



Options Exist to Modify Use of Driver License Suspension for Non-Driving-Related Reasons

at a glance

Individuals who violate Florida laws may be sanctioned through the suspension or revocation of their driver licenses for both driving and non-driving-related offenses. In Fiscal Year 2012-13, the Department of Highway Safety and Motor Vehicles suspended or revoked more than 167,000 driver licenses for non-driving-related reasons, including failure to pay court financial obligations and being delinquent on child support payments.

In general, individuals must fulfill financial and other obligations to fully reinstate their driving privileges. The time from suspension or revocation to reinstatement varies. Licenses suspended for child support and school truancy violations were frequently reinstated within one year. However, many licenses suspended or revoked for other non-driving-related violations were not reinstated for several years after the suspension.

Florida could consider options to modify the use of driver license suspensions or revocations as a sanction for non-driving-related reasons.

Scope

As directed by the Legislature, this report reviews the use of driver license suspensions and revocations for non-driving-related reasons. The report addresses three questions.

- How many driver licenses are suspended or revoked for non-driving-related reasons?
- How many driver licenses are reinstated after suspension or revocation and how long does it take for the licenses to be reinstated?
- What alternatives could the Legislature consider to suspending or revoking driver licenses for non-driving-related reasons?

Background

Individuals who violate Florida laws may be sanctioned through the suspension or revocation of their driver license for both driving and non-driving-related offenses. Both suspensions and revocations take away a person's driving privilege.¹ To reinstate a suspended license, an individual must fulfill legal and financial obligations and, in some cases, wait a minimum time period. To reinstate a revoked license, an individual must meet the same requirements as those for a suspended license, but are required to wait a minimum time period. Entities at both the state and local levels play a role in driver license suspension and revocation.

¹ Sections 322.01(40) and 322.01(36), *F.S.*

Federal and state laws require driver license suspension or revocation as a sanction for many offenses, including non-driving-related reasons. Driver licenses may be suspended or revoked for both driving and non-driving offenses. For example, state laws require or allow for driver license suspension or revocation for driving-related reasons such as vehicular homicide, driving under the influence, receiving multiple traffic citations within specified time periods, or having medical or vision problems that affect one's ability to drive safely.

Suspension or revocation also can be used as a sanction for infractions not related to driving. As a condition of receiving two kinds of federal funds, states are required to impose such sanctions. First, as a condition of federal funding for child support enforcement programs, states are required to have a provision authorizing license suspensions for parents delinquent in making child support payments.^{2,3} Federal law allows states an exemption from this requirement; however, it is only granted at the discretion of the Secretary of the U.S. Department of Health and Human Services after a state proves that the federal requirement will not increase the effectiveness and efficiency of its child support enforcement program.

Second, a state's receipt of some federal highway funds is contingent on the enactment and enforcement of a law that suspends driver licenses for at least six months for individuals convicted of drug offenses, whether the offense involved driving or not.⁴ A state may opt-out of this federal requirement without loss of federal

² Title 42 U.S.C. § 666 also requires states to withhold, suspend, or restrict professional, occupational, and recreational licenses for individuals who fail to meet child support obligations.

³ The use of these suspension procedures is not mandated in every case, but they must be available at the state's discretion.

⁴ Title 23 U.S.C. § 159 and 23 CFR Part 192.

funds by submitting written certification by its governor that he or she is opposed to such laws and written certification that the state legislature has adopted a resolution in opposition to such a law.

In addition to the federally-required suspensions, all 50 states have laws that either require or permit courts to withdraw driving privileges for non-driving-related reasons. These can include violations such as failure to pay court fines or fees, failure to comply with a court summons, failure to pay taxes, and possessing a weapon on school grounds. States, including Florida, impose driver license suspension as a penalty in addition to probation or incarceration for offenders who have committed certain crimes. For example, Florida statutes require driver license suspension for any individual being prosecuted for passing worthless checks who fails to appear for a court hearing and authorizes the court to suspend the licenses of persons adjudicated guilty of misdemeanor theft.⁵

Entities at both the state and local levels play a role in driver license suspension. At the state level, the Department of Highway Safety and Motor Vehicles (DHSMV) is responsible for issuing driver licenses and administering driver license examinations. The department is also responsible for suspending and revoking driver licenses, which includes providing notice required by law and communicating license reinstatement requirements. The role of other state agencies is to notify the department when individuals violate laws that can be sanctioned by driver license suspension. For example, if a parent is delinquent on child support payments, the Department of Revenue notifies DHSMV to start the process of driver license suspension.

⁵ Sections 832.09 and 812.0155, *F.S.*

At the local level, clerks of court are responsible for collecting financial obligations imposed by the court for criminal and traffic offenses, as well as maintaining court records and ensuring that court orders are carried out. Section 322.245, *Florida Statutes*, requires clerks of court to notify the DHSMV when a driver fails to pay court-imposed financial obligations for criminal offenses; failure to pay can result in a license suspension. In addition, clerks of court provide information to the department about any court actions that require the suspension or revocation of driver licenses. On behalf of DHSMV, clerks of court and county tax collectors may reinstate driving privileges and collect reinstatement fees.

Questions and Answers –

How many driver licenses are suspended or revoked for non-driving-related reasons?

