

**This section details the changes to the current Failure to Appear and Failure to Pay Suspensions.**

- These suspensions account for over 600,000 of active suspensions in Indiana
- These suspensions often begin the cycle of driving while suspended cases that lead to misdemeanor offenses and arrests
- The changes to this section are as follows:
  - o Removes the ability for courts to issue arrest warrants on traffic infractions. This is already a rarely utilized tool and in its current form has created delays in suspension and confusion for the court.
  - o Remove the ability for a court to suspend a driver's license for their failure to appear on a traffic infraction.
  - o Specifies that Failure to Pay suspensions may only be entered for moving violations.
  - o Creates a 30 day notice period for a person about to be suspended for a failure to pay to allow people time to avoid the suspension.
  - o Allows a person to have a Failure to Pay suspension stayed upon a showing of proof of SR 22 insurance to the BMV with a valid license. If a person can avoid any additional FTP suspensions for a period of 3 years, the suspension is terminated and any related reinstatement fee is waived.
- Please note:
  - o These changes do not discharge a person's conviction for a traffic offense; fines will still be owed, points will still be assessed, however the driver will no longer be suspended if they provide proof of insurance and a valid license.
  - o These changes do not change the procedure for out of state drivers. There is no method by which Indiana can monitor the insurance of an out of state driver, and license suspension is the only tool by which the State can make out of state drivers accountable for their actions in Indiana.
  - o The state may still issue warrants and suspensions for failure to appear on criminal cases. However, the number of DWS misdemeanor cases should drop as original convictions for DWS on infractions should lower.
  - o Current Failure to Appear suspensions will still be in effect. These will need to be resolved by appearing in the issuing court.

**9-30-3-8. Issuance of warrant for arrest of defendant by court — Indiana resident — Nonresident — Suspension of driving privileges by bureau.**

(a) The court may issue a warrant for the arrest of a defendant who is an Indiana resident and who fails to appear or answer a traffic information and summons only on a misdemeanor or felony offense or a complaint and summons only on a misdemeanor or felony offense served upon the defendant. If the warrant is not executed within thirty (30) days after issue, the court shall promptly forward the court copy of the traffic information and summons or complaint and summons to the bureau indicating that the defendant failed to appear in court as ordered. The court shall then mark the case as failure to appear on the court's records.

(b) If a defendant who is not an Indiana resident fails to appear or answer a traffic summons served upon the defendant and upon which the information or complaint has been filed thirty (30) days after the return date of the information and summons or complaint and summons, the court shall promptly forward the court copy of the traffic information and summons or complaint and summons to the bureau. The bureau shall notify the motor vehicle commission of the state of the nonresident defendant of the defendant's failure to appear and also of any action taken by the bureau relative to the Indiana driving privileges of the defendant. **If the defendant fails to appear or otherwise answer within thirty (30) days, the court shall mark the case as failure to appear on the court's records.**

(c) The court may suspend the driving privileges of a defendant who fails to satisfy a judgment entered against the defendant for:

(1) commission of a moving traffic offense as defined in IC 9-13-2-110; or

(2) commission of a traffic infraction listed in 140 IAC 1-4.5-10;

for a period of three (3) years, from the date set by the court under [IC 34-28-5-6](#). The court shall forward notice to the bureau indicating that the defendant failed to pay as ordered.

(d) If the bureau receives a copy of the traffic information and summons or complaint under subsection (a) or a notice of failure to pay under subsection (c), either on a form prescribed by the bureau or in an electronic format prescribed by the office of judicial administration, the bureau shall suspend the driving privileges of the defendant until the defendant appears in court or the case has been disposed of, or until either the date payment is received by the court or three (3) years pursuant to subsection (c). The order of suspension may be served upon the defendant by mailing the order by first class mail to the defendant at the last address shown for the defendant in the records of the bureau. Any suspension ordered under this section must begin 30 days after the BMV sends notice of the suspension.

