

Alabama

§ 13A-13-4. Nonsupport.

(a) A man or woman commits the crime of nonsupport if he or she intentionally fails to provide support which that person is able to provide and which that person knows he or she is legally obligated to provide to a dependent spouse or child less than 19 years of age.

(b) "Support" includes but is not limited to food, shelter, clothing, medical attention and other necessary care, as determined elsewhere by law.

(c) "Child" includes a child born out of wedlock whose paternity has been admitted by the actor or has been established in a civil suit.

(d) Nonsupport is a Class A misdemeanor.

Connecticut

Sec. 53-304. Nonsupport. Support orders and agreements. Administration of oaths by family relations counselors and support enforcement officers.

(a) Any person who neglects or refuses to furnish reasonably necessary support to the person's spouse, child under the age of eighteen or parent under the age of sixty-five shall be deemed guilty of nonsupport and shall be imprisoned not more than one year, unless the person shows to the court before which the trial is had that, owing to physical incapacity or other good cause, the person is unable to furnish such support. The court may suspend the execution of any community correctional center sentence imposed, upon any terms or conditions that it deems just, may suspend the execution of the balance of any such sentence in a like manner, and, in addition to any other sentence or in lieu thereof, may order that the person convicted shall pay to the Commissioner of Administrative Services directly or through Support Enforcement Services of the Superior Court, such support, in such amount as the court may find commensurate with the necessities of the case and the ability of such person, for such period as the court shall determine. Any such order of support may, at any time thereafter, be set aside or altered by the court for cause shown. Failure of any defendant to make any payment may be punished as contempt of court and, in addition thereto or in lieu thereof, the court may order the issuance of a wage withholding in the same manner as is provided in [section 17b-745](#), which withholding order shall have the same precedence as is provided in [section 52-362](#). The amounts withheld under such withholding order shall be remitted to the Department of Administrative Services by the person or corporation to whom the withholding order is presented at such intervals as such withholding order directs. For the purposes of this section, "child" includes one born out of wedlock whose father has acknowledged in writing his paternity of such child or has been adjudged the father by a court of competent jurisdiction.

(b) Any person who violates any provision of this section may be prosecuted before any court of this state in the same manner as if such offense had been committed within the territorial jurisdiction of such court.

(c) A written agreement to support or any modification of an agreement to support filed with said court or the assistant clerk of the Family Support Magistrate Division shall have the same force and effect as an order of support by the Superior Court and shall be enforceable in the same manner as is provided herein for orders of support issued by the court.

(d) Family relations counselors and support enforcement officers employed by the Judicial Department may administer oaths in all affidavits, statements, complaints and reports made to or by such family relations counselors and support enforcement officers in the performance of their duties.

Delaware

11 Del. C. § 1113 (2011)

§ 1113. Criminal nonsupport and aggravated criminal nonsupport

(a) A person is guilty of criminal nonsupport when that person knowingly fails, refuses or neglects to provide the minimal requirements of food, clothing or shelter for that person's minor child. Criminal nonsupport is a class B misdemeanor unless the person has previously been convicted of the same offense or the offense of aggravated criminal nonsupport, in which case it is a class A misdemeanor.

(b) A person is guilty of aggravated criminal nonsupport when, being subject to a support order, that person is delinquent in meeting, as and when due, the full obligation established by such support order and has been so delinquent for a period of at least 4 months' duration. Aggravated criminal nonsupport is a class A misdemeanor, unless any 1 of the following aggravating factors is present, in which case aggravated criminal nonsupport is a class G felony:

(1) The person has previously been convicted of aggravated criminal nonsupport;

(2) The person has been delinquent in meeting, as and when due, the full obligation established by such support order for 8 consecutive months; or

(3) The arrearage is \$ 10,000 or more.

(c) In any prosecution for criminal nonsupport, it is an affirmative defense that the accused has fully complied with a support order that was in effect for the support of the subject person during the time period of the offense charged.

(d) In any prosecution for criminal nonsupport or aggravated criminal nonsupport, it is an affirmative defense that the accused was unable to pay or provide support, but the accused's inability to pay or provide support must be the result of circumstances over which the accused had no control. Unemployment or underemployment with justifiable excuse shall constitute a defense to any prosecution for criminal nonsupport or aggravated criminal nonsupport. Justifiable excuse may be established where the accused has been involuntarily terminated from the accused's employment or otherwise had the accused's income involuntarily reduced and is diligently and in good faith seeking reasonably appropriate employment opportunities under all the circumstances or pursuing self-employment.

(e) It is not a defense to a charge of criminal nonsupport or aggravated criminal nonsupport that the person to be supported received support from a source other than the accused.

(f) In any prosecution for criminal nonsupport or aggravated criminal nonsupport, payment records maintained by an administrative agency or court through which a support order is payable, are prima facie evidence of the support paid or unpaid and the accrued arrearages.

(g) A privilege against disclosure of confidential communications between spouses does not apply to a prosecution for criminal nonsupport or aggravated criminal nonsupport, and either spouse shall be competent to testify against the other as to any and all relevant matters.

(h) No civil proceeding in any court or administrative agency shall be a bar to a prosecution for criminal nonsupport or aggravated criminal nonsupport.

(i) The court, in its discretion, may order that any fine upon conviction for criminal nonsupport or aggravated criminal nonsupport be paid for the support of the person entitled to support. If a support order has been entered, a fine paid pursuant to this subsection shall be applied in accordance with the support order.

(j) The court shall order any person convicted of criminal nonsupport or aggravated criminal nonsupport to make restitution to the person entitled to support. The amount of restitution is the arrearages that accrued under a support order during the time period for which the person was convicted of criminal nonsupport or aggravated criminal nonsupport, or, if there is no support order, an amount determined to be reasonable by the court.