In Fiscal Year 2012-13, the Department of Highway Safety and Motor Vehicles suspended or revoked approximately 1.3 million driver licenses. While most of these suspensions and revocations occurred for driving-related reasons, more than 167,000 licenses were suspended or revoked for non-driving-related reasons.⁶ As shown in Exhibit 1, some of the most common reasons include the failure to pay court financial obligations, the failure to pay child support, and conviction of drug-related offenses. (See Appendix A for additional information

⁶ Driving-related violations include driving under the influence (DUI), the accumulation of points through multiple driving violations, or for the failure to pay traffic fines. Other driving-related reasons include failure to appear on a traffic summons, failure to complete court-ordered driving school, fleeing or attempting to elude a police officer, and physical, mental or medical impairments that preclude the safe operation of a motor vehicle. For the purposes of this report, we have defined non-driving-related suspensions as those suspensions that were not related to traffic infractions and were totally unrelated to driving.

regarding non-driving-related suspensions and revocations. See Appendix B for demographic information on drivers with licenses suspended or revoked for non-driving-related reasons.)

Exhibit 1

Failure to Pay Court Financial Obligations or Child Support Were Common Reasons for Non-Driving-Related Driver License Suspensions or Revocations¹

Fiscal Year 2012-13 Non-Driving-Related Suspensions or Revocations	
	Number
Failure to Pay Court Financial Obligations	70,216
Failure to Pay Child Support	68,223
Conviction of Drug-Related Offense	19,024
Non-Compliance with School Attendance	4,020
Failure to Appear–Worthless Check	1,829
Conviction of Theft Offense	462
Other Non-Driving Suspensions or Revocations ²	3,493
Total	167,267

¹ Numbers represent the total number of licenses suspended or revoked for non-driving-related reasons. An individual can have more than one suspension or revocation in a category or across categories.

² Other non-driving-related suspensions and revocations include age-related violations such as possession of tobacco or alcohol by a minor, placing graffiti on any public property or private property by a minor, possession of a firearm by a minor, and providing alcohol to a minor. Also included are court-ordered suspensions (for adults and juveniles) and fraudulent insurance claim offenses.

Source: Department of Highway Safety and Motor Vehicles.

Failure to pay court financial obligations for criminal offenses results in driver license suspension. Florida imposes a number of financial obligations on offenders as they move through the criminal justice system, including fines, restitution, and fees. Fines are imposed by the court as part of the judgment and sentence; restitution is intended to compensate victims for costs incurred as a result of the crime. Fees are assessed to reimburse the costs of prosecution and public defender representation. Fees also are imposed to recoup the costs of medical care; substance abuse treatment; probation supervision; and other conditions of probation, such as electronic monitoring and drug testing.

Offenders pay these obligations to the clerks of court, either in full or in installments under a clerk-approved payment plan. In addition, statutes allow the court to offer community service in lieu of payment to persons the court determines have an inability to pay.^{7,8} When an offender fails to meet financial obligations related to criminal offenses within the time allotted by the court, the clerk of court mails a notice that failure to comply within 30 days will result in a driver license suspension.⁹ If an offender fails to comply, the clerk of court notifies DHSMV, which immediately issues an order suspending the person's driver license effective 20 days after the date the order of suspension was mailed. In some cases, an offender's financial obligations can continue to increase during and after the suspension process. For example, if an offender entered into a payment plan to pay court fines and fees, but becomes delinquent, the clerk may add late fees and refer the matter to a collection agency, which can also charge additional fees.¹⁰ In Fiscal Year 2012-13, the department suspended or revoked approximately 70,000 driver licenses for failure to pay court financial obligations.

The Department of Revenue uses driver license suspension to enforce compliance with child support obligations. The Department of Revenue administers Florida's Child Support Enforcement Program for the purpose of helping children

receive court-ordered financial support from their parents. If child support payments are not made as ordered, the Department of Revenue can collect money from the delinquent parent via income deduction, wage garnishment, federal income tax refund withholding, Florida lottery winnings, reemployment benefits, and workers' compensation.

As federally required, another mechanism that the department uses to collect delinquent child support payments is driver license suspension.¹¹ When a parent is 15 or more days delinquent on child support payments, the Department of Revenue issues a notice of the intent to suspend the driver license in 20 days unless the parent pays the outstanding debts in full, enters into a written agreement to make regular monthly payments based on ability to pay, or contests the case in court.¹² If a delinquent parent does not take any of these actions, the Department of Revenue notifies DHSMV to begin the driver license suspension process. DHSMV then notifies the parent that the driver license will be suspended in 20 days if they continue to be non-compliant. In Fiscal Year 2012-13, the Department of Revenue sent parents 169,147 notices of intent to suspend driver licenses and sent 108,586 requests for suspension to DHSMV.¹³ DHSMV subsequently suspended 68,223 licenses

⁷ Section 938.30(2), *F.S.*

⁸ The total fee amounts converted by the courts to community service from October 1, 2012 to September 30, 2013 was \$6.4 million, representing 0.66% of the more than \$965 million total fees assessed statewide.

⁹ Section 322.245, *F.S.*

¹⁰ Section 28.246(6), *F.S.*, allows clerks of court to refer the collection of any fees, service charges, fines, court costs, and license for attorney fees and costs to collection agents after 90 days of nonpayment. These collection agents may add collection fees of up to 40% of the amount owed. In some cases individuals may receive multiple suspensions or revocations that have a compounding effect on what they owe.

¹¹ Title 42 § U.S.C. 666(16), requires states to have the authority to withhold, suspend, or restrict the use of driver licenses, as well as professional, occupational, recreational and sporting licenses, of individuals owing overdue support or failing to comply with subpoenas and warrants relating to paternity. Federal law states these procedures are "used in appropriate cases," thus giving some flexibility to the states in imposing this penalty.

¹² Sections 61.13016 and 322.058, *F.S.*, permit a parent to enter into a written agreement that can serve as a payment plan to satisfy the parent's legal obligation to make payments if the parent has limited income, or is unemployed or disabled. In Fiscal Year 2012-13, the Department of Revenue entered into 18,693 written agreements.

¹³ If a parent is delinquent on more than one child support order, the Department of Revenue will send a suspension request to DHSMV for each delinquent case.

during the fiscal year, as many delinquent parents resolved child support payment issues before the suspension occurred.¹⁴

In compliance with federal law, driver licenses are suspended or revoked for persons convicted of certain drug offenses. As previously discussed, the federal government can withhold a portion of federal highway funds from any state that fails to adopt a driver license suspension and revocation law for people convicted of drug offenses.¹⁵ Florida statutes require each clerk of court to report to DHSMV all convictions for the possession or sale of; trafficking in; or conspiracy to possess, sell, or traffic in a controlled substance.¹⁶ In Fiscal Year 2012-13, the department suspended or revoked 19,024 driver licenses as a result of a conviction for a drug-related offense. Florida law exceeds the federal minimum of a six month suspension and requires a two-year revocation.

Many students had their driver licenses suspended for truancy. Florida statutes require that a minor (a child less than 18 years old) who is not enrolled in school or an acceptable alternative and has not received a diploma is not eligible for a learner's permit or driver license.¹⁷ When a minor is identified by a school or school district as not being in compliance with enrollment requirements or has 15 unexcused absences in a 90-day calendar period, the school or school district notifies DHSMV. The department then notifies the

minor and the minor's parent or guardian of the intent to suspend the driving privileges. The minor can avoid the driver license suspension by providing proof of compliance with education enrollment policies.

A minor can apply to school administrators to receive a hardship waiver to avoid suspension and maintain driving privileges. To qualify for a hardship waiver, the minor must demonstrate that a driver license is required by the minor for personal or family employment or medical care reasons. The Department of Education reported that it was notified by local school officials that 16 hardship waivers were requested and 13 were granted during Fiscal Year 2012-13.

In Fiscal Year 2012-13, DHSMV notified 21,751 minors of their ineligibility to apply for a learner's permit due to educational non-compliance. In addition, DHSMV issued 5,488 notices of intent to suspend and issued a total of 4,020 suspensions to minors with learner's permits or driver licenses.¹⁸

Persons who fail to appear in court when being prosecuted for passing a worthless check have their licenses suspended. Florida law requires that clerks of court notify DHSMV within five working days after the court issues a warrant for failure to appear for passing a worthless check.¹⁹ It is not the act of passing a worthless check that leads to suspension, but the failure of the accused to appear in court to answer the charges. After receiving notice of the warrant, the department issues the suspension and notifies the person to appear in court to satisfy the conditions of the warrant. In Fiscal Year 2012-13, the department suspended 1,829 driver licenses for failure to appear in court to respond to a worthless check charge.

¹⁴ In addition to driver license suspension, the registrations of all motor vehicles owned by the parent are stopped, which prevents the registration from being renewed.

¹⁵ Title 23 U.S.C. § 159 and 23 CFR Part 192. Drug offenses are defined broadly as any possession, distribution, manufacture, cultivation, sale, or transfer of any substance prohibited under the Controlled Substances Act, or any attempt to or conspiracy to commit these acts.

¹⁶ Sections 322.055 and 322.056, *F.S.*

¹⁷ Section 322.091, *F.S.*, also allows for minors to be enrolled in a study course in preparation for the test of General Education Development (GED) or other educational activities approved by the school district.

¹⁸ Sections 832.09 and 322.251, *F.S.*

¹⁹ Section 832.09, *F.S.*

The court may order the surrender and suspension of driver licenses by persons found guilty of theft. Florida law requires the court to order the suspension of the driver license for people adjudicated guilty of theft, a misdemeanor, if they have been previously convicted of such an offense.²⁰ The court also has the authority to order the suspension on a first conviction. The first suspension under this provision is for up to six months, with subsequent suspensions for periods of one year each. In Fiscal Year 2012-13, the department suspended or revoked the licenses of 462 persons convicted of a theft offense.^{21,22}

How many driver licenses are reinstated after suspension or revocation and how long does it take for the licenses to be reinstated?

In Fiscal Year 2012-13, the Department of Highway Safety and Motor Vehicles issued approximately 98,000 reinstatements to drivers whose licenses had been suspended or revoked for non-driving-related reasons. Some drivers were eligible to apply for temporary hardship licenses prior to reinstatement. The length of time to reinstatement varied with the type of suspension or revocation. For infractions such as failure to pay child support, reinstatement can occur as soon as the driver fulfills his or her obligations. For drug crime and theft convictions, the statutes require waiting periods before reinstatement can occur. In many cases, reinstatement can take several years.

