

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Gannon offered the following:

Amendment to Amendment (232563) (with title amendment)

On page 81, between lines 1 and 2

insert:

Section 55. 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.

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1 Recognizing that it is the public policy of this state that
2 children shall be maintained primarily from the resources of
3 their parents, thereby relieving, at least in part, the burden
4 presently borne by the general citizenry through public
5 assistance programs, it is the intent of the Legislature that
6 the criminal penalties provided for in this section are to be
7 pursued in all appropriate cases where exhaustion of
8 appropriate civil enforcement has not resulted in payment.

9 (2)(1) Any person who, after notice as specified in
10 subsection (5), and who has been previously adjudged in
11 contempt for failure to comply with a support order, willfully
12 fails to provide support which he or she has the ability is
13 able to provide to a child children or a spouse whom the
14 person knows he or she is legally obligated to support
15 commits, and over whom no court has jurisdiction in any
16 proceedings for child support or dissolution of marriage,
17 shall be guilty of a misdemeanor of the first degree,
18 punishable as provided in s. 775.082 or s. 775.083. In lieu of
19 any punishment imposed pursuant to s. 775.082 or s. 775.083,
20 any person who is convicted of a violation of this subsection
21 shall be punished:

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

23 1. Not less than \$250 nor more than \$500 for a first
24 conviction.

25 2. Not less than \$500 nor more than \$750 for a second
26 conviction.

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

29 (b) By imprisonment for:

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

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

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

5 (3) Any person who is convicted of a fourth or
6 subsequent violation of subsection (2) or who violates
7 subsection (2) and who has owed to that child or spouse for
8 more than 1 year support in an amount equal to or greater than
9 \$5,000 commits a felony of the third degree, punishable as
10 provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

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

23 (6)~~(2)~~ Prior to commencing prosecution under this
24 section, the state attorney must ~~advise~~ notify the person
25 responsible for support by certified mail, return receipt
26 requested, that a prosecution under this section will be
27 commenced against him or her unless the person pays the total
28 unpaid support obligation ~~makes such delinquent support~~
29 ~~payments~~ or provides a satisfactory explanation as to why he
30 or she has not made such payments.

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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 On page 86, line 28, after the semicolon ";" of the
4 amendment

5
6
7 insert:

8 amending s. 827.06, F.S.; providing legislative
9 intent; providing alternative punishment for
10 nonsupport of dependents; providing a felony
11 penalty for fourth or subsequent violations;
12 providing for the amount of restitution due;
13 providing requirements with respect to certain
14 evidence; providing for satisfaction of the
15 element of notice under certain circumstances;

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