



Judicial Impact Statement

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H.B. 477 – Child Support License Suspensions

H.B. 477 As Introduced

Representative Kick & Representative West

Title Information

To require domestic relations and juvenile courts to hold child support license suspension hearings every two weeks, to require the granting of limited driving privileges in certain criminal cases and cases involving failure to pay child support, to authorize a court in any proceeding to submit a report to the Registrar of Motor Vehicles regarding whether the defendant is competent to operate a motor vehicle, to alter the reinstatement fees related to failure to provide proof of financial responsibility and vehicle immobilization, and to impose community service sanctions on persons who are the subject of child support order default determinations under specified circumstances.

Background

Under current practice, Child Support Enforcement Agencies (CSEA) may suspend driving licenses for failure to pay court-ordered child support payments. Prior to suspending a license, a CSEA makes multiple efforts to contact the child support obligor and after approximately three-months of nonpayment, the CSEA issues a final warning letter to the obligor. The CSEA then issues a notice to the Bureau of Motor Vehicles, which then suspends the obligor's license. If an obligor provides proof of employment and agrees to a payment plan, the CSEA will lift the suspension altogether. The CSEA reinstatement fee is \$25.

Judicial Impact

Separation of Powers

As introduced, H.B. 477 would require that domestic relations and juvenile courts must reserve docket time at least once every two weeks to grant limited privileges to persons who fail to pay child support. This requirement may be an unconstitutional violation of the separation of powers. Courts are best qualified to determine the most efficient use of their limited court time. The docket time requirement does not contemplate the ways counties have divided their court jurisdictions. The docket time requirement would be most problematic for the smallest county courts where one judge handles both the general division and domestic relations matters, and another judge has juvenile and probate jurisdiction. In another 11 counties, the

What is a Judicial Impact Statement?

A Judicial Impact Statement describes as objectively and accurately as possible the probable, practical effects on Ohio's court system of the adoption of the particular bill. The court system includes people who use the courts (parties to suits, witnesses, attorneys and other deputies, probation officials, judges and others). The Ohio Judicial Conference prepares these statements pursuant to R.C. 105.911.

domestic relations court handles most of the parentage issues, and their juvenile courts only hear child support matters when they are connected to an abuse, neglect, or dependency action. Under the bill, these counties would be required to reserve court time every two weeks for few, if any, cases. Instead, courts of all sizes need to be allowed to maintain docket schedules that works for them.

Judicial Discretion in Granting Limited Privileges

The bill, as introduced, requires a court, any time it elects or is required to suspend a person's license, to automatically grant limited driving privileges. While judges are often quite generous in granting limited driving privileges, and very rarely suspend licenses when the underlying offense has nothing to do with the operation of a motor vehicle, they also believe strongly in the discretion to deny a request for limited driving privileges, particularly if the person seeking the privileges poses a danger to public safety. Under the bill, a court would be *required* to grant driving privileges to a person, , simply because the person asks. This provision in the bill poses a great risk to public safety, and should be removed.

Judges want to help people drive legally and safely. The intent behind H.B. 477 can be furthered in a much more efficient way: by simply eliminating from the Revised Code many of the punitive suspensions that have nothing to do with the operation of a motor vehicle. The sponsors seek to “stop using a total license suspension as an arbitrary punishment” and, again, judges would agree wholeheartedly with this premise. However, H.B. 477 creates a rather complicated process whereby a judge first must consider whether to order a license suspension (or issues the suspension because of a statutory mandate), but then is required to grant driving privileges for the offender whose license the judge just determined ought to be suspended. Rather than maintaining the suspensions as they exist in current law, and then requiring a court to grant limited privileges, a better solution would be simply to eliminate these suspensions altogether, or to at least make currently mandatory suspensions into discretionary ones. Judges know that unnecessary license suspensions do more harm than good. But, if a license suspension is one of the penalties available under the Code, judges should always maintain the discretion to grant or deny limited privileges, if warranted, based on the facts of the case and potential risks to public safety that the driver may pose.

Domestic Relations Courts Have No Access to Suspension Information

The bill requires courts to grant limited privileges when a suspension is for failure to pay child support, provided that the driver does not have another suspension. County and municipal courts, along with juvenile courts, handle traffic cases and have access to Bureau of Motor Vehicle records. Domestic relations courts have no connection to the BMV, and thus have no way to access those records to confirm whether a driver has other suspensions. To make the bill possible to implement, the bill should, at a minimum, require drivers seeking limited privileges in the domestic relations court to provide the court with a recent driving suspension abstract.

Reinstatement fee reduction

Judges certainly appreciate the provisions in the bill that decrease the reinstatement fee for licenses that were suspended for driving without proof of insurance, but the bill could go farther. All reinstatement fees should be lower and uniform across the board. Under existing law, reinstatement fees vary depending on the reason for the suspension, from as little as \$15 (warrant-block suspension) to \$650 (third non-compliance offense within five years). It makes little sense that the fee to reinstate a license can vary so greatly, because the type of suspension does not result in additional work or costs for the Bureau of Motor Vehicles to reinstate the license. The amount for a reinstatement fee should be equal to the administrative costs the BMV incurs in reinstating the license. If the underlying behavior warrants stiffer penalties, then the fine for the offense should indeed be higher. But the fee to reinstate a license, once all punitive sanctions have been satisfied, should be the same, regardless of the reason for

the underlying suspension. The Judicial Conference would suggest a uniform reinstatement fee regardless of the offense that resulted in the suspension.

Conclusion

As introduced, H.B. 477 greatly impacts domestic relations and juvenile courts by mandating docket time be reserved for child support license suspension hearings. The bill also impacts judicial discretion by requiring courts to grant limited driving privileges anytime a court suspends a license for certain criminal offenses, even in cases where the court believes the driver may be a risk to public safety. Judges support the bill's provisions reducing license reinstatement fees, but those fees may need to be offset by increases to the BMV budget because those fees are divided into various funds used to provide services to indigent citizens.