



Michigan Supreme Court

State Court Administrative Office

Friend of the Court Bureau

Michigan Hall of Justice

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Steven D. Capps
Director

MEMORANDUM

DATE: October 1, 2021

TO: Friends of the Court

cc: Office of Child Support

FROM: Steven Capps

RE: Driver's License Suspension for Support or Parenting Time Violations

The Support and Parenting Time Enforcement Act (MCL 552.601 et seq.) authorizes several processes that the court and friend of the court (FOC) offices may use to suspend parents' driver's, occupational, and recreational and sporting licenses for support or parenting time violations. This memorandum provides information concerning recent changes to the law that modify prior State Court Administrative Office (SCAO) materials regarding license suspension for support or parenting time violations.¹

Effective October 1, 2021, the license suspension law (MCL 552.628) will change the requirements for suspending a parent's driver's license. The requirements for suspending an occupational, recreational, or sporting license will remain the same.

Previously, the FOC could send a notice of intent to suspend the payer's license and, if the payer failed to respond, the FOC could then either secure an order suspending the license or inform the Secretary of State to suspend the license. If the payer responded, the FOC could set a hearing to determine whether to suspend the license.

Effective October 1, 2021 the FOC may still send notice to the parent, but must first determine that no other remedy will be effective at securing regular support or arrearage payments before asking the court to suspend the parent's license. In practice, this would mean that very few cases would be noticed without first exhausting² all other relevant remedies.

¹ See SCAO Administrative Memorandum 1999-09 - License Suspension for Violation of Support and/or Parenting Time for a discussion on authority to suspend licenses in support and parenting time violation cases; see also March 11, 2010 Memorandum re: Driver's License Clearance Fee for FOC Suspensions for a discussion on driver's license fees related to FOC Suspensions.

² The FOC would not need to attempt remedies it knows will not work (for example trying to lien property when there is no evidence the payer owns property).

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The new statute also provides that the court may not suspend a license without first finding the payer has the ability to pay and is willfully failing to pay. In practice this means, the court cannot suspend merely for failing to respond (even though MCL 552.629 indicates this can happen), and the court must hold a hearing.

Courts may consider using the contempt process due to the built-in screening and analysis of ability to pay. In a contempt process, the FOC must screen ability to pay before setting a contempt hearing, which means that the case would also likely qualify for license suspension. , and the contempt process is also likely the last action the FOC will take after determining other remedies will not result in payment. Therefore, because the FOC is already setting a hearing, the license suspension would be an additional remedy available at the contempt hearing, if the court finds:

- 1) Arrears are equal to or greater than two months of current support;
- 2) Income withholding is not in effect, or not effective at assuring regular support payments;
and
- 3) The payer has the ability to pay and has willfully failed to do so.

Statute indicates that a payer's license may be suspended for failing to exercise due diligence (MCL 552.629(3)). However, MCL 552.628 limits the court's ability to suspend unless it finds an ability to pay and a willful failure to pay. It is unclear how the two provisions will be interpreted.

FOCs can continue to use the current SCAO license suspension forms, but should ensure the court makes findings, either on the record or in the order, of the additional statutory language noted above. The current forms may also be used for the suspension of other license types.

The new license suspension law (MCL 552.628) is linked [here](#).

If you have questions or need additional information, please contact Paul Gehm at gehmp@courts.mi.gov or 517-373-5975.