

1 A bill to be entitled
2 An act relating to support of dependents;
3 amending s. 827.06, F.S.; providing alternative
4 punishment for nonsupport of dependents;
5 providing a felony penalty for fourth or
6 subsequent violations; providing for the amount
7 of restitution due; providing requirements with
8 respect to certain evidence; providing for
9 satisfaction of the element of notice under
10 certain circumstances; providing an effective
11 date.

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

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

17 827.06 ~~Persistent~~ Nonsupport of dependents.--

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

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

1 1. Not less than \$250 or more than \$500 for a first
2 conviction.

3 2. Not less than \$500 or more than \$1,000 for a second
4 conviction.

5 3. Not less than \$1,000 or more than \$1,500 for a
6 third conviction; and

7 (b) By imprisonment for:

8 1. Not less than 15 days or more than 1 month for a
9 first conviction.

10 2. Not less than 1 month or more than 3 months for a
11 second conviction.

12 3. Not less than 3 months or more than 6 months for a
13 third conviction.

14 (2) Any person who is convicted of a fourth or
15 subsequent violation of subsection (1) or who violates
16 subsection (1) and who has owed to that child or spouse for
17 more than 1 year support in an amount equal to or greater than
18 \$5,000 commits a felony of the third degree, punishable as
19 provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

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

1 ~~(5)(2)~~ Prior to commencing prosecution under this
2 section, the state attorney must notify ~~advise~~ the person
3 responsible for support by regular mail to the person's last
4 known address ~~certified mail, return receipt requested,~~ that a
5 prosecution under this section will be commenced against him
6 or her unless the person pays the total unpaid support
7 obligation ~~makes such delinquent support payments~~ or provides
8 a satisfactory explanation as to why he or she has not made
9 such payments.

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