(k) As used in this section:

(1) "Child" means any child, whether over or under the age of majority, with respect to whom a support order exists.

(2) "Minor child" means any child, natural or adopted, whether born in or out of

wedlock, under 18 years of age, or over 18 years of age but not yet 19 years of age if such child is a student in high school and is likely to graduate.

(3) "Support order" means a judgment, decree or order, whether temporary, final or subject to modification, for the benefit of a child, a spouse or a former spouse or a parent, issued by a court or agency, which provides for monetary support, medical support, health care, arrearages or reimbursement, whether incidental to a proceeding for divorce, judicial or legal separation, separate maintenance, paternity, guardianship, civil protection or otherwise.

D.C.

§ 46-225.02. Criminal contempt remedy for failure to pay child support

(a) The Mayor or a party who has a legal claim to 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 support order was established.

(b) (1) Upon a finding by the Court that an obligor has willfully failed to obey a lawful support order, 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 support order 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 a support order.

(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's fees as well as 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 had a disability 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 a 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.

Florida

Fla. Stat. § 827.06 (2012)

THIS SECTION HAS MORE THAN ONE DOCUMENT WITH VARYING EFFECTIVE DATES.

§ 827.06. Nonsupport of dependents [Contingent amendment - see Editor's note]

(1) The Legislature finds that most parents want to support their children and remain connected to their families. The Legislature also finds that while many parents lack the financial resources and other skills necessary to provide that support, some parents willfully fail to provide support to their children even when they are aware of the obligation and have the ability to do so. The Legislature further finds that existing statutory provisions for civil enforcement of support have not proven sufficiently effective or efficient in gaining adequate support for all children. Recognizing that it is the public policy of this state that children shall be maintained primarily from the resources of their parents, thereby relieving, at least in part, the burden presently borne by the general citizenry through public assistance programs, it is the intent of the Legislature that the criminal penalties provided for in this section are to be pursued in all appropriate cases where civil enforcement has not resulted in payment.

(2) Any person who willfully fails to provide support which he or she has the ability to provide to a child or a spouse whom the person knows he or she is legally obligated to support commits a misdemeanor of the first degree, punishable as provided in [s. 775.082](#) or [s. 775.083](#).

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

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

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

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

(6) It is the intent of the Legislature for the state attorneys, the Florida Prosecuting Attorneys Association, and the Department of Revenue to work collaboratively to identify strategies that allow the criminal penalties provided for in this section to be pursued in all appropriate cases, including, but not limited to, strategies that would assist the state attorneys in obtaining additional resources from available federal Title IV-D funds to initiate prosecution pursuant to this section.

THIS SECTION HAS MORE THAN ONE DOCUMENT WITH VARYING EFFECTIVE DATES.

§ 827.06. Nonsupport of dependents [Contingent amendment - see Editor's note]

(1) The Legislature finds that most parents want to support their children and remain connected to their families. The Legislature also finds that while many parents lack the financial resources and other skills necessary to provide that support, some parents willfully fail to provide support to their children even when they are aware of the obligation and have the ability to do so. The Legislature further finds that existing statutory provisions for civil enforcement of support have not proven sufficiently effective or efficient in gaining adequate support for all children. Recognizing that it is the public policy of this state that children shall be maintained primarily from the resources of their parents, thereby relieving, at least in part, the burden presently borne by the general citizenry through public assistance programs, it is the intent of the Legislature that the criminal penalties provided for in this section are to be pursued in all appropriate cases where civil enforcement has not resulted in payment.

(2) Any person who willfully fails to provide support which he or she has the ability to provide to a child or a spouse whom the person knows he or she is legally obligated to support commits a misdemeanor of the first degree, punishable as provided in [s. 775.082](#) or [s. 775.083](#).

(3) Any person who is convicted of a fourth or subsequent violation of subsection (2) or who violates subsection (2) and who has owed to that child or spouse for more than 1

year support in an amount equal to or greater than \$ 5,000 commits a felony of the third degree, punishable as provided in [s. 775.082](#), [s. 775.083](#), or [s. 775.084](#).

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

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

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

(6) It is the intent of the Legislature for the state attorneys, the Florida Prosecuting Attorneys Association, and the Department of Revenue to work collaboratively to identify strategies that allow the criminal penalties provided for in this section to be pursued in all appropriate cases, including, but not limited to, strategies that would assist the state attorneys in obtaining additional resources from available federal Title IV-D funds to initiate prosecution pursuant to this section.

Georgia

O.C.G.A. § 19-10-1 (2011)

§ 19-10-1. Abandonment of dependent child; criminal penalties; continuing offense; venue; blood tests or other comparisons as evidence; payment of expenses of birth of child born out of wedlock; agreement for support of child born out of wedlock

(a) A child abandoned by its father or mother shall be considered to be in a dependent condition when the father or mother does not furnish sufficient food, clothing, or shelter for the needs of the child.

(b) If any father or mother willfully and voluntarily abandons his or her child, either legitimate or born out of wedlock, leaving it in a dependent condition, he or she shall be guilty of a misdemeanor. Moreover, if any father or mother willfully and voluntarily abandons his or her child, either legitimate or born out of wedlock, leaving it in a dependent condition, and leaves this state or if any father or mother willfully and voluntarily abandons his or her child, either legitimate or born out of wedlock, leaving it in a dependent condition, after leaving this state, he or she shall be guilty of a felony punishable by imprisonment for not less than one nor more than three years. The felony shall be reducible to a misdemeanor. Any person, upon conviction of the third offense for violating this Code section, shall be guilty of a felony and shall be imprisoned for not less than one nor more than three years, which felony shall not be reducible to a

misdemeanor. The husband and wife shall be competent witnesses in such cases to testify for or against the other.