In Fiscal Year 2012-13, the Department of Highway Safety and Motor Vehicles issued approximately 98,000 reinstatements to

²⁰ Section 812.0155, F.S.

²¹ In addition, s. 812.014, F.S., requires the suspension of the licenses of persons who are found guilty of the theft of gasoline from a retail establishment.

²² We did not include 288 persons whose licenses were revoked for theft of a motor vehicle or motor vehicle parts in accordance with s. 322.274, F.S., in this category.

drivers whose licenses had been suspended or revoked for non-driving-related reasons. As shown in Exhibit 2, approximately half of the reinstatements involved suspensions for failure to make child support payments. The department, tax collectors, and clerks of court collected approximately \$5.5 million in revenue from reinstatement fees.²³

**Exhibit 2
Approximately Half of Reinstatements in Fiscal Year 2012-13 for Non-Driving-Related Reasons Were for Failure to Make Child Support Payments¹**

Non-Driving-Related Suspensions or Revocations	Reinstatements
Failure to Pay Child Support	51,642
Failure to Pay Court Financial Obligations	26,420
Conviction of Drug-Related Offense	11,318
Non-Compliance with School Attendance	4,345
Failure to Appear–Worthless Check	1,993
Conviction of Theft Offense	240
Other Non-Driving Suspensions and Revocations ²	2,507
Total Non-Driving-Related	98,465

¹ An individual with multiple suspensions or revocations must meet reinstatement requirements for each suspension or revocation.

² Other non-driving-related suspensions and revocations include age-related violations such as possession of tobacco or alcohol by a minor and possession of a firearm by a minor. Also included are court-ordered suspensions for adults and juveniles and fraudulent insurance claim offenses.

Source: OPPAGA analysis of Department of Highway Safety and Motor Vehicles data.

²³ Most reinstatement fees are \$45 for suspensions and \$75 for revocations. However, the amount of the fee can vary depending on the underlying offense. The reinstatement fee is \$55 for worthless check suspensions. The reinstatement fee for child support and court financial obligation suspension is \$60, a portion of which is retained by tax collectors or clerks of court. Most reinstatement fees are allocated to General Revenue or the Highway Safety Operating Trust Fund.

Some drivers with licenses suspended and revoked for non-driving-related reasons are eligible to apply for limited driving privileges. Drivers who receive license suspensions or revocations for child support delinquency, convictions of drug-related offenses, and failure to appear at hearings for worthless check charges can apply for limited driving privileges. However, drivers who had their licenses suspended or revoked for failure to pay court financial obligations and conviction of theft offenses are not eligible to apply for such privileges. Minors not in compliance with school attendance requirements can avoid license suspension by requesting a hardship waiver from their schools.

Limited driving privileges, or “hardship licenses,” give offenders the opportunity to earn income and pay their financial debts.²⁴ Licenses for employment purposes only allow drivers to drive to and from work and perform any necessary on-the-job driving required by an employer or occupation. Licenses for business purposes only allow drivers to perform any driving necessary to maintain their livelihood, including driving to and from work, necessary on-the-job driving, driving for educational purposes, and driving for church and medical purposes.²⁵ There are no restrictions on the number of hours, days, or times persons may drive with either license as long as they adhere to the restrictions.

The length of time to license reinstatement varies by the type of suspension or revocation. License suspensions and revocations are enforced until the suspended driver meets the requirements for reinstatement. These requirements vary by the type of infraction that led to the

²⁴ A hardship license is a reinstatement of the license with restrictions.

²⁵ Both types of licenses are defined in s. 322.271, *F.S.*

suspension or revocation, with some non-driving-related suspensions and revocations having minimum time requirements before reinstatements are possible. For example, persons convicted of theft can have their licenses suspended for a period of up to six months, while adults convicted of drug-related offenses will have their licenses revoked for a period of two years.²⁶

Many suspensions for non-driving-related reasons are for an unspecified period of time until proof of compliance is provided. For example, persons who have their licenses suspended for failure to pay court fines and fees must obtain an affidavit from the clerk of court that they have satisfied these financial obligations in full or entered into a payment plan. In addition, the suspended driver must pay DHSMV a reinstatement fee. (See Appendix A for more information about reinstatement requirements for non-driving suspensions and revocations.)

One of the measures of effectiveness of suspending driver licenses for non-driving violations is determining how quickly the suspension or revocation leads to reinstatement, indicating that the person has fulfilled all obligations related to the offense that led to the suspension.

As shown in Exhibit 3, the time that lapsed prior to reinstatement varied across the different types of suspensions and revocations.

²⁶ Florida statutes provide that persons convicted of drug-related offenses shall have their licenses revoked for two years, but allows them to apply for reinstatement after six months. Persons convicted of theft may have their licenses suspended for up to six months for the first offense with a mandatory one-year period for subsequent suspensions. Consequently, it is reasonable to expect longer periods prior to reinstatement for both drug-related offenses and theft.