(e) For nonresidents of Indiana, the order of suspension shall be mailed to the defendant at the address given to the arresting officer or the clerk of court by the defendant as shown by the traffic information or complaint. A copy of the order shall also be sent to the motor vehicle bureau of the state of the nonresident defendant. If:

(1) the defendant's failure to appear in court has been certified to the bureau under this chapter; and

(2) the defendant subsequently appears in court to answer the charges against the defendant;  
the court shall proceed to hear and determine the case in the same manner as other cases pending in the court. Upon final determination of the case, the court shall notify the bureau of the determination either in an electronic format or upon forms prescribed by the bureau. The notification shall be made by the court within ten (10) days after the final determination of the case, and information from the original copy of the traffic information and summons or complaint and summons must accompany the notification.

#### NEW SECTION 9-30-3-8.5

(a) When the Bureau receives notice of a suspension for failure to satisfy a judgment under 9-30-3-8, the bureau shall send a request for evidence of future financial responsibility (SR 22 Insurance).

(b) During the three (3) years following the suspension under 9-30-3-8, the person's driving privileges remain suspended until the person satisfies the judgment or provides proof of future financial responsibility in force under IC 9-25.

(c) Upon providing proof of future financial responsibility for a period of three (3) years, any suspension under 9-30-3-8 shall be stayed.

(d) If at any time during the three (3) years following the suspension imposed under 9-30-3-8, a person who has provided proof of future financial responsibility under IC 9-25 fails to maintain the proof, the bureau shall suspend the person's driving privileges until the person again provides proof of future financial responsibility under IC 9-25 or the suspension is terminated.

(e) Any reinstatement fees still owed after the (3) year period following the suspension imposed under 9-30-3-8 shall be waived.

#### **34-28-5-6. Suspension for driver's license for failure to satisfy judgment.**

If a defendant fails to satisfy a judgment entered against the defendant for the violation of a traffic ordinance or for a traffic infraction by a date fixed by the court, the court may suspend the defendant's drivers license. When a court suspends a person's drivers license under this section, the court shall forward notice of the suspension to the bureau of motor vehicles. Any suspension under this section will begin 30 days from the time of notification by the BMV.

**The following sections for suspension due to a judgment shall be removed.**

- These suspensions account for over 8,000 current suspensions.
- These suspensions lead to further DWS convictions, putting a person deeper into debt. This removes any incentive to actually pay off the judgment, as it will not resolve the additional suspensions that stemmed from it.
- There is already a maximum of 7 years on the suspension, which only encourages people to not take care of other driving issues for that period of time.

**9-25-6-4**

**9-25-6-5**

**9-25-6-6**

**9-25-6-7. Duration of suspension — Effect of discharge in bankruptcy.**

**9-25-6-9. Certified abstract of record of judgment for damages.**

**As of the current version, there are no changes to the reinstatement fee schedules.**

- Currently the major issues with reinstatement fees is how they stack up across multiple convictions, resulting in insurmountable fees that people are unable to pay, and thus never break the cycle of suspension.
- With the other changes detailed in this document, people should be facing far fewer DWS charges that lead to repeat reinstatement fees.
- People retain the ability to seek a waiver of reinstatement fees through IC 9-25-6-15.1
- People who hold SR22 insurance for a period of three years will also automatically be eligible for a waiver of reinstatement fees related to their FTP suspensions.

**9-25-6-15. Reinstatement fee.**

(a) An individual:

- (1) whose driving privileges are suspended under this article; and
  - (2) who seeks the reinstatement of the driving privileges;
- must pay a reinstatement fee to the bureau as provided in subsection (b).

(b) The reinstatement fee under subsection (a) is as follows:

- (1) For a first suspension, two hundred fifty dollars (\$250).
- (2) For a second suspension, five hundred dollars (\$500).
- (3) For a third or subsequent suspension, one thousand dollars (\$1,000).

