



Tip of the Month January 2020

Suspension of Driver's Licenses by the Child Support Agency

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Minn. Stat. §§ 518A.65 and 171.186 authorize suspension of a child support obligor's driver's license by court process when a motion is brought by a parent who is owed child support, or by administrative process by the child support agency. Almost all child support driver's license suspensions in Minnesota are initiated by the child support agency. The state child support computer system (PRISM) automates much of the administrative license suspension process and no court hearing is required, unless requested by the parent.

The child support agency will start the process to suspend an obligor's driver's license when the equivalent of three months of support is owed. For example, if an obligor is ordered to pay \$250 per month in support on a case, the case will be selected to start the driver's license suspension process if the arrears balance reaches \$750. For most obligors, preventing a suspension or reinstating a license will involve entering into and complying with a payment agreement. The process will be a little different depending on where the obligor is in the process.

There are separate provisions for suspension related to failure to comply with a subpoena in 518A.65. That suspension mechanism is less common and is outside the scope of this document.

Before License is First Suspended

PRISM automatically identifies cases for driver's license suspension. The case must be at least three months and \$500 in arrears to qualify. Therefore, an obligor with a \$50 order who makes no payments will not be selected for suspension until they are 10 months behind. An obligor may be suspended on multiple cases and will need to address them each separately.

After PRISM has identified cases eligible for suspension, a notice is sent to the obligor's last known address. The notice informs the obligor of the impending suspension, and gives the following options to avoid the suspension:

- Pay arrears in full within 90 days.
- Call to discuss the issue with the county child support agency. The child support officer will offer a payment agreement (discussed below) and may be able to stop the suspension for other reasons, including:
 - The obligor is a recipient of TANF, MFIP, or GA.
 - A lump sum is pending, receipt of which will reduce arrears to amount below the threshold.
 - The obligor is incarcerated.
 - There is a current legal action pending to address current support and arrears.
 - The case is being managed by a tribal agency and the State only has a case because of public assistance owed to the state.
- Send a written request for a court hearing to the child support agency.
- File a motion with the court.

If no hearing is scheduled and no other resolution is reached, DHS will automatically notify the Department of Public Safety (DPS) to suspend the driver's license. On the third Saturday of the month, PRISM reviews cases for initial driver's license suspension for which notice was sent at least 100 days ago. This means the system typically gives obligors four months' notice on an initial suspension, rather than the statutory 90 days. However, obligors must act within 30 days of the notice if they wish to have the issue heard by the court. The obligor may also avoid suspension by signing and complying with a payment agreement within 90 days of the notice.

After License is Suspended

An obligor whose license has been suspended has three options available to them to access driving privileges:

1. Pay arrears in full or come into compliance with a written payment agreement.
2. If there is no existing payment agreement, sign a new agreement and make a good faith payment.
3. Bring a motion for reinstatement of the driver's license. Minn. Stat. § 518A.65(e) is clear that if the court reinstates the license, the order must establish a written payment agreement.
4. Seek a limited license under Minn. Stat. § 171.30. If granted by the Department of Public Safety, the limited license is valid for 90 days only and may only be issued once in a lifetime.

License reinstatement requests are sent from the child support agency to the Department of Public Safety. The child support hold on a driver's license cannot be lifted immediately.

Entering Payment Agreements

Payment agreements are the most common way to prevent a suspension before it happens and to reinstate a license after suspension. A payment agreement may be approved by the agency or the court (if the obligor files a motion with the court), meaning whether or not a parent decides to pursue a court hearing, they are likely going to end up with a payment agreement if they wish to reinstate their license.

Minn. Stat. § 518A.69 sets out the requirements for payment agreements. The court or agency is required to consider the individual's financial circumstances and their ability to pay. A graduated payment agreement must be considered if appropriate. Factors that must be considered by the court or the agency are:

- The amount of the arrearages,
- The amount of the current support order,
- Any pending request for modification,
- The earnings of the obligor.

The parent should expect the agency to offer a payment plan that equals the current monthly obligation plus an additional 20%. The agency will also require that a parent make a good faith payment which is NOT satisfied by another remedy (for example, a tax intercept will not count as a good faith payment). These are general guidelines. The individual circumstances of the obligor are required to be considered. Thus, child support agencies have a considerable amount of discretion in determining payment agreements. Below we offer some practice tips on negotiating a payment agreement.