Exhibit 3
The Length of Time Prior to Reinstatement Varied Depending on the Type of Suspension or Revocation

Type of Suspension or Revocation	<1 month	1 to <3 months	3 to <6 months	6 months to <1 year	1 year to <2 years	2 years to <5 years	5 years or more	Total Reinstatements Fiscal Year 2012-13
Failure to Pay Child Support	9,884	8,889	7,163	7,776	8,609	9,034	287	51,642
Failure to Pay Court Financial Obligations	2,440	2,119	2,168	3,073	4,955	8,951	2,714	26,420
Non-Compliance with School Attendance	394	643	689	860	839	667	253	4,345
Failure to Appear–Worthless Check	85	139	139	178	157	441	854	1,993
Suspensions or Revocations with Minimum Statutory Time Periods								
Conviction of Drug-Related Offense ¹	6	26	27	709	685	5,976	3,889	11,318
Conviction of Theft Offense ²	3	11	7	55	43	68	53	240

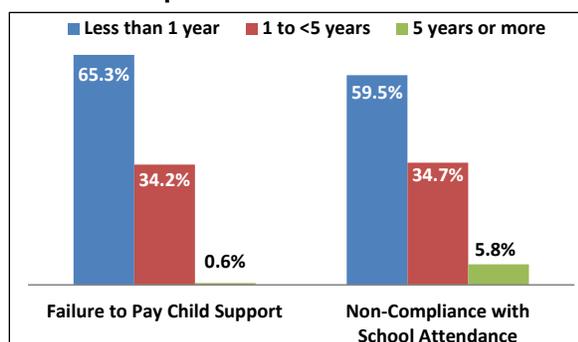
¹ For drug-related convictions, licenses are initially revoked for two years, but can be reinstated after six months if the offender meets certain conditions. In addition, some licenses for business purpose-only can be reinstated in less than six months.

² For theft offense convictions, the first suspension imposed by the court can be for a period of up to six months; subsequent suspensions are mandatory for one year.

Source: Department of Highway Safety and Motor Vehicles.

Most suspensions for delinquent child support and truancy are reinstated fairly quickly. As shown in Exhibit 4, many of the licenses suspended for failure to pay child support and truancy were reinstated within one year of the suspension. Department of Revenue officials stated that the threat of losing a driver license is one of the best compliance tools it has to enforce child support orders. The Department of Revenue reports that it collected approximately \$101.8 million in delinquent child support payments in Fiscal Year 2012-13 from parents who received a notice of suspension or whose license was suspended.

Exhibit 4
For Child Support and Truancy Violations, Over Half of the Licenses Reinstated in Fiscal Year 2012-13 Had Been Suspended for Less Than One Year

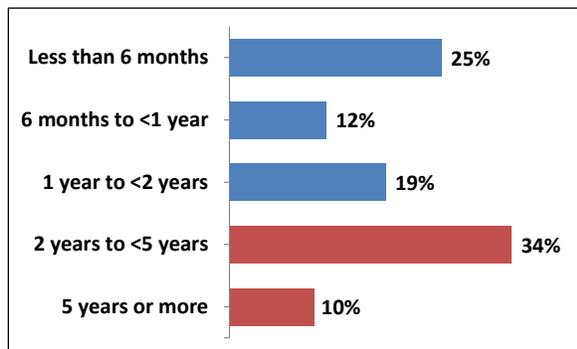


Source: OPPAGA analysis of data from the Department of Highway Safety and Motor Vehicles.

While approximately 60% of suspensions for truancy are resolved in less than one year, evaluating the effect of driver license suspensions on school attendance is more difficult to determine. Minors can obtain a reinstatement for truancy in two ways: either by obtaining a reinstatement form from their school stating that they have met attendance requirements for 30 days or complied with an educational alternative; or by turning 18 years of age. Although DHSMV reported that 64% of the reinstatements were for individuals age 18 or older, the Department of Education does not receive copies of the reinstatement forms or track other information related to these suspensions.

Many suspensions remain on record for multiple years before the license is reinstated by the department. A large percentage of suspensions in other categories were not reinstated for several years. As shown in Exhibit 5, 44% of the reinstatements issued in Fiscal Year 2012-13 for suspensions for failure to pay court financial obligations were at least two years old and 10% were at least five years old.

Exhibit 5
For Failure to Pay Court Financial Obligations, Many of the Licenses Reinstated in Fiscal Year 2012-13 Had Been Suspended for Two Years or More¹



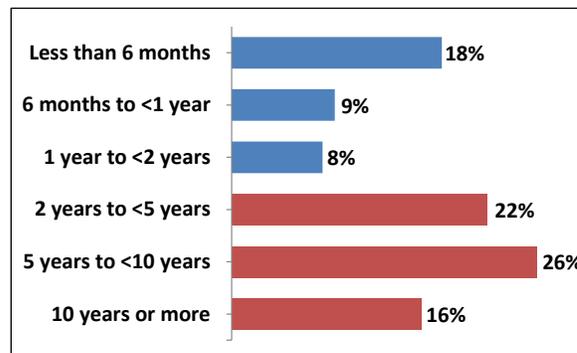
¹ Driver licenses were not suspended for failure to pay court financial obligations until the passage of Ch. 2004-265, *Laws of Florida*, so no suspensions for this reason have been in force for more than 10 years.

Source: OPPAGA analysis of data from the Department of Highway Safety and Motor Vehicles.

