

By the Committee on Children and Families; and Senators Horne, Campbell, Mitchell, Sanderson, Sullivan, Smith, Burt, Bronson and Peadar

300-1488-01

1 A bill to be entitled
2 An act relating to the support owed to a child
3 or spouse; amending s. 827.06, F.S.;
4 prescribing the elements of misdemeanor
5 nonsupport of a child or spouse; prescribing
6 the elements of felony nonsupport of a child or
7 spouse; providing penalties; providing
8 evidentiary standards; providing that a court
9 order constitutes notice; providing an
10 effective date.

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

13
14 Section 1. Section 827.06, Florida Statutes, is
15 amended to read:

16 827.06 Persistent nonsupport.--

17 (1) Any person who, after notice, fails to provide
18 support ~~which he or she is able to provide to a child children~~
19 or a spouse whom the person ~~knows he or she~~ is legally
20 obligated to support commits, ~~and over whom no court has~~
21 ~~jurisdiction in any proceedings for child support or~~
22 ~~dissolution of marriage, shall be guilty of a misdemeanor of~~
23 the first degree, punishable as provided in s. 775.082 or s.
24 775.083.

25 (2) Any person who, after notice, fails to provide
26 support to a child or a spouse whom the person is legally
27 obligated to support and who has owed to that child or spouse
28 for more than 1 year support in an amount equal to or greater
29 than \$5,000 commits a felony of the third degree, punishable
30 as provided in s. 775.082 or s. 775.083.~~Prior to commencing~~
31 ~~prosecution under this section, the state attorney must advise~~

1 ~~the person responsible for support by certified mail, return~~
2 ~~receipt requested, that a prosecution under this section will~~
3 ~~be commenced against him or her unless the person makes such~~
4 ~~delinquent support payments or provides a satisfactory~~
5 ~~explanation as to why he or she has not made such payments.~~

6 (3)(a) Evidence that the defendant failed to make
7 sufficient bona fide efforts to legally acquire the resources
8 to pay court-ordered support is sufficient to prove that he or
9 she had the ability to pay but willfully refused to do so, in
10 violation of this section.

11 (b) The element of notice is satisfied if a court, in
12 an adversarial proceeding, has entered an order that obligates
13 the person to provide the support.

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

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16 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
17 COMMITTEE SUBSTITUTE FOR
18 Senate Bill 400

19 Removes the prerequisites of ability to pay and knowledge of
20 the child support obligation for the misdemeanor and felony
charge.

21 Adds the requirement of a notice in order for a felony to have
22 been committed.

23 Provides that the standard for determining a person's ability
24 but willful refusal to pay child support is failure to make
efforts to acquire the resources to pay the support.

25 Provides that the court order obligating the person to pay the
26 support constitutes "notice" for the purpose of determining
when a felony has been committed.