

## **Motor Vehicle Division Informational Memo #16-04**

### ***Suspension of Driver's License for Failure to Pay Court Debt – Installment Agreements***

**DATE:** July 1, 2016

**FROM:** Mindi Nguyen, Administrative Assistant to Director, MVD

**TO:** All Driver Services staff and Iowa County Treasurers and County Treasurers' staff that issue driver's licenses.

#### **SUBJECT**

This informational memo explains legislation passed in 2016 (Senate File 2316, Sections 1 to 3) that makes it easier for customers whose driver's license has been suspended for failure to pay court debt (nonpayment of fines) to enter and stay in an installment agreement to maintain or regain their driving privileges. It explains how the legislation affects the customers' ability to enter and stay in compliance with installment agreements and avoid or end driver's license suspensions for failure to pay court fines.

#### **SUMMARY**

The legislation provides that a person may enter an installment agreement as soon as the clerk of court notifies us that the person has failed to timely pay their court debt and confirms that if the clerk of court issues us a notice of compliance before the suspension becomes effective, we shall terminate (end) the suspension and the person shall not be required to go through the reinstatement process (assuming the person has no other suspension or revocations). The legislation also allows a person that has defaulted on an installment agreement to renegotiate the installment agreement by submitting a new financial statement to the county attorney, county attorney's designee, or private collection agency that approved the original agreement. **This legislation is effective July 1, 2016.**

#### **LINK TO LEGISLATION**

Iowa Acts, 2016, Senate File 2316, Sections 1 to 3:

<https://www.legis.iowa.gov/legislation/BillBook?ga=86&ba=sf2316>

#### **CURRENT**

Suspension of driving privileges for failure to pay court fines is the sanction we most frequently impose – in most years it constitutes at least half of the sanctions we impose. The authority for this suspension comes from section 321.210A of the Iowa Code, which requires us to suspend a person's driver's license when the clerk of court notifies us that a person convicted of violating a law regulating the operation of a motor vehicle has failed to pay the criminal fine, penalty, surcharge, or court costs associated with the conviction. (The clerk of court sends us that notice only after first giving the person 60 days written notice that the amount remains unpaid and will result in license suspension if not paid within that time.) Once initiated, the suspension can be avoided or ended only by satisfying (paying) the unpaid amounts that are due. A person subject to this has two options –

either pay the amount due in full, or enter and comply with an installment agreement (payment plan) to pay the amount due in smaller installments.

The option to pay the court debt through installment agreements recognizes that failure to pay court debt is a financial issue rather than a safety issue, and is an effort to help people maintain driving privileges and mobility even when they have limited financial means. It could be said that the purpose of allowing people to enter installment agreements to pay court debt is to limit the instances in which people are simply unable to afford to drive.

Section 321.210B of the Iowa Code governs eligibility for installment agreements and the process for entering installment agreements and complying with them. In general, it allows a person whose driver's license has been suspended for failure to pay court debt under section 321.210A to enter an installment agreement with a county attorney, a county attorney's designee, or a private collection agency under contract with the Iowa judicial branch (the Iowa courts) to pay the debt in monthly increments. The installment agreement must be filed with the clerk of court, and the clerk of court, after receiving both the installment agreement and the first installment payment, sends us a notice of compliance that allows us to reinstate the person's driving privileges, assuming they are otherwise eligible to do so.

Although a helpful option for persons with limited financial means, this process has some limitations that make it difficult for people to get into and stay in agreements. Among them are the following:

- Some county attorneys will not allow people to enter installment agreements until their license suspension becomes effective, which forces people to go under suspension and then reinstate.
- If a person defaults on their agreement (fails to make payments as required by the agreement) the person's driver's license is suspended again, and the entire amount due under the installment agreement becomes due in one amount and may not again be paid in installments, either under that agreement or a new agreement.
- People are limited to five total installment agreements in their lifetime.

#### **NEW**

The 2016 legislation, which was initiated by Iowa county attorneys, does three things that address the above-listed issues:

- **Confirms that a person may enter an installment agreement as soon as the clerk of court notifies us that the person has failed to timely pay their court debt.** This will give people a more consistent option to enter installment agreements before their suspension becomes effective, which we hope will help people avoid suspension and the reinstatement process.
- **Confirms that if the clerk of court issues us a notice of compliance** (meaning that the person has either paid the amount due in full or has entered an installment agreement and made the first payment) **before the suspension becomes effective, we shall terminate (end) the suspension and the person shall not be required to go through the reinstatement process (assuming the person has no other suspension or revocations).** This is not a new concept for us, as we already do this if a person demonstrates compliance before the suspension becomes effective, but it more clearly aligns the statutory language with our practice and the new language described above.