Despite these timeframes, clerks of court believe that the ability to suspend a driver license is an effective tool in increasing collections. While clerks use a variety of methods to increase collections, including collection agents, internet payment portals, and partial payment plans, they assert that the ability to suspend a driver license is the most effective tool for enforcing payment. While the suspensions may be useful in getting some offenders to pay their financial obligations quickly, many individuals cannot drive legally for several years until their court financial obligations are fulfilled.

Similarly, many reinstatements for failure to appear in court on a worthless check charge do not occur until the suspensions have been in place for multiple years. As shown in Exhibit 6, most of the suspensions reinstated for failure to appear on worthless check charges were more than two years old. This included 26% that were 5 to 10 years old and 16% that were at least 10 years old.

Exhibit 6
For Failure to Appear on Worthless Check Charges, Most of the Licenses Reinstated in Fiscal Year 2012-13 Had Been Suspended for Two Years or More



Source: OPPAGA analysis of data from the Department of Highway Safety and Motor Vehicles.

Statutorily required timeframes can also lengthen the amount of time to license reinstatement. For example, the statutory requirement that driver license reinstatement after conviction for a drug-related offense generally cannot occur in less than two years is why 87% of these suspensions were more than two years old when reinstated. However, it is notable that 34% of these reinstated licenses had been suspended for 5 or more years, with 9% suspended for 10 or more years. These delays may be partially attributable to offenders being incarcerated and unable to seek reinstatement until they are released.

Like drug-related offenses, theft offenses carry a minimum suspension time—up to six months for the first suspension and a mandatory one year period for the second suspension. However, 49% of these reinstatements did not occur until after two years.

What alternatives could the Legislature consider to suspending or revoking driver licenses for non-driving-related reasons?

If the Florida Legislature wished to modify the use of driver license sanctions for non-

driving-related reasons, it could consider various options.

Modify statutory requirements for driver license suspensions or revocations as a sanction for some non-driving-related reasons. There is societal interest and benefit in using driver license suspension or revocation to remove dangerous drivers from the road, change driving behavior, and punish unsafe drivers. However, some stakeholders have raised concerns that using suspension or revocation as a sanction to modify non-driving-related behavior, such as failure to appear for a worthless check charge or conviction of a theft offense, may not achieve the desired outcome. These offenses carry other penalties, such as potential incarceration, probation, and payment of court financial obligations. The addition of the sanction of a driver license suspension may make it more difficult for some people to find or keep employment and make it more challenging to meet outstanding financial obligations and reinstate their driving privileges. In addition, stakeholders have raised concerns that suspensions for non-driving-related offenses increase the workload of the judicial system.

Rather than requiring the suspension or revocation of driver licenses for non-driving-related offenses, such as theft and failure to appear for a worthless check charge, the Legislature could consider removing the requirement that these suspensions or revocations be mandatory and give the court discretion to impose driver license suspensions.

Florida could also explore eliminating the use of driver license suspension as a sanction for certain offenses. For example, the 2012 Washington Legislature eliminated the use of driver license suspension as a sanction for non-moving traffic violations, such as seatbelt violations and broken tail lights.²⁷ In

addition, while monetary penalties for non-moving violations must still be paid under the changed law, the court can no longer refer people delinquent on payment plans for driver license suspension. Instead, the court may refer the unpaid monetary penalty for civil enforcement through a collection agency. While Florida does refer delinquent court financial obligations for collection, the Florida Association of Clerks and Comptrollers believes that the ability to suspend driver licenses for failure to pay court financial obligations is an important tool in the clerks' efforts to collect those obligations. However, more information could be useful in determining reasons why there are a large number of individuals whose licenses are reinstated after two or more years. For example, data could be analyzed to determine how many people are incarcerated and unable to reinstate their license during that time period. Also, additional information could be used to help determine if there are people for whom the loss of driving privileges created additional hardships and if the suspensions should remain in place after a certain time period.

Explore modifying or opting out of Florida's implementation of the federal mandate requiring driver license suspension for drug convictions. The Legislature could consider modifying Florida's implementation of the federal mandate. Federal law requires states to suspend or revoke the licenses of people convicted of drug-related offenses for at least six months. However, Florida statutes require a two-year revocation. The Legislature could consider modifying the statutes to limit the revocation or suspension of licenses for persons convicted of drug offenses to six months.

Florida could also consider opting out of the federal mandate. Federal law allows states to opt-out of the federal mandate to suspend or revoke driver licenses for drug convictions.²⁸

²⁷ Chapter 82, Laws of 2012, *State of Washington*.

²⁸ Title 23 U.S.C. § 159.

Many states have exercised this option. However, to do this and still receive full federal funding, the governor of the state has to submit written certification to the Secretary of the U.S. Department of Transportation that he or she is opposed to the law, and provide documentation that the state legislature has adopted a resolution in opposition to it. Offenders with drug convictions would still be subject to the same punishments as before, including probation or incarceration, but the additional sanction of a driver license suspension would not be mandatory and could be used at the discretion of the courts.

Codify current Department of Revenue practices regarding the use of driver license suspensions for child support enforcement. Currently, the Department of Revenue can request that DHSMV suspend the driver licenses of parents delinquent on child support payments. Delinquent parents may avoid this suspension if they pay the outstanding debt in full, enter into a written agreement to make regular monthly payments based on their ability to pay, or contest the case in court. However, Florida statutes do not specifically address payment through income deduction order. Income deduction orders require an employer to withhold a portion of a parent's paycheck in order to satisfy their child support payments. While the Department of Revenue does not routinely request the suspension of driver licenses for parents paying for delinquent payments through income deduction, the Legislature could consider amending s. 61.13016, *Florida Statutes*, to officially codify the practice of allowing income deduction to prevent license suspension.

