Florida Senate - 2001

By the Committees on Appropriations; Children and Families; and Senators Horne, Campbell, Mitchell, Sanderson, Sullivan, Smith, Burt, Bronson, Peaden, Lee and Crist

309-1712-01 A bill to be entitled 1 2 An act relating to support of dependents; 3 amending s. 827.06, F.S.; providing alternative punishment for nonsupport of dependents; 4 5 providing a felony penalty for fourth or subsequent violations; providing for the amount 6 of restitution due; providing requirements with 7 8 respect to certain evidence; providing for 9 satisfaction of the element of notice under certain circumstances; providing an effective 10 11 date. 12 Be It Enacted by the Legislature of the State of Florida: 13 14 15 Section 1. Section 827.06, Florida Statutes, is amended to read: 16 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 fails to provide support which he or she has the ability is 21 able to provide to a child children or a spouse whom the 22 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, shall be guilty of a misdemeanor of the first degree, 26 punishable as provided in s. 775.082 or s. 775.083. In lieu of 27 28 any punishment imposed pursuant to s. 775.082 or s. 775.083, any person who is convicted of a violation of this subsection 29 shall be punished: 30 31 (a) By a fine to be paid after restitution for:

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CODING: Words stricken are deletions; words underlined are additions.

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 bona fide 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 satisfied if a
29 20	court or tribunal as defined by s. 88.1011(22) has entered an
30	order that obligates the defendant to provide the support.
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1 (5)+3) 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. 11 StateMent OF SUBSTANTIAL CHANCES CONTAINED IN COMMITTEE SUBSTITUE FOR CS/SE 400 12 STATEMENT OF SUBSTANTIAL CHANCES CONTAINED IN COMMITTEE SUBSTITUE FOR CS/SE 400 13 adjudged in contempt for failure to comply with a court order before prosecution can commence; 14 hedge the contempt of failure to comply with a court order before prosecution can commence; 15 Adds the prerequisite that a person has been previously adjudged in contempt for failure to comply with a court order before prosecution can commence; 16 before prosecution can commence; 17 Requires mandatory restitution in an amount equal to the total unpa		
3 responsible for support by regular mail to the person's last known address certified mail, return receipt requested, that a prosecution under this section will be commenced against him or her unless the person pays the total unpaid support obligation makes such delinquent support payments or provides a satisfactory explanation as to why he or she has not made such payments. Section 2. This act shall take effect October 1, 2001. STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR CS/SB 400 Adds the prerequisite that a person has been previously adjudged in contempt for failure to comply with a court order before prosecution can commence: Requires mandatory restitution in an amount equal to the total unpaid support obligation upon conviction for misdemeanor or felony under s.827.06, F.S.; Requires the notice requirement before commencement of prosecution by state attorney and changes notice to regular mail instead of certified mail; Changes the criteria of what constitutes evidence of ability to pay; Changes the criteria concerning what constitutes knowledge of the legal obligation of support. Creates mandatory punishments for misdemeanor violations of s. 827.06, F.S.; and Authorizes a felony prosecution for the fourth violation for failure to provide support.	1	(5) (2) Prior to commencing prosecution under this
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¹ obligation makes such delinquent support payments or provides a satisfactory explanation as to why he or she has not made such payments. ¹⁰ Section 2. This act shall take effect October 1, 2001. ¹¹ STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR CS/SB 400 ¹⁴ ¹⁵ Adds the prerequisite that a person has been previously adjudged in contempt for failure to comply with a court order before prosecution can commence; ¹⁷ Requires mandatory restitution in an amount equal to the total unpaid support obligation upon conviction for misdemeanor or felony under s.827.06, F.S.; ¹⁹ Reinstates the ortice requirement before commencement of prosecution by state attorney and changes notice to regular mail instead of certified mall; ¹⁰ Changes the criteria of what constitutes evidence of ability to pay; ¹⁰ Creates mandatory punishments for misdemeanor violations of s. 827.06, F.S.; and ¹⁰ Authorizes a felony prosecution for the fourth violation for failure to provide support.	5	prosecution under this section will be commenced against him
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9 such payments. 10 Section 2. This act shall take effect October 1, 2001. 11 12 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR 13 <u>CS/SB 400</u> 14 15 Adds the prerequisite that a person has been previously adjudged in contempt for failure to comply with a court order before prosecution can commence; 17 Requires mandatory restitution in an amount equal to the total unpaid support obligation upon conviction for misdemeanor or felony under s.827.06, F.S.; 19 Reinstates the notice requirement before commencement of prosecution by state attorney and changes notice to regular mail instead of certified mail; 21 Changes the criteria of what constitutes evidence of ability to pay; 22 Changes the criteria concerning what constitutes knowledge of the legal obligation of support; 24 Creates mandatory punishments for misdemeanor violations of s. 827.06, F.S.; and 30 Authorizes a felony prosecution for the fourth violation for failure to provide support.	7	<u>obligation</u> makes such delinquent support payments or provides
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