

VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

CHAPTER 473

An Act to amend and reenact § 46.2-320 of the Code of Virginia, relating to refusal or suspension of license; child support.

[S 901]

Approved March 18, 1997

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-320 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-320. Other grounds for refusal or suspension.

The Department may refuse to grant an application for a driver's license in any of the circumstances set forth in § 46.2-608 as circumstances justifying the refusal of an application for the registration of a motor vehicle. The Department may refuse to issue or reissue a driver's license for the willful failure or refusal to pay any taxes or fees required to be collected or authorized to be collected by the Department.

The Commissioner may enter into an agreement with the Department of Social Services whereby the Department may suspend or refuse to renew the driver's license of any person upon receipt of notice from the Department of Social Services that the person is delinquent in the payment of child support by ninety days or more or in an amount of \$5,000 or more. A suspension or refusal to renew authorized pursuant to this section shall not be effective until thirty days after receipt by the delinquent obligor of notice of intent to suspend or refuse to renew. The notice of intent shall be sent by certified mail by the Department of Social Services, with proof of actual receipt, to the obligor at the last known address as shown in the records of the Department or the Department of Social Services. The obligor shall be entitled to a judicial hearing if a request for a hearing is made, in writing, to the Department of Social Services within ten days of receipt of the notice of intent. Upon receipt of the request for a hearing, the Department of Social Services shall petition the court that entered or is enforcing the order, requesting a hearing on the proposed suspension or refusal to renew. The court shall authorize the suspension or refusal to renew only if it finds that the obligor's noncompliance with the child support order was willful. Upon a showing by the Department of Social Services that the obligor is delinquent in the payment of child support by ninety days or more or in an amount of \$5,000 or more, the burden of proving that the delinquency was not willful shall rest upon the obligor. The Department shall not suspend or refuse to renew the driver's license until a final determination is made by the court.

At any time after receipt of a notice of intent, the person may petition the juvenile and domestic relations district court in the jurisdiction where he resides for the issuance of a restricted license to be used if the suspension or refusal to renew becomes effective. Upon such petition and a finding of good cause, the court may ~~issue the~~ *provide that such person be issued* a restricted permit to operate a motor vehicle for any or all of the following purposes: (i) travel to and from his place of employment and for travel during the hours of such person's employment if the operation of a motor vehicle is a necessary incident of such employment; (ii) travel to and from school if such person is a student, upon proper written verification to the court that such person is enrolled in a continuing program of education; (iii) travel to and from visitation with a child of such person; or (iv) such other medically necessary travel as the court deems necessary and proper upon written verification of need by a licensed health professional.

The Department shall not renew a driver's license or terminate a license suspension of a person who has been found to be so delinquent in the payment of child support until it has received from the Department of Social Services a certification that the person has (i) paid the delinquency in full or (ii) reached an agreement with the Department of Social Services to satisfy the delinquency and at least one payment has been made pursuant to the agreement. Certification by the Department of Social Services shall be made by electronic or telephonic communication on the same work day that payment required by clause (i) or (ii) is made.