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HOUSE BILL NO. 881

Offered January 26, 1998

A *BILL to amend and reenact § 46.2-320 of the Code of Virginia, relating to grounds for refusal or suspension of driver's licenses.*

Patron—Diamonstein (By Request)

Referred to Committee for Courts of Justice

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.

A. 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.

B. The Commissioner may enter into an agreement with the Department of Social Services whereby the Department may suspend or refuse to *issue*, renew *or reissue* the driver's license of any person upon receipt of notice from the Department of Social Services that the person (i) is delinquent in the payment of child support by ninety days or more or in an amount of \$5,000 or more or (ii) has failed to comply with a subpoena, summons or warrant relating to paternity or child support proceedings. A suspension or refusal to *issue*, renew *or reissue* 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 *issue*, renew *or reissue*. The notice of intent shall be served on the obligor by the Department of Social Services, by certified mail, with proof of actual receipt, sent to the obligor's last known address as shown in the records of the Department or the Department of Social Services or by personal delivery to the obligor pursuant to subdivision 1 of § 8.01-296, or service may be waived by the obligor in accordance with procedures established by 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 *issue*, renew, *or reissue*. The court shall authorize the suspension or refusal to *issue*, renew *or reissue* 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 *issue*, renew, *or reissue* the driver's license until a final determination is made by the court.

C. *Effective July 1, 1999, the Department of Motor Vehicles may refuse to issue, renew, or reissue the driver's license of any person for whom the Department of Social Services could not successfully serve a notice of intent to suspend a driver's license. However, if proof of receipt of notice of intent to suspend the driver's license is received prior to the nonrenewal or nonissuance, the procedures to suspend the license as outlined in the forgoing provisions of this section shall be followed.*

D. 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 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. A restricted license issued pursuant to this subsection shall not permit any person to operate a commercial motor vehicle as defined in § 46.2-341.4. The court shall order the surrender of the person's license to operate a motor vehicle, to be disposed of in accordance with the provisions of § 46.2-398, and shall forward to the Commissioner a copy of its order entered pursuant to this subsection. The order shall specifically enumerate the restrictions imposed and contain such information regarding the person to

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60 whom such a permit is issued as is reasonably necessary to identify him.

61 ~~Ð~~ E. The Department shall not *issue*, renew, or *reissue* a driver's license or terminate a license
62 suspension imposed pursuant to this section until it has received from the Department of Social Services
63 a certification that the person has (i) paid the delinquency in full, (ii) reached an agreement with the
64 Department of Social Services to satisfy the delinquency within a period not to exceed ten years and at
65 least one payment, representing at least five percent of the total delinquency or \$500, whichever is
66 greater, has been made pursuant to the agreement, or (iii) complied with a subpoena, summons or
67 warrant relating to a paternity or child support proceeding. Certification by the Department of Social
68 Services shall be made by electronic or telephonic communication and shall be made on the same work
69 day that payment required by clause (i) or (ii) is made.