(c) The offense of abandonment is a continuing offense. Except as provided in subsection (i) of this Code section, former acquittal or conviction of the offense shall not be a bar to further prosecution therefor under this Code section, if it is made to appear that the child in question was in a dependent condition, as defined in this Code section, for a period of 30 days prior to the commencement of prosecution.

(d) In prosecutions under this Code section when the child is born out of wedlock, the venue of the offense shall be in the county in which the child and the mother are domiciled at the time of the swearing out of the arrest warrant; but, if the child and the mother are domiciled in different counties, venue shall be in the county in which the child is domiciled.

(e) Upon the trial of an accused father or mother under this Code section, it shall be no defense that the accused father or mother has never supported the child.

(f) In the trial of any abandonment proceeding in which the question of parentage arises, regardless of any presumptions with respect to parentage, the accused father may request a paternity blood test and agree and arrange to pay for same; and in such cases the court before which the matter is brought, upon pretrial motion of the defendant, shall order that the alleged parent, the known natural parent, and the child submit to any blood tests and comparisons which have been developed and adapted for purposes of establishing or disproving parentage and which are reasonably accessible to the alleged parent, the known natural parent, and the child. The results of those blood tests and comparisons, including the statistical likelihood of the alleged parent's parentage, if available, shall be admitted in evidence when offered by a duly qualified, licensed practicing physician, duly qualified immunologist, duly qualified geneticist, or other duly qualified person. Upon receipt of a motion and the entry of an order under this subsection, the court shall proceed as follows:

(1) Where the issue of parentage is to be decided by a jury, where the results of those blood tests and comparisons are not shown to be inconsistent with the results of any other blood tests and comparisons, and where the results of those blood tests and comparisons indicate that the alleged parent cannot be the natural parent of the child, the jury shall be instructed that if they believe that the witness presenting the results testified truthfully as to those results and if they believe that the tests and comparisons were conducted properly, then it will be their duty to decide that the alleged parent is not the natural parent;

(2) The court shall require the defendant requesting the blood tests and comparisons pursuant to this subsection to be initially responsible for any of the expenses thereof. Upon the entry of a verdict incorporating a finding of parentage or nonparentage, the court shall tax the expenses for blood tests and comparisons, in addition to any fees for expert witnesses whose testimonies supported the admissibility thereof, as costs.

(g) In prosecutions under this Code section, when the child is born out of wedlock and the accused father is convicted, the father may be required by the court to pay the reasonable medical expenses paid by or incurred on behalf of the mother due to the birth of the child.

(h) The accused father and the mother of a child born out of wedlock may enter into a written agreement providing for future support of the child by regular periodic payments to the mother until the child reaches the age of 18 years, marries, or becomes self-supporting; provided, however, that the agreement shall not be binding on either party until it has been approved by the court having jurisdiction to try the pending case.

(i) If, during the trial of any person charged with the offense of abandonment as defined in this Code section, the person contends that he or she is not the father or mother of the child alleged to have been abandoned, in a jury trial the trial judge shall charge the jury that if its verdict is for the acquittal of the person and its reason for so finding is that the person is not the father or mother of the child alleged to have been abandoned, then its verdict shall so state. In a trial before the court without the intervention of the jury, if the court renders a verdict of acquittal based on the contention of the person that he or she is not the father or mother of the child alleged to have been abandoned, the trial judge shall so state this fact in his verdict of acquittal. Where the verdict of the jury or the court is for acquittal of a person on the grounds that the person is not the father or mother of the child alleged to have been abandoned, the person cannot thereafter again be tried for the offense of abandoning the child, and the verdict of acquittal shall be a bar to all civil and criminal proceedings attempting to compel the person to support the child.

(j)(1) In a prosecution for and conviction of the offense of abandonment, the trial court may suspend the service of the sentence imposed in the case, upon such terms and conditions as it may prescribe for the support, by the defendant, of the child or children abandoned during the minority of the child or children. Service of the sentence, when so suspended, shall not begin unless and until ordered by the court having jurisdiction thereof, after a hearing as in cases of revocation or probated sentences, because of the failure or refusal of the defendant to comply with the terms and conditions upon which service of a sentence was suspended.

(2) Service of any sentence suspended in abandonment cases may be ordered by the court having jurisdiction thereof at any time before the child or children reach the age of 18 or become emancipated, after a hearing as provided in paragraph (1) of this subsection and a finding by the court that the defendant has failed or refused to comply with the terms and conditions upon which service of the sentence was suspended by the court having jurisdiction thereof.

(3) Notwithstanding any other provisions of law, in abandonment cases where the suspension of sentence has been revoked and the defendant is serving the sentence, the court may thereafter again suspend the service of sentence under the same terms and conditions as the original suspension. The sentence shall not be considered probated and the defendant shall not be on probation, but the defendant shall again be under a

suspended sentence. However, the combined time of incarceration of the defendant during the periods of revocation of suspended sentences shall not exceed the maximum period of punishment for the offense.

(4) Notwithstanding any other provision of law to the contrary, the terms and conditions prescribed by the court as to support by the defendant shall be subject to review and modification by the court, upon notice and hearing to the defendant, as to the ability of the defendant to furnish support and as to the adequacy of the present support payments to the child's or children's needs. The review provided for in this paragraph as to the ability of the defendant to furnish support and as to the adequacy of the present support payments to the child's or children's needs shall not be had in less than two-year intervals and shall authorize the court to increase as well as to decrease the amount of child support to be paid as a term and condition of the suspended sentence. The review as to ability to support and adequacy of support shall not be equivalent to a hearing held in cases of revocation of probated sentences for purposes of service of the suspended sentence; nor shall a modification, if any, be deemed a change in sentence; nor shall a modification, if any, be deemed to change the suspended sentence to a probated sentence.

