

	<b>INDIANA DEPARTMENT OF CHILD SERVICES TITLE IV-D POLICY MANUAL</b>	
	<b>Chapter 12: Enforcement</b>	<b>Effective Date: 07/23/2021</b>
	<b>Section 4.1: Driver's License Suspension</b>	<b>Version: 2 Revision Date: 07/23/2021</b>

**BACKGROUND**

Federal law requires that all States have laws requiring procedures to withhold, suspend, or restrict driver's licenses of individuals owing overdue child support.<sup>1</sup> A driver's license may be suspended by processes initiated by the Title IV-D agency, either through an administrative action or a judicial action.

If the suspension process is through an administrative action, an obligor may not seek relief challenging the suspension in the Courts until all administrative remedies have been exhausted.<sup>2</sup> Once the license has been suspended administratively, an obligor may file a petition with the Court requesting specialized driving privileges.<sup>3</sup>

If a driver's license is suspended by order of the Court, only the Court may issue a stay of the ordered suspension.

**POLICY**

When an obligor has an arrearage of at least \$2,000.00 or is past due three (3) months of court ordered child support on a case, regardless of whether or not the order is for current support or arrears only, the Title IV-D Prosecutor's Office may initiate administrative or judicial proceedings to suspend the obligor's driver's license with the Bureau of Motor Vehicles (BMV).<sup>4</sup>

**REFERENCES**

- [IC 9-25-6-15](#): Driving privileges reinstatement fee
- [IC 9-30-16-4](#): Petition for specialized driving privileges
- [IC 31-16-12-7](#): Suspension of delinquent person's driving privileges
- [IC 31-25-4-2](#): "Delinquent"
- [IC 31-25-4-32](#): Finding obligor delinquent; notice; order to suspend driving privileges; licenses and permits; sanctions
- [IC 31-25-4-33](#): Objections to order; hearing
- [IC 31-25-4-33.5](#): Driving privilege reinstatement; suspension
- [465 IAC 3-3-3](#): Request for hearing
- [465 IAC 3-3-8](#): Appointment of administrative law judges

<sup>1</sup> 42 U.S.C. § 666(a)(16)

<sup>2</sup> *Martin v. Monroe County Plan Commission*, 660 N.E.2d 1073 (Ind. Ct. App. 1996)

<sup>3</sup> IC 9-30-16-4

<sup>4</sup> IC 31-16-12-7; IC 31-25-4-2; IC 31-25-4-32(a)

- [465 IAC 3-3-9](#): Scheduling of hearings
- [42 U.S.C. § 666](#): Requirement of statutorily prescribed procedures to improve effectiveness of child support enforcement
- [45 C.F.R. § 303.2](#): Establishment of cases and maintenance of case records
- [Martin v. Monroe County Plan Commission, 660 N.E.2d 1073 \(Ind. Ct. App. 1996\)](#)

## PROCEDURE

### 1. Administratively Initiated Suspension

Administratively initiated driver's license suspensions are processed together with Department of Natural Resources (DNR) license suspensions through the Child Support Bureau's (CSB) License Suspension (LS) Application. The LS Application is a web-based software application that interfaces with the statewide child support system to identify child support obligors in Title IV-D cases eligible for license suspension. The Title IV-D Prosecutor's Office accesses the LS Application from the Child Support Resources (CSR) website.

#### a. Warning Letter

When a child support obligor is eligible for BMV/DNR license suspension, the Title IV-D Prosecutor's Office receives notification through the LS Application. Upon notification, the Title IV-D Prosecutor's Office may initiate the process through a warning letter generated through the LS Application. This warning letter notifies the obligor of the child support delinquency and directs the obligor to contact the Title IV-D Prosecutor's Office to make arrangements to avoid suspension of licenses issued by BMV and/or DNR.

The warning letter is not required and can be issued or not without triggering the required Notice of Intent (NOI).

#### b. Notice of Intent (NOI)

To formally initiate administrative license suspension, the Title IV-D agency sends an NOI to the obligor at the obligor's last known address of record.<sup>5</sup> In this instance, the Title IV-D agency uses the last known MAIL address on file in the statewide child support system. The NOI is generated through the LS Application, either manually or automatically.

