

Effective 5/3/2023

Part 5
Administrative License Suspension for Child Support Enforcement

Effective until 9/1/2024

26B-9-501 Definitions.

As used in this part:

- (1) "Child support" is as defined in Section 26B-9-301.
- (2) "Delinquent on a child support obligation" means that a person:
 - (a)
 - (i) made no payment for 60 days on a current child support obligation as set forth in an administrative or court order;
 - (ii) after the 60-day period described in Subsection (2)(a)(i), failed to make a good faith effort under the circumstances to make payment on the child support obligation in accordance with the order; and
 - (iii) has not obtained a judicial order staying enforcement of the person's child support obligation, or the amount in arrears; or
 - (b)
 - (i) made no payment for 60 days on an arrearage obligation of child support as set forth in:
 - (A) a payment schedule;
 - (B) a written agreement with the office; or
 - (C) an administrative or judicial order;
 - (ii) after the 60-day period described in Subsection (2)(b)(i), failed to make a good faith effort under the circumstances to make payment on the child support obligation in accordance with the payment schedule, agreement, or order; and
 - (iii) has not obtained a judicial order staying enforcement of the person's child support obligation, or the amount in arrears.
- (3) "Driver license" means a license, as defined in Section 53-3-102.
- (4) "Driver License Division" means the Driver License Division of the Department of Public Safety created in Section 53-3-103.
- (5) "Office" means the Office of Recovery Services.

Renumbered and Amended by Chapter 305, 2023 General Session

Effective 9/1/2024

26B-9-501 Definitions.

As used in this part:

- (1) "Business day" means the same as that term is defined in Section 26B-9-301.
- (2) "Child support" means the same as that term is defined in Section 26B-9-101.
- (3) "Delinquent on a child support obligation" means that a person:
 - (a)
 - (i) made no payment for 60 days on a current child support obligation as set forth in an administrative or court order;
 - (ii) after the 60-day period described in Subsection (3)(a)(i), failed to make a good faith effort under the circumstances to make payment on the child support obligation in accordance with the order; and

- (iii) has not obtained a judicial order staying enforcement of the person's child support obligation, or the amount in arrears; or
- (b)
 - (i) made no payment for 60 days on an arrearage obligation of child support as set forth in:
 - (A) a payment schedule;
 - (B) a written agreement with the office; or
 - (C) an administrative or judicial order;
 - (ii) after the 60-day period described in Subsection (3)(b)(i), failed to make a good faith effort under the circumstances to make payment on the child support obligation in accordance with the payment schedule, agreement, or order; and
 - (iii) has not obtained a judicial order staying enforcement of the person's child support obligation, or the amount in arrears.
- (4) "Driver license" means a license, as defined in Section 53-3-102.
- (5) "Driver License Division" means the Driver License Division of the Department of Public Safety created in Section 53-3-103.
- (6) "Office" means the Office of Recovery Services.

Amended by Chapter 366, 2024 General Session

26B-9-502 Suspension of driver license for child support delinquency -- Reinstatement.

- (1) Subject to the provisions of this section, the office may order the suspension of a person's driver license if the person is delinquent on a child support obligation.
- (2) Before ordering a suspension of a person's driver license, the office shall serve the person with a "notice of intent to suspend driver license."
- (3) The notice described in Subsection (2) shall:
 - (a) be personally served or served by certified mail;
 - (b) except as otherwise provided in this section, comply with Title 63G, Chapter 4, Administrative Procedures Act;
 - (c) state the amount that the person is in arrears on the person's child support obligation; and
 - (d) state that, if the person desires to contest the suspension of the person's driver license, the person must request an informal adjudicative proceeding with the office within 30 days after the day on which the notice is mailed or personally served.
- (4)
 - (a) The office shall hold an informal adjudicative proceeding to determine whether a person's driver license should be suspended if the person requests a hearing within 30 days after the day on which the notice described in Subsection (2) is mailed or personally served on the person.
 - (b) The informal adjudicative proceeding described in Subsection (4)(a), and any appeal of the decision rendered in that proceeding, shall comply with Title 63G, Chapter 4, Administrative Procedures Act.
- (5) Except as provided in Subsection (6), the office may order that a person's driver license be suspended:
 - (a) if, after the notice described in Subsection (2) is mailed or personally served, the person fails to request an informal adjudicative proceeding within the time period described in Subsection (4)(a); or
 - (b) following the informal adjudicative proceeding described in Subsection (4)(a), if:
 - (i) the presiding officer finds that the person is delinquent on a child support obligation; and
 - (ii) the finding described in Subsection (5)(b)(i):