Illinois

§ 750 ILCS 16/15. Failure to support

Sec. 15. Failure to support. (a) A person commits the offense of failure to support when he or she:

(1) willfully, without any lawful excuse, refuses to provide for the support or maintenance of his or her spouse, with the knowledge that the spouse is in need of such support or maintenance, or, without lawful excuse, deserts or willfully refuses to provide for the support or maintenance of his or her child or children in need of support or maintenance and the person has the ability to provide the support; or

(2) willfully fails to pay a support obligation required under a court or administrative order for support, if the obligation has remained unpaid for a period longer than 6 months, or is in arrears in an amount greater than \$ 5,000, and the person has the ability to provide the support; or

(3) leaves the State with the intent to evade a support obligation required under a court or administrative order for support, if the obligation, regardless of when it accrued, has remained unpaid for a period longer than 6 months, or is in arrears in an amount greater than \$ 10,000; or

(4) willfully fails to pay a support obligation required under a court or administrative order for support, if the obligation has remained unpaid for a period longer than one year, or is in arrears in an amount greater than \$ 20,000, and the person has the ability to provide the support.

(a-5) Presumption of ability to pay support. The existence of a court or administrative order of support that was not based on a default judgment and was in effect for the time period charged in the indictment or information creates a rebuttable presumption that the obligor has the ability to pay the support obligation for that time period.

(b) Sentence. A person convicted of a first offense under subdivision (a)(1) or (a)(2) is guilty of a Class A misdemeanor. A person convicted of an offense under subdivision (a)(3) or (a)(4) or a second or subsequent offense under subdivision (a)(1) or (a)(2) is guilty of a Class 4 felony.

(c) Expungement. A person convicted of a first offense under subdivision (a)(1) or (a)(2) who is eligible for the Earnfare program, shall, in lieu of the sentence prescribed in subsection (b), be referred to the Earnfare program. Upon certification of completion of the Earnfare program, the conviction shall be expunged. If the person fails to successfully complete the Earnfare program, he or she shall be sentenced in accordance with subsection (b).

(d) Fine. Sentences of imprisonment and fines for offenses committed under this Act shall be as provided under Articles 8 and 9 of Chapter V of the Unified Code of Corrections [[730 ILCS 5/5-8-1](#) et seq. and [730 ILCS 5/5-9-1](#) et seq.], except that the court shall order restitution of all unpaid support payments and may impose the following fines, alone, or in addition to a sentence of imprisonment under the following circumstances:

(1) from \$ 1,000 to \$ 5,000 if the support obligation has remained unpaid for a period longer than 2 years, or is in arrears in an amount greater than \$ 1,000 and not exceeding \$ 10,000;

(2) from \$ 5,000 to \$ 10,000 if the support obligation has remained unpaid for a period longer than 5 years, or is in arrears in an amount greater than \$ 10,000 and not exceeding \$ 20,000; or

(3) from \$ 10,000 to \$ 25,000 if the support obligation has remained unpaid for a period longer than 8 years, or is in arrears in an amount greater than \$ 20,000.

(e) Restitution shall be ordered in an amount equal to the total unpaid support obligation as it existed at the time of sentencing. Any amounts paid by the obligor shall be allocated first to current support and then to restitution ordered and then to fines imposed under this Section.

(f) For purposes of this Act, the term "child" shall have the meaning ascribed to it in Section 505 of the Illinois Marriage and Dissolution of Marriage Act [[750 ILCS 5/101](#) et seq.].

Indiana

35-46-1-5. Nonsupport of a child.

(a) A person who knowingly or intentionally fails to provide support to the person's dependent child commits nonsupport of a child, a Class D felony. However, the offense is a Class C felony if the total amount of unpaid support that is due and owing for one (1) or more children is at least fifteen thousand dollars (\$15,000).

(b) It is a defense that the child had abandoned the home of his family without the consent of his parent or on the order of a court, but it is not a defense that the child had abandoned the home of his family if the cause of the child's leaving was the fault of his parent.

(c) It is a defense that the accused person, in the legitimate practice of his religious belief, provided treatment by spiritual means through prayer, in lieu of medical care, to his dependent child.

(d) It is a defense that the accused person was unable to provide support.

Kentucky

530.050. Nonsupport and flagrant nonsupport.

(1) A person is guilty of nonsupport:

(a) When he persistently fails to provide support which he can reasonably provide and which he knows he has a duty to provide to a minor or to a child adjudged mentally disabled, indigent spouse or indigent parent; or

(b) Upon a finding that a defendant obligor, subject to court order to pay any amount for the support of a minor child, is delinquent in meeting the full obligation established by such order and has been so delinquent for a period of at least two (2) months duration.

(2) A person is guilty of flagrant nonsupport when he persistently fails to provide support which he can reasonably provide and which he knows he has a duty to provide by virtue of a court or administrative order to a minor or to a child adjudged mentally disabled, indigent spouse or indigent parent and the failure results in:

(a) An arrearage of not less than one thousand dollars (\$1,000); or

(b) Six (6) consecutive months without payment of support; or

(c) The dependent having been placed in destitute circumstances. For the purposes of this paragraph, it shall be prima facie evidence that a dependent has been placed in

destitute circumstances if the dependent is a recipient of public assistance as defined in [KRS 205.010](#).

(3) A person has a duty to provide support for an indigent spouse, a minor child or children, or a child or children adjudged mentally disabled and, for purposes of this section, is presumed to know of that duty.

(4) Any person who is eighteen (18) years of age or over, residing in this state and having in this state a parent who is destitute of means of subsistence and unable because of old age, infirmity, or illness to support himself or herself, has a duty to provide support for such parent and, for purposes of this section, is presumed to know of that duty.

(5) Nonsupport is a Class A misdemeanor. For a second offense, the person shall receive a minimum sentence of seven (7) days in jail. For a third or any subsequent offense, the person shall receive a minimum sentence of thirty (30) days in jail.