The NOI includes the following information:

- Statement that the obligor is delinquent;<sup>6</sup>
- Statement of the arrearage;<sup>7</sup>
- Statement that the Title IV-D agency shall issue an order to the BMV and DNR that the obligor's driver's, hunting, and/or fishing licenses shall be suspended unless the obligor does one of the following:

<sup>5</sup> IC 31-25-4-32(a); IC 31-25-4-32(l)

<sup>6</sup> IC 31-25-4-32(a)(1)

<sup>7</sup> IC 31-25-4-32(a)(2)

1. Pays the arrearage in full;
2. Establishes a payment plan with the Title IV-D Prosecutor's Office which includes an income withholding order (IWO); or
3. Requests a hearing in writing within 20 days;<sup>8</sup>
- iv. The procedure for contesting an action to administratively suspend the obligor's driver's, hunting, and/or fishing licenses;<sup>9</sup>
- v. Statement that the only basis for contesting the suspension is a mistake of fact;<sup>10</sup> and
- vi. The procedures for avoiding license suspension or license denial by payment of arrears in full or by establishing a payment plan with the Title IV-D Prosecutor's Office.<sup>11</sup>

c. Payment Plan

At any time in the license suspension process, the obligor may establish a payment plan with the Title IV-D Prosecutor's Office. This includes during the pendency of an administrative appeal. The Title IV-D Prosecutor's Office may have a uniform payment plan proposal or may propose payment plans on a case-by-case basis. It is strongly encouraged that the payment plan be in writing. A note shall be entered into the statewide child support system documenting the terms of the payment plan.<sup>12</sup> The payment plan should also be entered into the LS Application, which can be set to monitor compliance with the terms of the payment plan. The ultimate goal of the payment plan is not to penalize the obligor, but is to provide consistent child support payments to families.

If the payment plan is entered into the LS Application and the obligor does not meet the terms of the payment plan set by the Title IV-D Prosecutor's Office, the license suspension process may automatically continue from the point where it was stopped when the payment plan was entered. Or the process can start over. It is up to the discretion of the Title IV-D Prosecutor's Office.

d. Order to BMV

If any of the following occur, then CSB issues an order to BMV via an automated interface between the agencies:

- i. The obligor does not pay the arrearage in full;
  - ii. The obligor does not establish a payment plan with the Title IV-D Prosecutor's Office;
  - iii. The obligor does not request an appeal hearing;
  - iv. The obligor requests an appeal hearing which results in a delinquency finding; or
  - v. The obligor requests an appeal hearing and then fails to appear.
- CSB's order instructs BMV to suspend the obligor's existing driving privileges and prohibits BMV from issuing a new driver's license or permit to the obligor

<sup>8</sup> IC 31-25-4-32(a)(3); IC 31-25-4-32(a)(7)

<sup>9</sup> For more information on the process surrounding contesting an action to administratively suspend a license, see Chapter 12: Enforcement, Section 6: Administrative Hearings

<sup>10</sup> IC 31-25-4-32(a)(6)

<sup>11</sup> IC 31-25-4-32(a)(8)

<sup>12</sup> 45 C.F.R. § 303.2(c)

until further order by CSB.<sup>13</sup>

Upon receipt of CSB's order, BMV sends a notice of suspension to the obligor, directing the obligor to contact the Title IV-D Prosecutor's Office for details on reinstatement of the suspended license. The driver's license suspension becomes effective 20 days after the date of the BMV notice of suspension.

e. Reinstatement Through Statutorily Prescribed Lump Sum

The Title IV-D Prosecutor's Office shall initiate reinstatement of an administratively suspended driver's license if the obligor presents proof of a lump sum payment equivalent to eight (8) weeks of the child support order and the Title IV-D Prosecutor's Office confirms that payment was made.<sup>14</sup>

- i. In order for a lump sum payment toward arrears to qualify for this statutorily prescribed reinstatement, proof of payment must be presented by the obligor to the Title IV-D Prosecutor's Office.<sup>15</sup> Acceptable proof of payment includes, but is not limited to, a payment receipt or written correspondence, either on paper or electronic. Additionally, a Title IV-D Prosecutor's Office has the discretion to accept an oral statement, either in person or over the phone as proof as payment.
- ii. After receiving obligor's proof of payment, the Title IV-D Prosecutor's Office shall confirm the payment on the statewide child support system's payment history.<sup>16</sup> The payment must have been made equal to or greater than the required amount.<sup>17</sup>

If the payment is not equal to or greater than the required amount, the Title IV-D Prosecutor's Office is strongly encouraged to contact the obligor. The obligor may have been mistaken in the amount required or may have intended to pay the required amount in installments. The Title IV-D Prosecutor's Office has the discretion to use the payment made as part of a negotiated payment plan to qualify for reinstatement outside of the statutorily required lump sum payment.

- iii. The lump sum payment equivalent to eight (8) weeks of the child support order is either:
  1. The equivalent of eight (8) weeks of the current child support order, if there is a current child support order greater than \$0.00 in effect;<sup>18</sup> or

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<sup>13</sup> IC 31-25-4-33(e)(2)

<sup>14</sup> IC 31-25-4-33.5

<sup>15</sup> IC 31-25-4-33.5(c)

<sup>16</sup> IC 31-25-4-33.5(c)

<sup>17</sup> IC 31-25-4-33.5(c)

<sup>18</sup> IC 31-25-4-33.5(a)(1)

2. The equivalent of eight (8) weeks of the most recent child support order greater than \$0.00, if there is no current child support order or the current child support order is \$0.00.<sup>19</sup>

If the lump sum payment equivalent to eight (8) weeks of the child support order cannot be determined, then the obligor is advised to contact the Title IV-D Prosecutor's Office for assistance in determining the lump sum payment amount.<sup>20</sup>

For reinstatement through this process, the lump sum payment must be documented in the statewide child support system.

- iv. Within seven (7) calendar days of confirming the payment, the Title IV-D Prosecutor's Office shall initiate having an order issued to BMV, as outlined below, to reinstate the obligor's driver's license.<sup>21</sup>
  - v. The Title IV-D Prosecutor's Office places a STOP on BMV license suspension in the statewide child support system and calendars the case for review in 60 days. The Title IV-D Prosecutor's Office is required by statute to allow the obligor 60 days to demonstrate continued compliance with the child support order.<sup>22</sup> If, after this 60 day period has passed, the obligor fails to comply with the child support order and is again delinquent, the Title IV-D Prosecutor's Office may again initiate administrative driver's license suspension.<sup>23</sup>
- g. Reinstatement Through a Payment Plan Negotiated with the Title IV-D Prosecutor's Office

The Title IV-D Prosecutor's Office may enter into an agreement with the obligor to reinstate the administratively suspended driver's license in exchange for the obligor complying with a payment plan.<sup>24</sup> This payment plan may be a uniform payment plan offered to all similarly situated obligors or determined on a case-by-case basis. The Title IV-D Prosecutor's Office may wish to consider past compliance and the obligor's ability to pay in establishing a payment plan and the length of time for compliance before initiating the reinstatement. The LS Application contains functions to monitor compliance with established payment plans.

- h. Reinstatement When Arrears Paid in Full or Case Closed to Title IV-D Services

When the Title IV-D Prosecutor's Office becomes aware that the arrears in a case have been paid in full or the case is no longer a Title IV-D case, the Title IV-D Prosecutor's Office may initiate reinstatement of the administratively suspended driver's license without a request from the obligor.

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<sup>19</sup> IC 31-25-4-33.5(a)(2)

<sup>20</sup> IC 31-25-4-33.5(b)

<sup>21</sup> IC 31-25-4-33.5(c)

<sup>22</sup> IC 31-25-4-33.5(e)

<sup>23</sup> IC 31-25-4-33.5(e)

<sup>24</sup> IC 31-25-4-33.5(f)(1)

i. Process of Reinstating Driver's License

Reinstatement may be initiated either through the LS Application or by contacting CSB's Centralized Enforcement Unit (CEU). If the Title IV-D Prosecutor's Office initiates reinstatement through the LS Application, the reinstatement order to BMV is automatically sent through the LS Application. If the Title IV-D Prosecutor's Office contacts CEU for reinstatement, CEU sends the order to the BMV through the LS Application.

When an obligor has multiple Title IV-D cases, license reinstatement will only take effect upon meeting conditions for reinstatement in all Title IV-D cases where the obligor's license has been administratively suspended.<sup>25</sup> However, the license suspension for each individual case should be removed in the LS Application as the obligor fulfills the reinstatement requirements for each individual case.

When an obligor's driver's license is suspended administratively for reasons other than child support delinquency or is suspended by judicial order, reinstatement initiated by the Title IV-D Prosecutor's Office or CEU through the LS Application will only address the administrative suspension for the Title IV-D case(s).

2. Judicial Suspension

Most driver's license suspensions for delinquent child support in Indiana Title IV-D cases are accomplished administratively. Indiana Code provides for a judicial suspension process that Title IV-D Prosecutor's Office may utilize instead. Judicial suspension is not done through the LS Application.

a. Petition

The Title IV-D Prosecutor's Office may file a petition with the Court stating the obligor has an arrearage of at least \$2,000.00 or is three (3) months past due in current support as a result of an intentional violation of a support order. This petition may be filed as an individual motion or be part of another motion, such as rule to show cause, felony non-support, etc. The Court may also find the obligor delinquent and order the license suspension without a petition filed by the Title IV-D Prosecutor's Office.<sup>26</sup>

b. Court Order to BMV

If the Court finds the obligor has an arrearage of at least \$2,000.00 or is three (3) months past due in current support as a result of an intentional violation of a support order, the Court shall issue an order to the BMV instructing BMV to suspend the obligor's existing driving privileges due to a finding of child support delinquency and prohibiting BMV from issuing a new driver's license or permit to the obligor until further order of the Court.<sup>27</sup>

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<sup>25</sup> IC 31-25-4-33.5(d)

<sup>26</sup> IC 31-16-12-7

<sup>27</sup> IC 31-16-12-7

c. Reinstatement

In the case of a judicial suspension only, the Title IV-D Prosecutor's Office files a motion requesting the Court to issue an order to BMV rescinding the suspension of the obligor's driver's license for the child support delinquency when:

- i. A payment plan is established which includes an IWO; or
- ii. The arrears balance is paid in full.

