

Committee Substitute for  
Committee Substitute for Senate Bill No. 400

An act relating to support of dependents; amending s. 827.06, F.S.; providing alternative punishment for nonsupport of dependents; providing a felony penalty for fourth or subsequent violations; providing for the amount of restitution due; providing requirements with respect to certain evidence; providing for satisfaction of the element of notice under certain circumstances; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 827.06, Florida Statutes, is amended to read:

827.06 Persistent Nonsupport of dependents.—

(1) The Legislature finds that most noncustodial parents want to support their children and remain connected to their families. The Legislature also finds that while many noncustodial parents lack the financial resources and other skills necessary to provide that support, a small percentage of such parents willfully fail to provide support to their children even when they are aware of the obligation and have the ability to do so pursuant to s. 61.30. The Legislature further finds that existing statutory provisions for civil enforcement of support have not proven sufficiently effective or efficient in gaining adequate support for all children. Recognizing that it is the public policy of this state that children shall be maintained primarily from the resources of their parents, thereby relieving, at least in part, the burden presently borne by the general citizenry through public assistance programs, it is the intent of the Legislature that the criminal penalties provided for in this section are to be pursued in all appropriate cases where exhaustion of appropriate civil enforcement has not resulted in payment.

(2)(4) Any person who, after notice as specified in subsection (6), and who has been previously adjudged in contempt for failure to comply with a support order, willfully fails to provide support which he or she has the ability is able to provide to a child children or a spouse whom the person knows he or she is legally obligated to support commits, and over whom no court has jurisdiction in any proceedings for child support or dissolution of marriage, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. In lieu of any punishment imposed pursuant to s. 775.082 or s. 775.083, any person who is convicted of a violation of this subsection shall be punished:

(a) By a fine to be paid after restitution for:

1. Not less than \$250 nor more than \$500 for a first conviction.
2. Not less than \$500 nor more than \$750 for a second conviction.

3. Not less than \$750 nor more than \$1,000 for a third conviction; and

(b) By imprisonment for:

1. Not less than 15 days nor more than 1 month for a first conviction.

2. Not less than 1 month nor more than 3 months for a second conviction.

3. Not less than 3 months nor more than 6 months for a third conviction.

(3) Any person who is convicted of a fourth or subsequent violation of subsection (2) or who violates subsection (2) and who has owed to that child or spouse for more than 1 year support in an amount equal to or greater than \$5,000 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Upon a conviction under this section, the court shall order restitution in an amount equal to the total unpaid support obligation as it exists at the time of sentencing.

(5)(a) Evidence that the defendant willfully failed to make sufficient good faith efforts to legally acquire the resources to pay legally ordered support may be sufficient to prove that he or she had the ability to provide support but willfully failed to do so, in violation of this section.

(b) The element of knowledge may be proven by evidence that a court or tribunal as defined by s. 88.1011(22) has entered an order that obligates the defendant to provide the support.

(6)(2) Prior to commencing prosecution under this section, the state attorney must ~~notify advise~~ the person responsible for support by certified mail, return receipt requested, that a prosecution under this section will be commenced against him or her unless the person pays the total unpaid support obligation ~~makes such delinquent support payments~~ or provides a satisfactory explanation as to why he or she has not made such payments.

Section 2. This act shall take effect October 1, 2001.

Approved by the Governor May 23, 2001.

Filed in Office Secretary of State May 23, 2001.