

Amendment No. 02 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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The Committee on Crime Prevention, Corrections & Safety offered the following:

Substitute Amendment for Amendment (030345) (with title amendment)

Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

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

827.06 ~~Persistent~~ Nonsupport of dependents.--

(1) Any person who, after notice as specified in subsection (5), 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

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1 any punishment imposed pursuant to s. 775.082 or s. 775.083,
2 any person who is convicted of a violation of this subsection
3 shall be punished:
4 (a) By a fine to be paid after restitution for:
5 1. Not less than \$250 nor more than \$500 for a first
6 conviction.
7 2. Not less than \$500 nor more than \$1,000 for a
8 second conviction.
9 3. Not less than \$1,000 nor more than \$1,500 for a
10 third conviction; and
11 (b) By imprisonment for:
12 1. Not less than 15 days nor more than 1 month for a
13 first conviction.
14 2. Not less than 1 month nor more than 3 months for a
15 second conviction.
16 3. Not less than 3 months nor more than 6 months for a
17 third conviction.
18 (2) Any person who is convicted of a fourth or
19 subsequent violation of subsection (1) or who violates
20 subsection (1) and who has owed to that child or spouse for
21 more than 1 year support in an amount equal to or greater than
22 \$5,000 commits a felony of the third degree, punishable as
23 provided in s. 775.082, s. 775.083, or s. 775.084.
24 (3) Upon a conviction under this section, the court
25 shall order restitution in an amount equal to the total unpaid
26 support obligation as it exists at the time of sentencing.
27 (4)(a) Evidence that the defendant willfully failed to
28 make sufficient good faith efforts to legally acquire the
29 resources to pay legally ordered support may be sufficient to
30 prove that he or she had the ability to provide support but
31 willfully failed to do so, in violation of this section.

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

5 (5)(2) Prior to commencing prosecution under this
6 section, the state attorney must notify ~~advise~~ the person
7 responsible for support by regular mail to the person's last
8 known address certified mail, return receipt requested, that a
9 prosecution under this section will be commenced against him
10 or her unless the person pays the total unpaid support
11 obligation ~~makes such delinquent support payments~~ or provides
12 a satisfactory explanation as to why he or she has not made
13 such payments.

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

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

18 And the title is amended as follows:

19 On page 1, line 2,
20 remove from the title of the bill: all said lines

21
22 and insert in lieu thereof:

23 An act relating to support of dependents; amending s.
24 827.06, F.S.; providing alternative punishment for nonsupport
25 of dependents; providing a felony penalty for fourth or
26 subsequent violations; providing for the amount of restitution
27 due; providing requirements with respect to certain evidence;
28 providing for satisfaction of the element of notice under
29 certain circumstances; providing an effective date.

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