(6) Flagrant nonsupport is a Class D felony.

Maine

§ 552. Nonsupport of dependents

1. A person is guilty of nonsupport of dependents if he knowingly fails to provide support which he is able by means of property or capacity for labor to provide and which he knows he is legally obliged to provide to a spouse, child or other person declared by law to be his dependent.

2. As used in this section, "support" includes but is not limited to food, shelter, clothing and other necessary care.

2-A. Prosecution may be brought in any venue where either the dependent or the defendant resides.

3. Nonsupport of dependents is a Class E crime.

4. A person placed on probation as a result of a violation of this section may be placed under the supervision of the Department of Health and Human Services. Notwithstanding any other provision of law, the period of probation may extend to the time when the youngest dependent attains the age of 18.

Maryland

§ 10-203. Nonsupport of and desertion of minor child prohibited; penalties

(a) Failing to support minor child. -- A parent may not willfully fail to provide for the support of his or her minor child.

(b) Deserting minor child. -- A parent may not desert his or her minor child.

(c) Penalties. -- An individual who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$ 100 or imprisonment not exceeding 3 years or both.

Massachusetts

ALM GL ch. 273, § 1 (2011)

§ 1. Child and Spouse.

A spouse or parent shall be guilty of a felony and shall be subject to the penalties set forth in section fifteen A if:

(1) he abandons his spouse or minor child without making reasonable provisions for the support of his spouse or minor child or both of them; or

(2) he leaves the commonwealth and goes into another state without making reasonable provisions for the support of his spouse or minor child or both of them; or

(3) he enters the commonwealth from another state without making reasonable provisions for the support of his spouse or minor child, or both of them, domiciled in another state; or

(4) wilfully and while having the financial ability or earning capacity to have complied, he fails to comply with an order or judgment for support which has been entered pursuant to chapter one hundred and nineteen, two hundred and seven, two hundred and eight, two hundred and nine, two hundred and nine C, or two hundred and seventy-three, or received, entered or registered pursuant to chapter two hundred and nine D, or entered pursuant to similar laws of other states. No civil proceeding in any court shall be held to be a bar to a prosecution hereunder but the court shall not enter any order pursuant to section fifteen A which would directly or indirectly result in a decrease in the amount paid for current support pursuant to an order or judgment on behalf of the child or spouse to who, or on whose behalf, support is owed.

In a prosecution hereunder a decree or judgment of a probate court in a proceeding in which the defendant or spouse appeared or was personally served with process, establishing the right of his spouse to live apart or the freedom of such spouse to convey

and deal with property, or the right to the custody of the children, shall be admissible and shall be prima facie evidence of such right.

Michigan

§ 750.165. Refusing to support wife or children as required by court order; violation as felony; penalty; exception; cash bond; suspension of sentence; bond; "state disbursement unit" or "SDU" defined.

Sec. 165. (1) If the court orders an individual to pay support for the individual's former or current spouse, or for a child of the individual, and the individual does not pay the support in the amount or at the time stated in the order, the individual is guilty of a felony punishable by imprisonment for not more than 4 years or by a fine of not more than \$2,000.00, or both.

(2) This section does not apply unless the individual ordered to pay support appeared in, or received notice by personal service of, the action in which the support order was issued.

(3) Unless the individual deposits a cash bond of not less than \$500.00 or 25% of the arrearage, whichever is greater, upon arrest for a violation of this section, the individual shall remain in custody until the arraignment. If the individual remains in custody, the court shall address the amount of the cash bond at the arraignment and at the preliminary examination and, except for good cause shown on the record, shall order the bond to be continued at not less than \$500.00 or 25% of the arrearage, whichever is greater. At the court's discretion, the court may set the cash bond at an amount not more than 100% of the arrearage and add to that amount the amount of the costs that the court may require under section 31(3) of the support and parenting time enforcement act, 1982 PA 295, [MCL 552.631](#). The court shall specify that the cash bond amount be entered into the L.E.I.N. If a bench warrant under section 31 of the support and parenting time enforcement act, 1982 PA 295, [MCL 552.631](#), is outstanding for an individual when the individual is arrested for a violation of this section, the court shall notify the court handling the civil support case under the support and parenting time enforcement act, 1982 PA 295, [MCL 552.601](#) to [552.650](#), that the bench warrant may be recalled.

(4) The court may suspend the sentence of an individual convicted under this section if the individual files with the court a bond in the amount and with the sureties the court requires. At a minimum, the bond must be conditioned on the individual's compliance with the support order. If the court suspends a sentence under this subsection and the individual does not comply with the support order or another condition on the bond, the court may order the individual to appear and show cause why the court should not impose the sentence and enforce the bond. After the hearing, the court may enforce the bond or impose the sentence, or both, or may permit the filing of a new bond and again suspend the sentence. The court shall order a support amount enforced under this section to be paid to the clerk or friend of the court or to the state disbursement unit.

(5) As used in this section, "state disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, [MCL 400.236](#).

MCL § 750.161

§ 750.161. Desertion, abandonment, or refusal or neglect to provide shelter, food, care, and clothing; felony; penalty; bond; probation; failure to comply with conditions in bond; forfeiture of bond; disposition of sums received; continuing offense; proof.

Sec. 161. (1) A person who deserts and abandons his or her spouse or deserts and abandons his or her children under 17 years of age, without providing necessary and proper shelter, food, care, and clothing for them, and a person who being of sufficient ability fails, neglects, or refuses to provide necessary and proper shelter, food, care, and clothing for his or her spouse or his or her children under 17 years of age, is guilty of a felony, punishable by imprisonment in a state correctional facility for not less than 1 year and not more than 3 years, or by imprisonment in the county jail for not less than 3 months and not more than 1 year.

