



Judicial Impact Statement

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Require courts to grant limited driving privileges

HB 260

Reps. Butler and Sykes

Title Information

To enact section 4510.023 of the Revised Code to require a court to grant limited driving privileges to a person in relation to a driver's license suspension under certain circumstances.

Background

House Bill 260 would require courts who suspend a person's driver's license to grant limited driving privileges when the underlying offense is unrelated to the use of, or registration requirements for owning, a motor vehicle.

In his request for co-sponsors, Rep. Butler indicates that the intent behind HB 260 is to "discontinue the unfair practice of suspending a person's license, and then not granting them driving privileges, when the offense they committed had nothing to do with driving or using a motor vehicle for criminal reasons," and cites the "detrimental and counterproductive" results that occur when taking away one's ability to drive to and from work. Ohio's judges could not agree more. In fact, the Judicial Conference was the leading proponent behind Senate Bill 204 of the 131st General Assembly. Prior to SB 204's enactment, courts in Ohio were *required* to suspend the driver's license of a person who committed a drug offense, even when that offense had nothing to do with the operation of a motor vehicle. Recognizing the counterproductive and detrimental consequences that followed from suspending someone's driver's license when a motor vehicle was never involved in the offense, the Judicial Conference pushed to have these mandatory suspensions made discretionary, allowing courts to assess each offender on a case-by-case basis to determine whether a suspension is actually an appropriate sanction. The legislature agreed, and passed SB 204 overwhelmingly in 2016.

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.

Judicial Impact

Today, judges rarely suspend an offender's driver's license when the underlying offense has nothing to do with operating a motor vehicle. When they do, it is because they are either mandated to do so by statute, or, based on the facts of the particular case and the judge's knowledge of and familiarity with the defendant, the judge feels that a license suspension is an appropriate sanction. Again, those instances are very rare, and only occur when a judge, in exercising his discretion, has good reason to do so. Even when a suspension is imposed, it is even rarer that a judge would not grant limited driving privileges to and from the offender's workplace.

It is imperative that judges maintain the discretion to make the ultimate determination as to whether limited driving privileges should be allowed. Rather than a one-size-fits-all

approach to sentencing, judges are uniquely positioned through their legal training, experience with and knowledge of the defendant and his or her history in the criminal justice system, and familiarity with the facts of each particular case that comes before them to render sentences that are appropriate for the crime committed and the circumstances of each case. Judicial discretion is fundamental to our democratic system of government, which separates power among the three branches of government. Requiring courts to impose certain sentences hinders the independence of the judicial branch, putting at risk the separation of powers on which our democracy is based.

Additionally, there are several types of license suspensions that HB 260 might inadvertently cover and several that it would not cover – possibly in conflict with the intent of the sponsors. HB 260 provides that “[a]ny time that a court elects to or is required to impose” a license suspension, the court must also grant limited driving privileges. Child support suspensions, for example, are not ordered by a court, but instead are initiated when a child support enforcement agency notifies the Bureau of Motor Vehicles that a person has failed to pay on a child support order. The BMV, and not the court, then imposes the suspension. R.C. 3123.58. The bill would also cover several types of juvenile license suspensions, which perhaps is outside the intended scope of the bill. Currently, a juvenile who buys alcohol underage, buys tobacco underage, or who brings a weapon to school, may lose his license as a result. While it is not always the case, juveniles generally do not have the same economic need to drive as adults, and suspending a license is an appropriate penalty for a juvenile even when a vehicle was not involved in the underlying offense. If it is the sponsors’ intent that HB 260 apply to *all* adult license suspensions that are unrelated to the operation of a vehicle, it will need to be amended to include administrative and BMV-issued suspensions, and to clarify whether juvenile suspensions are to be included.

Finally, HB 260 unnecessarily complicates what could be a simple solution to the problem the sponsors seek to address. The co-sponsor request for HB 260 speaks to the desire to “stop using a license suspension as an arbitrary punishment” and, again, judges would agree wholeheartedly with this premise. However, HB 260 creates a redundant process whereby a judge first considers whether to order a license suspension (or issues the suspension because of a statutory mandate), but then is required to grant driving privileges to the offender whose license was just suspended. Rather than maintaining the suspensions as they exist in current law, and then requiring a court to grant limited privileges, perhaps a better solution would be to eliminate these suspensions all together, or to at least make discretionary any suspensions that are currently mandatory. Judges recognize as well as anyone that unnecessary license suspensions might do more harm than good. But judges should always maintain the discretion to grant or deny limited privileges if warranted based on the facts of the case and the defendant’s history with the criminal justice system.

Conclusion

Rather than require judges to grant limited driving privileges any time a license suspension is ordered, the Judicial Conference would recommend taking a broader look at license suspensions generally, and whether they are an effective or appropriate sanction for defendants whose underlying offense had nothing to do with a motor vehicle. Judges agree wholeheartedly that these suspensions are often counterproductive. Requiring judges to grant limited driving privileges when they suspend a license not only infringes on judicial discretion, but does not address the shared concerns of both the sponsors and Ohio’s judges: the counterproductive effects of using license suspensions as a punitive tool against offenders whose actions did not involve a motor vehicle.