(c) Each fee paid under this section or section 15.1 [[IC 9-25-6-15.1](#)] of this chapter shall be deposited in the financial responsibility compliance verification fund established by [IC 9-25-9-7](#) as follows:

- (1) Forty-eight percent (48%) of a fee paid after a first suspension.
- (2) Thirty-nine percent (39%) of a fee paid after a second suspension.

(3) Twenty-seven percent (27%) of a fee paid after a third or subsequent suspension. The remaining amount of each fee paid under this section or section 15.1 of this chapter must be deposited in the motor vehicle highway account.

(d) If:

- (1) a person's driving privileges are suspended for registering or operating a vehicle in violation of [IC 9-25-4-1](#);
- (2) the person is required to pay a fee for the reinstatement of the person's license under this section; and
- (3) the person later establishes that the person did not register or operate a vehicle in violation of [IC 9-25-4-1](#);

the fee paid by the person under this section shall be refunded.

**This section is intended to address Child Support License Suspensions**

- Currently, the child support license suspension process, which includes both warning letters and Intent to Suspend letters, have been responsible for bringing in over 23 million dollars in voluntary payments for children in Indiana
- Despite these successes, over 30,000 child support suspensions remain in effect throughout the state.
- In the past year, the state has filed for more reinstatement of licenses than they have for suspensions of licenses.
- These changes are aimed at providing defendants who are part of the 30,000 current suspensions additional, and automatic, mechanisms in order to obtain their license.
- Currently, for those chronic suspended drivers, hurdles include;
  - o Filing appeals, working with IV-D offices, and otherwise navigating the legal landscape to get the license reinstated
  - o Other suspension matters preventing a person from obtaining a valid license even when are able to remain current on their support
- To address these issues, these changes;
  - o Provide an automatic method by which a person can get their license by paying two months of support. Once proof is provided (by sending in a receipt of payment, for example) to the office, the license shall be automatically reinstated without a need for any hearings or filings.
  - o Other changes in the DWS reforms should provide suspended drivers with a path to a valid license, avoiding the financial pitfalls that make them unable to get a valid license and pay their child support.
- Please note;
  - o These changes do nothing to the current ability of a person to enter into an agreement with a IV-D office, to work out a payment plan, or to take any of the currently existing measures that allow for a person to have their license reinstated.
  - o For example, a person that cannot afford the two month payment retains the ability to work out a payment plan with the Prosecutor in order to have a their license reinstated. The benefit to the two month method is it is an automatic procedure that a person may take advantage of.

### **IC 31-25-4-33.5 Establishment of an Earned Driver's License Reinstatement**

(a) If an obligor's driver's license has been administratively suspended as a result of an order issued by the Title IV-D agency pursuant to IC 31-25-4-32(b) or IC 31-25-4-33(d), then the obligor may receive an earned driver's license reinstatement by compliance with one of the following:

(1) If the obligor is required by court order to pay current child support, then payment of a lump sum through the Clerk or the Indiana State Central Collection Unit totaling the equivalent of eight (8) weeks of the current child support amount ordered by the court.

(2) If the obligor is no longer required to pay current support, but has a child support arrearage, then payment of a lump sum through the Clerk or the Indiana State Central Collection Unit in the equivalent of eight (8) weeks of the amount that obligor was previously ordered to pay for current child support or the total amount of the arrearage, whichever is less.

(b) If the current support amount in the support order issued by the court cannot be determined, then the obligor must contact the county IV-D office enforcing the case and reach an agreement on the lump sum amount necessary for earned driver's license reinstatement.

(c) Once payment of the lump sum is made, then the obligor must provide proof of said lump sum payment to the county IV-D office enforcing the support order. Upon confirmation of the payment, the county IV-D office shall, within seven (7) days, take all steps necessary to request BMV lift the suspension in the case that provided the basis for the administrative driver's license suspension.

(d) If there are multiple orders for suspension from the Title IV-D Agency on other child support cases, the obligor must comply with Section (a) above to have the suspensions lifted in each of those cases.

