

2019 Regular Session

HOUSE BILL NO. 397

BY REPRESENTATIVE BAGNERIS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIMINAL/PENALTIES: Prohibits the suspension of a driver's license of a defendant who is financially unable to pay a criminal fine

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 885.1, relative to suspension of  
3 driving privileges; to provide relative to the surrender of driver's licenses of persons  
4 who fail to pay criminal fines; to authorize the court to grant an extension of time to  
5 pay the fine; to authorize the court to order the performance of community service  
6 in lieu of payment of the fine; to provide relative to the effectiveness of changes  
7 made to Code of Criminal Procedure Article 885.1 by Act No. 260 of the 2017  
8 Regular Session of the Legislature; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Code of Criminal Procedure Article 885.1 is hereby amended and  
11 reenacted to read as follows:

12 Art. 885.1. Suspension of driving privileges; failure to pay criminal fines

13 A. When a fine is levied against a person convicted of any criminal offense,  
14 including any violation of the Louisiana Highway Regulatory Act or any municipal  
15 or parish ordinance regulating traffic, ~~in any municipality or in any parish~~ and the  
16 court grants the defendant ~~is granted~~ an extension of time to pay the fine, if at the  
17 expiration of the extended period granted by the court, the defendant shows that he  
18 is financially unable to pay the fine, the judge of the court having jurisdiction ~~may~~

1 ~~order shall grant the person an extension of time, not to exceed one hundred eighty~~  
2 ~~days, in which to pay the fine, or offer the person, in lieu of paying the fine, the~~  
3 ~~alternative of performing community service as set by the judge.~~

4 B. If, at the expiration of the one-hundred-eighty-day period granted by the  
5 judge pursuant to Paragraph A of this Article, the judge determines that the  
6 defendant has either willfully not paid the fine or has not performed the community  
7 service, the judge may do either of the following:

8 (1) Order the person's driver's license to be surrendered to the sheriff or  
9 official of the court collecting fines, and for a period of time not to exceed one  
10 hundred eighty days. If, after expiration of one hundred eighty days, the defendant  
11 has not paid the fine, the sheriff or official of the court designated to collect fines  
12 shall forward the license to the Department of Public Safety and Corrections.

13 (2) Grant the person an extension of time to either pay the fine or perform  
14 the community service.

15 ~~B. Upon receipt of a surrendered driver's license, the sheriff or court official~~  
16 ~~responsible for collection of such fines shall issue a temporary permit for a period~~  
17 ~~not to exceed one hundred eighty days or for a period of time set forth by the judge~~  
18 ~~having jurisdiction. The temporary permits, the procedure for distributing such~~  
19 ~~permits, and the rules and regulations associated with such permits shall be the same~~  
20 ~~as devised by the Department of Public Safety and Corrections as required by R.S.~~  
21 ~~32:411.1.~~

22 ~~C. If, after expiration of one hundred eighty days, the defendant has not paid~~  
23 ~~the fine, the sheriff or official of the court designated to collect fines shall forward~~  
24 ~~the license to the Department of Public Safety and Corrections. Upon~~ If the person's  
25 license is surrendered pursuant to Paragraph (B)(1) of this Article, upon receipt of  
26 the defendant's surrendered driver's license, the department shall suspend the driver's  
27 license of the defendant. The suspension shall begin when the department receives  
28 written notification from the court, and the department shall send immediate written  
29 notification to the defendant informing him of the suspension of driving privileges.

1 D. The department shall not reinstate, return, reissue, or renew a driver's  
 2 license in its possession pursuant to this Article until payment of the fine and any  
 3 additional administrative cost, fee, or penalty required by the judge having the  
 4 jurisdiction and any other cost, fee, or penalty required by the department in  
 5 accordance with R.S. 32:414(H) or other applicable cost, fee, or penalty provision.