An obligor may also file a request for reinstatement directly with the Court.

A Court may only order reinstatement of judicially ordered license suspensions ordered within the Court's jurisdiction. When an obligor's driver's license is also suspended administratively or is suspended by another county's judicial order (for a different child support case with a delinquency), an obligor's license remains suspended until reinstatement requirements are met and reinstatement ordered under all current suspension orders.

3. Specialized Driving Privileges

When the obligor's driver's license has been suspended administratively, the obligor may petition the Court for specialized driving privileges.<sup>28</sup> The BMV and the Prosecutor's Office shall be served when the petition is filed.<sup>29</sup>

If the Title IV-D Prosecutor's Office becomes aware that the obligor has petitioned the Court for specialized driving privileges in a county where the license was not suspended, the Title IV-D Prosecutor's Office is strongly encouraged to search the statewide child support system and notify the county(s) where the license is suspended. The Prosecutor's Office is encouraged to collect the appropriate information from said county(s) and appear in the hearing to let the Court know the State's position on behalf of the other county(s).

If the Title IV-D Prosecutor's Office becomes aware that the obligor has petitioned the Court for specialized driving privileges in the county where the license was suspended, the Title IV-D Prosecutor's Office is strongly encouraged to search the statewide child support system and gather the appropriate information from other county(s) with a driver's license suspension on the same obligor and present all information to the Court.

<b>FORMS AND TOOLS</b>
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1. [License Suspension Case Event Codes in ISETS](#)
2. [License Suspension Eligibility Checklist](#)
3. [LS Process Overview](#)
4. [License Suspension Application Smart Guide](#)
5. [License Suspension Timelines](#)
6. [Example Offset Letters](#)

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<sup>28</sup> IC 9-30-16-4(a)

<sup>29</sup> IC 9-30-16-4(b)(6)

## FREQUENTLY ASKED QUESTIONS

1. Q. How long does it take for the administratively initiated suspension to take effect after BMV receives the order?
  - A. The suspension goes into effect 20 days after BMV sends a notice to the obligor. When the suspension is processed electronically, BMV sends the letter out the next day. If a manual suspension is processed it could take approximately three (3) days for the letter to go out; that time frame depends on the workload of BMV.
2. Q. When will an administrative license suspension process not be initiated by the LS Application?
  - A. A driver's license suspension will not be initiated when there is no address or Social Security number for the obligor, the obligor lives in a different State, or the obligor is paying per the court order or the payment plan if entered into the LS Application.
3. Q. May the Title IV-D Prosecutor's Office accept multiple payments, in lieu of one (1) lump sum payment, to fulfill the statutorily prescribed payment equivalent to eight (8) weeks of the child support order?
  - A. The Title IV-D Prosecutor's Office is strongly encouraged to consider the circumstances in which the payment was made. Considerations may include, but are not limited to, the good faith effort of the obligor and the financial ability of the obligor to make multiple smaller payments instead of one larger payment. The Title IV-D Prosecutor's Office retains the discretion to treat multiple payments, such as payments made by various methods or payments made over time, as a payment plan and initiate driver's license reinstatement.
4. Q. Is there a reinstatement fee from BMV?
  - A. BMV does not charge a fee for child support reinstatements. IC 9-25-6-15 covers reinstatement fees and was amended in 2010 to exclude child support reinstatements. Child support suspensions are not "suspended under this article"; therefore, they do not qualify for a reinstatement fee.
5. Q. How long will the reinstatement take?
  - A. When an electronic reinstatement is sent to BMV, the license will generally be reinstated the next day. When a manual reinstatement is sent to the BMV, it can take up to ten (10) business days for the license to be reinstated. An obligor can check on the status of their driver's license at [www.in.gov/bmv](http://www.in.gov/bmv).

## RELATED INFORMATION

1. Chapter 12: Enforcement, Section 6: Administrative Hearings
2. [License Suspension History](#)



<b>REVISION HISTORY</b>
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<b>Version</b>	<b>Date</b>	<b>Description of Revision</b>
Version 1	02/26/2019	Final Approved Version
Version 2	07/23/2021	Updated for consistent formatting and language. Added to Procedure to address HEA 1199 (codified as IC 31-25-4-33.5) which established a statutory reinstatement requirement when obligor makes a lump sum payment equal to eight (8) weeks of the child support order.