(2) If at any time before sentence the defendant enters into bond to the people of the state of Michigan in such penal sum for such term and with such surety or sureties as may be fixed by the court, conditioned that he or she will furnish his or her spouse and children with necessary and proper shelter, food, care, and clothing, or will pay to the clerk of the court, or other designated person, such sums of money at such times as the court shall order to be used to provide food, shelter, and clothing for his or her spouse and children, or either of them, then the court may make an order placing the defendant in charge of a probation officer. The court may require that the defendant shall from time to time report to the probation officer as provided by law. The court may extend the period of probation from time to time or the court may defer sentence in the cause, but no term of any bond or any probation period shall exceed the maximum term of imprisonment as provided for in this section.

(3) Upon failure of the defendant to comply with any of the conditions contained in the bond, the defendant may be ordered to appear before the court and show cause why sentence should not be imposed, whereupon the court may pass sentence, or for good cause shown may modify the order and further defer sentence as may be just and proper. Whenever the whereabouts of the defendant is unknown, the court may summarily issue a bench warrant for the arrest of the defendant.

(4) The court, upon default by the defendant to comply with the conditions of the bond and the orders of the court, shall notify the prosecuting attorney, who shall immediately file a petition in the court in which the cause is pending to declare the bond forfeited. A copy of the petition and a notice of hearing on the petition shall be served upon the surety or sureties, if any, named in the bond at least 4 days before the hearing of the petition. Upon holding a hearing on the petition, the court may declare the bond forfeited. When so ordered, the prosecuting attorney shall immediately institute the necessary action to collect the principal sum of the bond. If a cash bond has been filed, the cash bond shall be declared forfeited by the court.

(5) All sums received from bonds being forfeited shall be paid to the clerk of the court, who shall hold and disburse the money for the use of those entitled to the money in accordance with the orders of the court for their necessary food, care, shelter, and

clothing.

(6) Desertion, abandonment, or refusal or neglect to provide necessary and proper shelter, food, care, and clothing as provided in this section shall be considered to be a continuing offense and may be so set out in any complaint or information. Proof of the offense charged at any time during the period alleged in the complaint or information shall be considered proof of a violation of this section.

Mississippi

§ 97-5-3. Desertion or nonsupport of child under age eighteen

Any parent who shall desert or wilfully neglect or refuse to provide for the support and maintenance of his or her child or children, including the natural parent of an illegitimate child or children wherein paternity has been established by law or when the natural parent has acknowledged paternity in writing, while said child or children are under the age of eighteen (18) years shall be guilty of a felony and, on conviction thereof, shall be punished for a first offense by a fine of not less than One Hundred Dollars (\$ 100.00) nor more than Five Hundred Dollars (\$ 500.00), or by commitment to the custody of the Department of Corrections not more than five (5) years, or both; and for a second or subsequent offense, by a fine of not less than One Thousand Dollars (\$ 1,000.00) nor more than Ten Thousand Dollars (\$ 10,000.00), or by commitment to the custody of the Department of Corrections not less than two (2) years nor more than five (5) years, or both, in the discretion of the court.

New Hampshire

639:4 Non-Support.

I. A person is guilty of non-support if such person knowingly fails to provide support which such person is legally obliged to provide and which such person can provide to a spouse, child or other dependent. The fine, if any, shall be paid or applied in whole or in part to the support of such spouse, child or other dependent as the court may direct.

II. In this section, non-support shall be:

(a) A class B felony if the arrearage of support has remained unpaid for a cumulative period of more than one year;

(b) A class B felony if the amount of the arrearage is more than \$10,000;

(c) A class B felony if the obligor has been previously convicted of non-support under this section or if the obligor has been convicted of a similar criminal nonsupport offense in another state and the arrearage of support in this state has remained unpaid for a cumulative period of more than one year; or

(d) A class A misdemeanor in all other cases.

New Jersey

§ 2C:24-5. Willful nonsupport

A person commits a crime of the fourth degree if he willfully fails to provide support which he can provide and which he knows he is legally obliged to provide to a spouse, child or other dependent. In addition to the sentence authorized by the code, the court may proceed under section [2C:62-1](#).

New York

§ 260.05. Non-support of a child in the second degree

A person is guilty of non-support of a child when [fig 1] :

1. being a parent, guardian or other person legally charged with the care or custody of a child less than sixteen years old, he or she fails or refuses without lawful excuse to provide support for such child when he or she is able to do so, or becomes unable to do so, when, though employable, he or she voluntarily terminates his or her employment, voluntarily reduces his or her earning capacity, or fails to diligently seek employment [fig 1] ; or
2. being a parent, guardian or other person obligated to make child support payments by an order of child support entered by a court of competent jurisdiction for a child less than eighteen years old, he or she knowingly fails or refuses without lawful excuse to provide support for such child when he or she is able to do so, or becomes unable to do so, when, though employable, he or she voluntarily terminates his or her employment, voluntarily reduces his or her earning capacity, or fails to diligently seek employment.

Non-support of a child in the second degree is a class A misdemeanor.

§ 260.06. Non-support of a child in the first degree

A person is guilty of non-support of a child in the first degree when:

1. (a) being a parent, guardian or other person legally charged with the care or custody of a child less than sixteen years old, he or she fails or refuses without lawful excuse to provide support for such child when he or she is able to do so; [fig 1] or
(b) being a parent, guardian or other person obligated to make child support payments by an order of child support entered by a court of competent jurisdiction for a child less than eighteen years old, he or she fails or refuses without lawful excuse to provide support for such child when he or she is able to do so; and
2. he or she has previously been convicted in the preceding five years of a crime defined in section 260.05 of this article or a crime defined by the provisions of this section.

Non-support of a child in the first degree is a class E felony.

North Carolina

§ 14-322. Abandonment and failure to support spouse and children

(a) For purposes of this Article:

(1) "Supporting spouse" means a spouse, whether husband or wife, upon whom the other spouse is actually substantially dependent or from whom such other spouse is substantially in need of maintenance and support.