In addition, the Legislature could consider modifying s. 322.058, *Florida Statutes*, to codify the Department of Revenue's practice of stopping the license suspension process if the parent becomes disabled, begins receiving reemployment assistance, temporary cash assistance, or files

bankruptcy. These methods are currently used by the Department of Revenue to encourage and maintain the payment of child support while making allowances for extenuating circumstances.

Evaluate the effectiveness of driver license suspension for school truancy. While many states have statutory provisions that link driving privileges for minors to school attendance, behavior, or academic achievement, there has been limited research on the effectiveness of these practices. To fully evaluate the effectiveness of suspensions on school attendance in Florida, more complete information on suspensions and reinstatements is needed. The Legislature could require both the Department of Education and DHSMV to track data related to the use of driver license suspension to enforce school attendance in order to evaluate its effectiveness. For example, the Department of Education could implement a process for collecting data from the reinstatement forms submitted by the schools to determine if minors are returning to school after their license is suspended or if they are enrolling in alternative programs such as a study course to prepare for the test of General Education Development (GED). In addition, DHSMV could begin to track the type of documentation students provide to reinstate their license. This information would provide additional data on the number of students whose licenses were reinstated due to returning to school verses students aging out of attendance requirements.

Agency Response ---

In accordance with the provisions of s. 11.51(2), *Florida Statutes*, a draft of our report was submitted to the Executive Director of the Department of Highway Safety and Motor Vehicles. The department's written response has been reproduced in Appendix C.

Appendix A

Non-Driving-Related Suspensions and Revocations

Exhibit A-1 provides information relating to the most common non-driving-related suspensions and revocations, including statutory references, the nature of the suspension or revocation, the length of the suspension or revocation, and the requirements for reinstatement.

Exhibit A-1 Summary of Most Common Non-Driving-Related Suspensions and Revocations

Law Violation	Statutory References	Start of Suspension or Revocation	Length of Suspension or Revocation	Requirements for Reinstatement ¹	Eligible for Restricted License
Failure to Pay Court Financial Obligations	s. 322.245, <i>F.S.</i> ²	Suspension begins 20 days after notice sent by DHSMV	Indefinite	<ul style="list-style-type: none"> ▪ Satisfy financial obligations; or ▪ Enroll in a payment plan; or ▪ Court grants relief 	No
Failure to Pay Child Support	ss. 61.13016 and 322.058, <i>F.S.</i>	Suspension begins 20 days after notice sent by DHSMV ³	Indefinite	<ul style="list-style-type: none"> ▪ Pay amount owed in full; or ▪ Enter into written agreement; or ▪ Contest the case in court 	Yes ^{4,5}
Conviction of Drug-Related Offense	ss. 322.055 and 322.056, <i>F.S.</i> ^{6,7}	Revocation immediate upon conviction	Two years; option for restricted license or reinstatement after six months	<ul style="list-style-type: none"> ▪ Serve full term of revocation; or ▪ Serve six months of revocation, petition DHSMV for restoration of driving privilege and complete a drug treatment and rehabilitation program approved or regulated by the Department of Children and Families 	Yes ⁸
Non-Compliance with School Attendance	ss. 322.091 and 1003.27(2)(b), <i>F.S.</i>	Suspension begins 20 days after notice sent to parent by DHSMV ⁹	Indefinite	<ul style="list-style-type: none"> ▪ Turn 18 years of age; or ▪ Attend 30 days of school without unexcused absence 	No ¹⁰
Failure to Appear–Worthless Check	ss. 832.09 and 322.251, <i>F.S.</i>	Suspension begins 20 days after notice sent by DHSMV ¹¹	Indefinite	<ul style="list-style-type: none"> ▪ Full payment of restitution, court cost, and fees; and ▪ Cancellation of warrant/capias 	Yes
Conviction of Theft Offense	s. 812.0155, <i>F.S.</i>	Suspension immediate upon conviction	Six months (1st offense); one year (2nd offense)	<ul style="list-style-type: none"> ▪ Serve full term of suspension; and ▪ Payment of all fines and fees 	No

¹ The Department of Highway Safety and Motor Vehicles (DHSMV) charges a fee for each reinstatement. Most reinstatement fees are \$45 for suspensions and \$75 for revocations. The amount of the fee can vary depending on the underlying offense. The reinstatement fee is \$55 for worthless check suspensions and \$60 for child support and failure to pay court financial obligation suspensions.

² This section applies to all criminal offenses that are not traffic related.

³ Prior to DHSMV issuing a suspension notice, a delinquent parent is sent a notice of intent to suspend by the Department of Revenue and given 20 days to fulfill their child support obligations.

⁴ If a parent petitions the court within 20 days of receiving a notice of intent to suspend from the Department of Revenue, the court may, at its discretion, direct the DHSMV to issue a restricted license for business purposes so long as the obligor parent agrees to a payment schedule for arrearages and maintain current obligations.

⁵ A person may seek authorization for a hardship license from the court.