(e) The Title IV-D agency shall monitor compliance with the child support order in the case for a period of sixty (60) days from the date of the earned driver's license reinstatement. After the sixty (60) day period has passed, if the obligor has failed to comply with the child support order then in effect and is delinquent as defined by IC 31-25-4-2, then the Title IV-D agency may again initiate the administrative driver's license suspension process pursuant to IC 31-25-4-32.

The Title IV-D Agency shall not suspend the driver's license during the sixty (60) monitoring period.

(f) If an obligor has received the benefit of an earned driver's license reinstatement on a case as outlined in this section, then no further earned driver's license reinstatements may take place for that case for a period of one (1) year from the most recently earned driver's license reinstatement date. After one (1) year, the driver's license reinstatement may once again be earned as stated in this section.

(g) Nothing in this section shall prevent:

(1) the Title IV-D Agency from entering into a child support payment agreement with the obligor and enforcing that agreement by appropriate means, including driver's license suspension and reinstatement.

(2) the obligor from filing a Petition for Specialized Driving Privileges under IC 9-30-16 and proceeding under that chapter.



**This section details the changes to the Financial Responsibility parts of the code.**

- Currently, over 200,000 individuals are suspended due to a failure to provide financial responsibility.
- Many of the current insurance penalties carry mandatory suspensions, some up to a year, for repeat insurance violations.
- Drivers who remain suspended despite being able to provide proof of future financial responsibility are not incentivized to obtain insurance.
- The below changes:
  - o Eliminate the structured/tier system of insurance penalties.
  - o Provide that a person who is found to have been driving uninsured is immediately suspended
  - o That suspension lasts until the person is able to provide proof of future financial responsibility for 180 days.
  - o Upon proof of future financial responsibility, any financial responsibility suspensions are immediately lifted.

**9-25-4-3. Continuous maintenance of financial responsibility.**

(a) Financial responsibility in one (1) of the forms required under this chapter must be continuously maintained as long as a motor vehicle is operated on a public highway in Indiana.

(b) The bureau may, at any time, verify that a person has financial responsibility in effect as required under this article.

(c) The bureau shall suspend the driving privileges or motor vehicle registration, or both, of a person who fails to maintain financial responsibility as required under this article.

(d) In order to comply with this section, the bureau may contract with a third party to request proof of financial responsibility from a person as required under this article. The third party must comply with the requirements of this article and any rules adopted by the bureau.

(e) Upon a showing to the BMV of proof of future financial responsibility the BMV shall stay any suspension under this section. After for a period of 180 days, if the BMV has not received notice that the coverage has lapsed, the suspension shall be terminated.

**9-25-5-1. Person convicted of traffic offense requiring court appearance — Failure to provide proof of financial responsibility — Procedure for suspension.**

(a) If a person is convicted of a traffic offense that requires a court appearance, the court shall require the person to show proof that financial responsibility was in force on the date of the violation in one (1) of the forms described in [IC 9-25-4-4](#) or in the form of a certificate of self-insurance issued under [IC 9-25-4-11](#).

(b) If a person fails to provide proof of financial responsibility as required by this section, the court shall recommend the suspension of the person's current driving privileges or motor vehicle registration, or both until proof of insurance is provided to the BMV pursuant to subsection (d)

(c) A suspension under this section is subject to the same provisions concerning procedure for suspension, duration of suspension, and reinstatement applicable to other suspensions under this article.

(d) Upon a showing to the BMV of proof of future financial responsibility the BMV shall stay any suspension under this section. After for a period of 180 days, if the BMV has not received notice that the coverage has lapsed, the suspension shall be terminated.

**9-25-6-3. Nonreceipt by bureau of certificate of compliance or receipt indicating financial responsibility — Action by bureau.**

(a) If the bureau:

- (1) does not receive a certificate of compliance during the applicable compliance response period for a person identified under [IC 9-25-5-2](#); or
- (2) receives a certificate that does not indicate that financial responsibility was in effect with respect to the motor vehicle operated by the person or operation of the motor vehicle by the person on the date of the accident referred to in [IC 9-25-5-2](#);

the bureau shall take action under subsection (d).

