

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 (with title amendment)

On page 74, line 31,

insert:

Section 54. 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

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

8 (2)(1) Any person who, after notice as specified in
9 subsection (6), and who has been previously adjudged in
10 contempt for failure to comply with a support order, willfully
11 fails to provide support which he or she has the ability is
12 able to provide to a child children or a spouse whom the
13 person knows he or she is legally obligated to support
14 commits, and over whom no court has jurisdiction in any
15 proceedings for child support or dissolution of marriage,
16 shall be guilty of a misdemeanor of the first degree,
17 punishable as provided in s. 775.082 or s. 775.083. In lieu of
18 any punishment imposed pursuant to s. 775.082 or s. 775.083,
19 any person who is convicted of a violation of this subsection
20 shall be punished:

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

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

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

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

28 (b) By imprisonment for:

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

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

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1 second conviction.

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

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

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

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

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

22 (6)(2) Prior to commencing prosecution under this
23 section, the state attorney must notify ~~advise~~ the person
24 responsible for support by certified mail, return receipt
25 requested, that a prosecution under this section will be
26 commenced against him or her unless the person pays the total
27 unpaid support obligation ~~makes such delinquent support~~
28 ~~payments~~ or provides a satisfactory explanation as to why he
29 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 4, line 17, after "alimony;"
4
5 insert:
6 amending s. 827.06, F.S.; providing alternative
7 punishment for nonsupport of dependents;
8 providing a felony penalty for fourth or
9 subsequent violations; providing for the amount
10 of restitution due; providing requirements with
11 respect to certain evidence; providing for
12 satisfaction of the element of notice under
13 certain circumstances;
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