⁶ Section 322.056, *F.S.*, enumerates the penalties applied to person under 18 years of age convicted of drug offenses.

⁷ This section applies to all violations of Chapter 893, *F.S.*

⁸ Upon serving six months of the two year suspension, the person may petition the department for full or restricted reinstatement of driving privileges.

⁹ The student must accumulate 15 unexcused absences in a 90-day period before the school sends a truancy suspension request to DHSMV.

¹⁰ A minor, or parent or guardian of the minor, may request a hardship waiver hearing with the school principal within 15 days of receiving a notice of intent to suspend. The principal may waive the suspension requirement if a personal or family hardship requires that the minor have a driver license for his or her own, or his or her family's, employment or medical care, pursuant to s. 322.091(3), *F.S.*

¹¹ The Department of Highway Safety and Motor Vehicles is notified of the suspension within five working days after the court issues a warrant or capias for failure to appear in response to a worthless check charge.

Source: OPPAGA analysis.

Appendix B

Demographics of Drivers Receiving Non-Driving-Related Suspensions and Revocations

Exhibit B-1 provides demographic information for drivers receiving non-driving-related suspensions and revocations in Fiscal Year 2012-13.

Exhibit B-1

Demographic Characteristics of Drivers Receiving Non-Driving-Related Suspensions and Revocations in Fiscal Year 2012-13

Category	Total ¹	Age			Gender		Race			
		<21	21 to 64	65 and over	Female	Male	Caucasian	Black	Hispanic/Latino	Other
Failure to Pay Court Financial Obligations	53,827	6.2%	93.0%	0.8%	24.5%	75.5%	49.3%	37.3%	9.8%	3.6%
Failure to Pay Child Support	57,323	0.5%	99.4%	0.1%	9.1%	90.9%	40.8%	41.9%	16.0%	1.3%
Conviction of Drug-Related Offense	17,000	10.3%	89.2%	0.5%	18.3%	81.7%	41.0%	40.2%	10.1%	8.8%
Non-Compliance with School Attendance	4,020	100.0%	0.0%	0.0%	43.7%	56.3%	59.9%	12.8%	23.1%	4.2%
Failure to Appear—Worthless Check	1,087	1.2%	95.9%	2.9%	47.7%	52.3%	67.2%	25.5%	5.6%	1.7%
Conviction of Theft Offense	438	6.8%	92.9%	0.2%	42.5%	57.5%	53.9%	24.7%	12.6%	8.9%
Other Non-Driving Suspensions or Revocations	3,342	61.5%	37.6%	1.0%	17.1%	82.9%	35.1%	13.2%	12.3%	39.4%

¹ Individuals are not duplicated within each category but they may be duplicated across categories.

Source: OPPAGA analysis of Department of Highway Safety and Motor Vehicles data.

Appendix C

Julie L. Jones
Executive Director

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Tallahassee, Florida 32399-0500
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Rick Scott
Governor

Pam Bondi
Attorney General

Jeff Atwater
Chief Financial Officer

Adam Putnam
Commissioner of Agriculture

January 31, 2014

Mr. R. Philip Twogood
Coordinator, Office of Program Policy Analysis
And Government Accountability
Claude Pepper Building
111 West Madison Street, Room 312
Tallahassee, Florida 32399-1475

Dear Mr. Twogood:

I appreciate the opportunity to comment on OPPAGA’s draft report entitled “Options Exist to Modify Use of Driver License Suspension for Non-Driving-Related Reasons.” This report is very timely as it coincides with a recent “best practices guide” published by the American Association of Motor Vehicle Administrators which addresses this issue and the need for driver licensing agencies to focus on their core mission. While I concur with many of the points identified in the report, I would like to offer a few observations and some additional information.

As noted in your report, Department of Revenue officials stated that the threat of losing a driver license is one of the best compliance tools to enforce child support orders. This tool resulted in \$101.8 million in delinquent child supports payments in Fiscal Year 2012-2013. For those drivers notified of a pending child support suspension, 35% comply with requirements prior to the effective date of the license suspension, and approximately another one-third of drivers suspended for child support comply with the requirements within 18 months.

Also as noted in your report, Clerks of Court believe that the ability to suspend a driver license is an effective tool for increasing collections. For court financial obligations, 11% of the drivers notified complied prior to the effective date of the license suspension and another 13% complied within approximately 18 months of the suspension date.

For those drivers suspended or revoked for drug-related offenses, they can obtain full driver license reinstatement after six months if they complete a substance abuse treatment program. The driver has a choice – either obtain full reinstatement by completing substance abuse treatment or refrain from driving for two years.

For clarification purposes, 62.5% of the reinstated fees are retained by the Tax Collectors,

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Mr. R. Philip Twogood
January 31, 2014
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Clerks of Court or General Revenue, depending upon which entity performs the reinstatement transaction. The remaining 37.5% is retained by the Department of Highway Safety and Motor Vehicles.

I look forward to working with OPPAGA and the Florida Legislature in the future as we discuss how non-driving related sanctions should be handled. This report will be very useful during those discussions. Thank you for the opportunity to respond to the report. Please do not hesitate to contact me if you require additional information.

Sincerely,



Julie L. Jones
Executive Director

JLJ/jl

The Florida Legislature

Office of Program Policy Analysis and Government Accountability



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