6 E. Notwithstanding any provision of law to the contrary, if the person against  
 7 whom the fine is levied is financially unable to pay the fine, the provisions of this  
 8 Article shall not apply and the judge of the court shall not order that the person's  
 9 driver's license be surrendered for failure to pay such fine, unless the court  
 10 determines that the defendant is financially able but has willfully refused to pay the  
 11 fine, or to perform the community service ordered as an alternative to the fine  
 12 pursuant to the provisions of this Article.

13 Section 2. The provisions of this Act shall become effective on August 1,  
 14 2019.

15 Section 3. It is the intent of the legislature that the changes made to Code of  
 16 Criminal Procedure Article 885.1 in Act No. 260 of the 2017 Regular Session of the  
 17 Legislature, as amended by Act Nos. 137 and 668 of the 2018 Regular Session of the  
 18 Legislature, shall never go into effect and that the provisions of this Act shall  
 19 control.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 397 Reengrossed

2019 Regular Session

Bagneris

**Abstract:** Provides relative to the court's authority to suspend a defendant's driver's license for failure to pay a criminal fine.

Present law (C.Cr.P. Art. 885.1) provides that when a fine is levied against a person convicted of any criminal offense, including any violation of the La. Highway Regulatory Act or any municipal or parish ordinance regulating traffic, and the defendant is granted an extension of time to pay the fine, the judge of the court having jurisdiction may order the driver's license to be surrendered to the sheriff or official of the court collecting fines for a period of time not to exceed 180 days. If, after expiration of 180 days, the defendant has not paid the fine, the sheriff or official of the court designated to collect fines shall forward the license to the Dept. of Public Safety and Corrections.

Act No. 260 of the 2017 R.S. amends present law to authorize the surrender of a defendant's driver's license only when the defendant is able but has willfully refused to pay the fine. Pursuant to Act No. 260 of the 2017 R.S. and Act No. 137 of the 2018 R.S., these changes to present law become effective Aug. 1, 2019.

Proposed law does all of the following:

- (1) Amends present law to provide that upon a showing by the defendant that he is financially unable to pay at the expiration of the extended period granted by the court under present law, the court shall grant the person an extension of time, not to exceed 180 days, in which to pay the fine, or offer the person, in lieu of paying the fine, the alternative of performing community service as set by the judge.
- (2) Amends present law to provide that if, at the expiration of the 180-day period granted by the judge, the judge determines that the defendant has either willfully not paid the fine or has not performed the community service, the judge may do either of the following:
  - (a) Order the person's driver's license to be surrendered to the sheriff or official of the court collecting fines.
  - (b) Grant the person an extension of time to either pay the fine or perform the community service.
- (3) Retains the present law provisions regarding the duties of the Dept. of Public Safety and Corrections, the sheriff, and the official of the court designated to collect fines.
- (4) Prohibits the court from suspending the driver's license of a defendant pursuant to present and proposed law, unless the court determines that the defendant is able but has willfully refused to pay the fine or perform community service.
- (5) Provides that the changes made to present law (C.Cr.P. Art. 885.1) by Act No. 260 of the 2017 R.S., as amended by Act Nos. 137 and 668 of the 2018 R.S., shall never go into effect and that the provisions of proposed law shall control.

(Adds C.Cr.P. Art. 885.1)

#### Summary of Amendments Adopted by House

##### The House Floor Amendments to the engrossed bill:

1. Provide that the court's authority to suspend the driver's license of the defendant or to grant an extension of time to pay the fine is dependent upon a showing by the defendant of his financial ability to pay.
2. Authorize the court to grant a defendant who is financially unable to pay an extension of time to pay the fine or offer the defendant the alternative of performing community service.
3. At the expiration of the extended period of time to pay the fine or perform the community service, authorize the judge to grant additional time or order the defendant's driver's license to be surrendered if the judge determines that the defendant has either willfully not paid the fine or has not performed the community service.

4. Amend the proposed law prohibition on the court's authority to suspend the driver's license of a defendant who is financially unable to pay, to prohibit suspension unless the court determines that the defendant is able but has willfully refused to pay the fine or perform community service.