED INFORMATION

N/A

¹⁶ IC 4-21.5-5-4(a); *Martin v. Monroe County Plan Commission*, 660 N.E.2d 1073 (Ind. Ct. App. 1996)