Failure to Comply with Payment Agreement

If the parent fails to comply with the payment agreement by becoming more than one payment behind on the payment agreement, the agency must send a notice of noncompliance to the obligor before they can take action to re-suspend the license. The notice tells the parent that the license is subject to re-suspension and gives the parent 30 days to request a court hearing to contest the suspension. If the parent does not pay in full, come into compliance with the payment agreement (catch up on the amount they are behind), or request a hearing in writing, the license may be suspended 30 days from the date of the notice.

General Practice Tips

- A call to the child support officer is the best starting point to find out the status of a case. If the obligor does not know who their worker is, they can call the state child support help desk at 651-431-4400.
- If an attorney is assisting a client, remember to send in a [release of information form, which you can access by clicking here](#). The agency will not discuss information just because an attorney is the attorney of record on a case.
- When an obligor is sufficiently in arrears to trigger this remedy, it may be an indication that a modification of the order amount is appropriate. An obligor may ask the county to review their case for modification, but in many counties there is a long wait and the county may not have a legal basis to bring a modification. Obligor may prefer to

file their own motion with the courts. A modification of the child support amount will not stop the driver's license suspension. However, if an obligor has filed a motion to modify child support, this should be taken into consideration in determining a payment agreement. Remember to also serve the county on any motion to modify a IV-D child support case.

- If a client already has a suspended license, check the DPS website to verify the reason(s) for suspension. The license may be suspended for reasons other than, or in addition to, child support. All reasons must be resolved before the client's license can be reinstated. DPS is the ultimate authority to reinstate the license and may have additional requirements and fees after the child support suspension is lifted.
- Resuming payment after receiving a notice of possible license suspension is almost always not enough to stop the suspension. This is a very common mistake – obligors think that by resuming payments the license suspension won't happen. In most situations, they must enter into a payment agreement in addition to resuming payments. This is true even when income withholding is in place.
- Obligor must keep their address current with the child support agency. License suspension notices are mailed to the last known address and failure to receive the notice because of frequent moves, or failure to open mail, is a common reason obligors do not even know the license is at risk of being suspended.

Practice Tips for Negotiating Payment Agreements

- In almost all instances, the county should offer a payment agreement to stop a license suspension or reinstate a license. A court hearing must be requested within 30 days of the notice to suspend or re-suspend a license, however, a payment plan may be entered with the agency at any time.
- While typically the child support agency will require a one-time payment of the current monthly obligation plus 20% to enter a payment agreement, or the default amount if there is an existing payment agreement, any amount the obligor can pay is usually better than nothing.
- The obligor can ask for a graduated payment agreement. An example might be paying 25% of the monthly obligation the first month; 50% the second month; 75% the third month, etc. This agreement does not modify the child support order; it operates to allow the reinstatement of the license only. In other words, arrears will still continue to accrue for the unpaid amounts. A graduated payment agreement option works best for temporary situations, such as temporary periods of unemployment, going to a treatment program, etc. Child support agencies might also be more willing to enter a graduated agreement if they know the obligor has filed a motion to modify the child support obligation.
- If the obligor does not have income withholding in place, the child support agency will likely want to know how the obligor is going to pay the ongoing support before entering a payment agreement. If the obligor needs the license to look for a job, or has a job offer if they can get their license back, the obligor should be prepared to provide evidence to demonstrate this, such as a job offer on company letterhead, job application logs, or proof that they are working with an agency to find a job.
- If the obligor tries to negotiate a payment agreement with the child support worker on their case, but cannot come to agreeable terms, the obligor may pursue dispute resolution through the formal process. [Click here for more information](#). The process requires that an obligor avail themselves first of the county, including their worker's supervisor. The worker is required to provide the name and contact of the supervisor if requested by a parent. If this fails to resolve the issue, the obligor may request a review under Minn. Stat. § 518A.76 by writing to the Child Support Division or calling the help desk at 651-431-4400. The concern will be reviewed by the State Child Support Division.
- As a general rule, the more often an obligor has entered into and defaulted on a payment agreement, the stricter the county will be in negotiating a new agreement.