- **Allows a person that has defaulted on an installment agreement to renegotiate the installment agreement by submitting a new financial statement to the county attorney, county attorney’s designee, or private collection agency that approved the original agreement.**
  - If the financial statement shows that the person’s financial condition has changed to an extent that the installment payments should be decreased, the agreement may be amended to require lower payments, and the person shall not be considered to be in default as long as the person stays in compliance by making the lower payments.
  - To take advantage of this, the person must submit the new financial statement within 15 days of the date the person is determined to be in default.
  - If the person is successful in renegotiating the agreement and reducing the installment amounts, the revised agreement is considered to be part of the original agreement and does not count against the person’s lifetime limit of five agreements.

This may help people maintain their driving privileges by avoiding default and re-suspension of their license.

- **Allows a person to include court debt that was subject to an installment agreement that is in default in a new installment agreement.** Although the legislation did not remove the limit of five installment agreements in a person’s lifetime, this may help people regain driving privileges sooner by not forcing them to pay the defaulted debt in a lump sum and allowing them to resume payments under a new agreement.

## **RESOLUTION**

Legislation does not directly impact the way the Department (DOT) functions but it is important to understand what this legislation does and how it impacts our customers.

## **RESULT**

The Iowa DOT will help to inform customers about the availability of this option.

## **HELPFUL QUESTIONS AND ANSWERS**

The following questions and answers provide additional information that will be helpful to you and to customers.

### **DO WE HAVE ANY ROLE IN NEGOTIATING, RENEGOTIATING OR APPROVING INSTALLMENT AGREEMENTS?**

No. Under sections 321.210A and 321.210B of the Iowa Code, our only role is to receive notices of compliance and noncompliance from the clerks of court and to impose or end driver’s license suspensions accordingly.

- The only people with authority to negotiate, renegotiate, or approve an installment agreement are a county attorney, a county attorney’s designee, or the private collection agency.
- **However, it’s important for us to understand this process because:**
  - We will often be the people customers first turn to with questions on how resolve a suspension or avoid a suspension.

- We want to give customers good information so they can do so as quickly and effectively as possible.

**DOES THIS CHANGE THE WAY WE HANDLE SUSPENSIONS FOR FAILURE TO PAY COURT DEBT?**

No. The legislation did not change our obligations or responsibilities; again it just made changes in the process for entering and maintaining installment agreements that may make it more likely customers subject to suspension of their driver’s license for failure to pay court debt will be able to enter and stay in an installment agreement and keep or regain their driving privileges.

**DOES THIS WAIVE UNPAID COURT DEBT OR ALLOW CUSTOMERS THAT HAVE BEEN SUSPENDED FOR FAILURE TO PAY COURT DEBT TO REINSTATE THEIR DRIVING PRIVILEGES WITHOUT SATISFYING (PAYING) THE DEBT?**

No. Although some customers may have misconstrued media reports on this legislation to believe their debt has been waived or doesn’t have to be paid to reinstate their driving privileges, that is not accurate. Again, it does not end the practice of suspending driver’s licenses for failure to pay court debt, it just made changes in the process for entering and maintaining installment agreements that may make it more likely customers subject to suspension of their driver’s license for failure to pay court debt will be able to enter and stay in an installment agreement and keep or regain their driving privileges.

**CAN A CUSTOMER WHO WAS ON A PAYMENT PLAN WITH A COUNTY ATTORNEY, COUNTY ATTORNEY’S DESIGNEE OR PRIVATE COLLECTION AGENCY FOR UNPAID COURT DEBT BEFORE JULY 1, 2016 RENEGOTIATE THEIR MINIMUM PAYMENTS?**

It appears the legislative changes to this program should apply to a person that already entered into an installment agreement before July 1. However, different county attorneys may interpret this differently. Customers that wish to work with a county attorney or their designee should be cautioned that different county attorneys may impose different requirements or interpretations.

**MAY CUSTOMERS STILL INCLUDE UNPAID CIVIL PENALTIES IN AN INSTALLMENT AGREEMENT?**

Yes. Section 321.210B of the Iowa Code states that civil penalties assessed by the Iowa DOT under sections 321.218A, 321A.32A, and 321J.17 of the Iowa Code “shall be added to the amount owing under the installment agreement.” However, not all participating county attorneys abide by this requirement, and customers that wish to work with a county attorney or their designee should again be cautioned that different county attorneys may impose different requirements or interpretations and may not honor this requirement.