(b) If the bureau:

- (1) does not receive a certificate of compliance during the applicable compliance response period for a person presented with a request for evidence of financial responsibility under [IC 9-25-9-1](#); or
- (2) receives a certificate that does not indicate that financial responsibility was in effect with respect to the motor vehicle or operation of the motor vehicle that the person was operating when the person committed the violation described in the judgment or abstract received by the bureau under [IC 9-25-9-1](#);

the bureau shall take action under subsection (d).

(c) If the bureau:

- (1) does not receive a certificate of compliance during the applicable compliance response period for a person presented with a request under IC 9-25-10 (before its repeal); or
- (2) receives a certificate that does not indicate that financial responsibility was in effect on the date requested;

the bureau shall take action under subsection (d).

(d) Under the conditions set forth in subsection (a), (b), or (c), the bureau shall immediately suspend the person's driving privileges or motor vehicle registration, or both, until proof of insurance is provided to the BMV pursuant to subsection (g). The suspension of a person's driving privileges or motor vehicle registration, or both, may be imposed only one (1) time under this subsection or [IC 9-25-8-2](#) for the same incident.

(e) Except as provided in subsection (f), if subsection (a), (b), or (c) applies to a person, the bureau shall suspend the driving privileges of the person irrespective of the following:

- (1) The sale or other disposition of the motor vehicle by the owner.
- (2) The cancellation or expiration of the registration of the motor vehicle.
- (3) An assertion by the person that the person did not own the motor vehicle and therefore had no control over whether financial responsibility was in effect with respect to the motor vehicle.

(f) The bureau shall not suspend the driving privileges of a person to which subsection (a), (b), or (c) applies if the person, through a certificate of compliance or another communication with the bureau, establishes to the satisfaction of the bureau that the motor vehicle that the person was operating when the accident referred to in subsection (a) took place or when the violation referred to in subsection (b) or (c) was committed was:

- (1) rented from a rental company;
  - (2) shared through a peer to peer vehicle sharing program (as defined in [IC 24-4-9.2-4](#));
- or
- (3) owned by the person's employer and operated by the person in the normal course of the person's employment.

(g) Upon a showing to the BMV of proof of future financial responsibility the BMV shall stay any suspension under this section. After for a period of 180 days, if the BMV has not received notice that the coverage has lapsed, the suspension shall be terminated.

#### **9-25-6-14. Duration of suspension — Conditions of reinstatement — Removal from driving record.**

(a) The bureau shall reinstate the driving privileges or motor vehicle registration, or both:

- (1) After the expiration of the imposed period of suspension if the person has furnished the bureau with proof of future financial responsibility; or
- (2) if financial responsibility was in effect with respect to a motor vehicle on the date requested but the bureau does not receive a certificate of compliance indicating this fact until after the person's driving privileges are suspended under this article, the person's driving privileges shall be reinstated when the bureau receives the certificate of compliance.

(b) Upon receipt of a certificate of compliance under this section, the bureau shall remove from the person's driving record the administrative suspension caused by the failure to notify the bureau that the person had financial responsibility in effect on the date of the violation.

#### **9-25-8-2. Penalty for violation of article.**

(a) A person that knowingly:

- (1) operates; or
- (2) permits the operation of;

a motor vehicle on a public highway in Indiana without financial responsibility in effect as set forth in [IC 9-25-4-4](#) commits a Class A infraction. However, the offense is a Class C misdemeanor if the person knowingly or intentionally violates this section and has a prior unrelated conviction or judgment under this section.

(b) Subsection (a)(2) applies to:

- (1) the owner of a rental company under [IC 9-25-6-3\(f\)\(1\)](#);
- (2) the owner of a peer to peer sharing program under [IC 9-25-6-3\(f\)\(2\)](#); and
- (3) an employer under [IC 9-25-6-3\(f\)\(3\)](#).