- (A) is not timely appealed; or
 - (B) is upheld after a timely appeal becomes final.
- (6) The office may not order the suspension of a person's driver license if the person:
- (a) pays the full amount that the person is in arrears on the person's child support obligation;
 - (b) subject to Subsection (8):
 - (i) enters into a payment agreement with the office for the payment of the person's current child support obligation and all arrears; and
 - (ii) complies with the agreement described in Subsection (6)(b)(i) for any initial compliance period required by the agreement;
 - (c) obtains a judicial order staying enforcement of the person's child support obligation or the amount in arrears; or
 - (d) is not currently delinquent on a child support obligation.
- (7) The office shall rescind an order made by the office to suspend a driver license if the person:
- (a) pays the full amount that the person is in arrears on the person's child support obligation;
 - (b) subject to Subsection (8):
 - (i) enters into a payment agreement with the office for the payment of the person's current child support obligation and all arrears; and
 - (ii) complies with the agreement described in Subsection (7)(b)(i) for any initial compliance period required by the agreement;
 - (c) obtains a judicial order staying enforcement of the person's child support obligation or the amount in arrears; or
 - (d) is not currently delinquent on a child support obligation.
- (8) For purposes of Subsections (6)(b) and (7)(b), the office shall diligently strive to enter into a fair and reasonable payment agreement that takes into account the person's employment and financial ability to make payments, provided that there is a reasonable basis to believe that the person will comply with the agreement.
- (9)
- (a) If, after the office seeks to suspend a person's driver license under this section, it is determined that the person is not delinquent, the office shall refund to the person any noncustodial parent income withholding fee that was collected from the person during the erroneously alleged delinquency.
 - (b) Subsection (9)(a) does not apply if the person described in Subsection (9)(a) is otherwise in arrears on a child support obligation.
- (10)
- (a) A person whose driver license is ordered suspended pursuant to this section may file a request with the office, on a form provided by the office, to have the office rescind the order of suspension if:
 - (i) the person claims that, since the time of the suspension, circumstances have changed such that the person is entitled to have the order of suspension rescinded under Subsection (7); and
 - (ii) the office has not rescinded the order of suspension.
 - (b) The office shall respond, in writing, to a person described in Subsection (10), within 10 days after the day on which the request is filed with the office, stating whether the person is entitled to have the order of suspension rescinded.
 - (c) If the office determines, under Subsection (10)(b), that an order to suspend a person's license should be rescinded, the office shall immediately rescind the order.
 - (d) If the office determines, under Subsection (10)(b), that an order to suspend a person's license should not be rescinded:

- (i) the office shall, as part of the response described in Subsection (10)(b), notify the person, in writing, of the reasons for that determination; and
 - (ii) the person described in this Subsection (10)(d) may, within 15 days after the day on which the office sends the response described in Subsection (10)(b), appeal the determination of the office to district court.
- (e) The office may not require that a person file the request described in Subsection (10)(a) before the office orders that an order of suspension is rescinded, if the office has already determined that the order of suspension should be rescinded under Subsection (7).
- (11) The office may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
- (a) implement the provisions of this part; and
 - (b) determine when the arrears described in Subsections (6) and (7) are considered paid.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-9-503 Notification of order to suspend or rescission of order.

- (1) When, pursuant to this part, the office orders the suspension of a person's driver license, or rescinds an order suspending a person's driver license, the office shall, within five business days after the day on which the order or rescission is made, notify:
- (a) the Driver License Division; and
 - (b) the person to whom the order or rescission applies.
- (2)
- (a) The notification described in Subsections (1)(a) and (b) shall include the name and identifying information of the person described in Subsection (1).
 - (b) The notification to a person described in Subsection (1)(b) shall include a statement indicating that the person must reinstate the person's driver license with the Driver License Division before driving a motor vehicle.

Renumbered and Amended by Chapter 305, 2023 General Session