(2) "Dependent spouse" means a spouse, whether husband or wife, who is actually substantially dependent upon the other spouse for his or her maintenance and support or is substantially in need of maintenance and support from the other spouse.

(b) Any supporting spouse who shall willfully abandon a dependent spouse without providing that spouse with adequate support shall be guilty of a Class 1 or 2 misdemeanor and upon conviction shall be punished according to subsection (f).

(c) Any supporting spouse who, while living with a dependent spouse, shall willfully neglect to provide adequate support for that dependent spouse shall be guilty of a misdemeanor and upon conviction shall be punished according to subsection (f).

(d) Any parent who shall willfully neglect or refuse to provide adequate support for that parent's child, whether natural or adopted, and whether or not the parent abandons the child, shall be guilty of a misdemeanor and upon conviction shall be punished according to subsection (f). Willful neglect or refusal to provide adequate support of a child shall constitute a continuing offense and shall not be barred by any statute of limitations until the youngest living child of the parent shall reach the age of 18 years.

(e) Upon conviction for an offense under this section, the court may make such order as will best provide for the support, as far as may be necessary, of the abandoned spouse or child, or both, from the property or labor of the defendant. If the court requires the payment of child support, the amount of the payments shall be determined as provided in [G.S. 50-13.4\(c\)](#). For child support orders initially entered on or after January 1, 1994, the immediate income withholding provisions of [G.S. 110-136.5\(c1\)](#) shall apply.

(f) A first offense under this section is a Class 2 misdemeanor. A second or subsequent offense is a Class 1 misdemeanor.

Ohio

ORC Ann. 2919.21 (2012)

§ 2919.21. Nonsupport or contributing to nonsupport of dependents

(A) No person shall abandon, or fail to provide adequate support to:

(1) The person's spouse, as required by law;

(2) The person's child who is under age eighteen, or mentally or physically handicapped child who is under age twenty-one;

(3) The person's aged or infirm parent or adoptive parent, who from lack of ability and means is unable to provide adequately for the parent's own support.

(B) No person shall abandon, or fail to provide support as established by a court order to, another person whom, by court order or decree, the person is legally obligated to support.

(C) No person shall aid, abet, induce, cause, encourage, or contribute to a child or a ward of the juvenile court becoming a dependent child, as defined in [section 2151.04 of the Revised Code](#), or a neglected child, as defined in [section 2151.03 of the Revised Code](#).

(D) It is an affirmative defense to a charge of failure to provide adequate support under division (A) of this section or a charge of failure to provide support established by a court order under division (B) of this section that the accused was unable to provide adequate support or the established support but did provide the support that was within the accused's ability and means.

(E) It is an affirmative defense to a charge under division (A)(3) of this section that the parent abandoned the accused or failed to support the accused as required by law, while the accused was under age eighteen, or was mentally or physically handicapped and under age twenty-one.

(F) It is not a defense to a charge under division (B) of this section that the person whom a court has ordered the accused to support is being adequately supported by someone other than the accused.

(G) (1) Except as otherwise provided in this division, whoever violates division (A) or (B) of this section is guilty of nonsupport of dependents, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of division (A)(2) or (B) of this section or if the offender has failed to provide support under division (A)(2) or (B) of this section for a total accumulated period of twenty-six weeks out of one hundred four consecutive weeks, whether or not the twenty-six weeks were consecutive, then a violation of division (A)(2) or (B) of this section is a felony of the

fifth degree. If the offender previously has been convicted of or pleaded guilty to a felony violation of this section, a violation of division (A)(2) or (B) of this section is a felony of the fourth degree.

If the violation of division (A) or (B) of this section is a felony, all of the following apply to the sentencing of the offender:

(a) Except as otherwise provided in division (G)(1)(b) of this section, the court in imposing sentence on the offender shall first consider placing the offender on one or more community control sanctions under [section 2929.16](#), [2929.17](#), or [2929.18 of the Revised Code](#), with an emphasis under the sanctions on intervention for nonsupport, obtaining or maintaining employment, or another related condition.

(b) The preference for placement on community control sanctions described in division (G)(1)(a) of this section does not apply to any offender to whom one or more of the following applies:

(i) The court determines that the imposition of a prison term on the offender is consistent with the purposes and principles of sentencing set forth in [section 2929.11 of the Revised Code](#).

(ii) The offender previously was convicted of or pleaded guilty to a violation of this section that was a felony, and the offender was sentenced to a prison term for that violation.

(iii) The offender previously was convicted of or pleaded guilty to a violation of this section that was a felony, the offender was sentenced to one or more community control sanctions of a type described in division (G)(1)(a) of this section for that violation, and the offender failed to comply with the conditions of any of those community control sanctions.

(2) If the offender is guilty of nonsupport of dependents by reason of failing to provide support to the offender's child as required by a child support order issued on or after April 15, 1985, pursuant to [section 2151.23](#), [2151.231](#), [2151.232](#), [2151.33](#), [3105.21](#), [3109.05](#), [3111.13](#), [3113.04](#), [3113.31](#), or [3115.31 of the Revised Code](#), the court, in addition to any other sentence imposed, shall assess all court costs arising out of the charge against the person and require the person to pay any reasonable attorney's fees of any adverse party other than the state, as determined by the court, that arose in relation to the charge.

(3) Whoever violates division (C) of this section is guilty of contributing to the nonsupport of dependents, a misdemeanor of the first degree. Each day of violation of division (C) of this section is a separate offense.

Pennsylvanian

§ 4731. Wilful separation or nonsupport

Whoever, being a husband or father, separates himself from his wife or from his children or from wife and children, without reasonable cause, or wilfully neglects to maintain his wife or children, such wife or children being destitute, or being dependent wholly or in part on their earnings for adequate support, is guilty of a misdemeanor, and on conviction thereof, shall be sentenced to imprisonment not exceeding one (1) year, or to pay a fine not exceeding five hundred dollars (\$ 500), or both. Such fine, if any, may be paid or applied, in whole or in part, to the wife or children, as the court may direct.

No such conviction, payment, or fine, or undergoing imprisonment shall in any manner affect the obligation of any order for support theretofore made against the defendant in any competent court.

In any such case, the court may suspend sentence upon and during compliance by the defendant with any order for support as already made or as thereafter modified. If no such order shall have been made, then the court trying the defendant may make such order for the support by the defendant of his wife and children or either of them, which order shall be subject to modification by the court on cause shown, and may suspend sentence upon and during the compliance by defendant with such order upon entry of bond by defendant with surety approved by the court, conditioned on compliance with such order. The court after hearing the parties may also determine and make orders with respect to the right of parents to visit their children.

In any proceedings under this section, the wife or any person having the care, custody, or control of minor children shall be a competent witness.

As used in this section, the word "children" shall be limited to mean children under sixteen (16) years of age, and also such children over sixteen (16) and under eighteen (18) years of age, as by reason of infirmity are incapable of supporting themselves. "Separation" or "nonsupport" shall include every case where a husband has caused his wife to leave him by conduct on his part which would be ground for divorce, or a father has neglected to provide for maintenance, support, and care of his wife or children or wife and children.

Rhode Island

§ 11-2-1.1. Failure to pay child support

(a) Every person who is obligated to pay child support pursuant to an order or decree established by or registered with the family court pursuant to chapter 11 of title 15, who has incurred arrearage of past-due child support in the amount of ten thousand dollars (\$

10,000), and who shall willfully thereafter, having the means to do so, fail to pay three (3) or more installments of child support in an amount previously set by the court, according to the terms previously set by the court, shall be guilty of a felony for each instance of failure to make the subsequent payments and upon conviction shall be punished by imprisonment for a period not to exceed five (5) years.

(b) Every person who has for a period of three (3) years willfully failed to pay any installments of child support in an amount previously set by the court, according to the terms previously set by the court, and who shall thereafter, having the means to do so, fail to pay three (3) or more installments of child support in an amount previously set by the court, according to the terms previously set by the court, shall be guilty of a felony for each instance of failure to make the subsequent payments and upon conviction shall be punished by imprisonment for a period not to exceed five (5) years.

(c) For purposes of this section, "subsequent payments" means those payments or installments due and owing after a person has incurred an arrearage of ten thousand dollars (\$ 10,000) as specified in subsection (a) of this section or those payments or installments due and owing after a person has failed to pay an installment for a period of three (3) years.

(d) The court may in its discretion direct that the sentence be served pursuant to [§ 12-19-2\(b\)](#).

South Carolina

§ 63-5-20. Obligation to support.

(A) Any able-bodied person capable of earning a livelihood who shall, without just cause or excuse, abandon or fail to provide reasonable support to his or her spouse or to his or her minor unmarried legitimate or illegitimate child dependent upon him or her shall be deemed guilty of a misdemeanor and upon conviction shall be imprisoned for a term of not exceeding one year or be fined not less than three hundred dollars nor more than one thousand five hundred dollars, or both, in the discretion of the circuit court. A husband or wife abandoned by his or her spouse is not liable for the support of the abandoning spouse until such spouse offers to return unless the misconduct of the husband or wife justified the abandonment. If a fine be imposed the circuit court may, in its discretion, order that a portion of the fine be paid to a proper and suitable person or agency for the maintenance and support of the defendant's spouse or minor unmarried legitimate or illegitimate child. As used in this section "reasonable support" means an amount of financial assistance which, when combined with the support the member is reasonably capable of providing for himself or herself, will provide a living standard for the member substantially equal to that of the person owing the duty to support. It includes both usual and unusual necessities.

(B) Any person who fails to receive the support required by this section may petition to a circuit court of competent jurisdiction for a rule to show cause why the obligated person should not be required to provide such support and after proper service and hearing the

circuit court shall in all appropriate cases order such support to be paid. Any such petition shall specify the amount of support required. Compliance with the circuit court order shall bar prosecution under the provisions of subsection (A) of this section.

Tennessee

39-15-101. Nonsupport and flagrant nonsupport.

(a) A person commits the crime of nonsupport who fails to provide support which that person is able to provide and knows the person has a duty to provide to a minor child or to a child or spouse who, because of physical or mental disability, is unable to be self-supporting.

(b) "Child" includes legitimate children and children whose parentage has been admitted by the person charged or established by judicial action.

(c) "Support" includes, but is not limited to, financial assistance, food, shelter, clothing, medical attention or, if determined elsewhere by law, other necessary care.

(d) A person commits the offense of flagrant nonsupport who:

(1) Leaves or remains without the state to avoid a legal duty of support; or

(2) Having been convicted one (1) or more times of nonsupport or flagrant nonsupport, is convicted of a subsequent offense under this section.

(e) Nonsupport under subsection (a) is a Class A misdemeanor. Flagrant nonsupport under subsection (d) is a Class E felony.

Vermont

§ 202. Penalty for desertion or nonsupport

A married person who, without just cause, shall desert or wilfully neglect or refuse to provide for the support and maintenance of his or her spouse and children, leaving them in destitute or necessitous circumstances or a parent who, without lawful excuse, shall desert or wilfully neglect or refuse to provide for the support and maintenance of his or her child or an adult child possessed of sufficient pecuniary or physical ability to support his or her parents, who unreasonably neglects or refuses to provide such support when the parent is destitute, unable to support himself or herself and resident in this state, shall be imprisoned not more than two years or fined not more than \$ 300.00, or both. