

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification
District of
Columbia
Official Code*

2001 Edition

2002 Supp.

West Group
Publisher

To amend the District of Columbia Child Support Enforcement Amendment Act of 1985 to authorize the initiation of a criminal contempt action for failure to pay child support, to permit the court, upon a finding of criminal contempt, to impose a prison sentence up to 180 days, to require participation in a rehabilitative program, or to place the obligor on probation.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Child Support Enforcement Amendment Act of 2001".

Sec. 2. The District of Columbia Child Support Enforcement Amendment Act of 1985, effective February 24, 1987 (D.C. Law 6-166; D.C. Official Code § 46-201 *et seq.*), is amended by adding a new section 26b to read as follows:

"Sec. 26b. Criminal contempt remedy for failure to pay child support.

New
§ 46-225.02

"(a) The Mayor or any party who has a legal claim to any child support may initiate a criminal contempt action for failure to pay the support by filing a motion in the civil action in which the child support order was established.

"(b)(1) Upon a finding by the court that an obligor has willfully failed to obey any lawful order of child support, the court may:

"(A) Commit the obligor to jail for a term not to exceed 180 days;

"(B) Order the obligor to participate in a rehabilitative program, if the court determines that participation would assist the obligor in complying with the order of child support and access to such program is available;

"(C) Order the obligor to accept appropriate available employment or participate in job search and placement activities; or

"(D) Place the obligor on probation under such conditions as the court may determine and in accordance with the provisions of the criminal procedure law.

"(2) The court may direct that an obligor's commitment may be served upon certain specified days or parts of days. The court may suspend all or part of a sentence and may, at any time within the term of the sentence, revoke the suspension and commit the obligor for the remainder of the original sentence. A period of commitment shall not prevent the court from

committing the obligor for a subsequent failure to comply with an order of child support.

"(3) For the purposes of paragraph (1)(B) of this subsection, the term "rehabilitative program" shall include work preparation and skill programs, non-residential alcohol and substance abuse programs, and educational programs.

"(c) The court shall order the obligor to pay the petitioner's attorney fees as well as the court costs, unless good cause can be demonstrated on the record against this result.

"(d) For purposes of this section, failure to pay child support, as ordered, shall constitute prima facie evidence of a willful violation. This presumption may be rebutted if the obligor was incarcerated, hospitalized, or disabled during the period of nonsupport. These circumstances do not constitute an exhaustive list of circumstances that may be used to rebut the presumption of willfulness.

"(e) The court shall not deny any request for relief pursuant to this section unless the facts and circumstances constituting the reasons for its determination are set forth in a written memorandum of decision."

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia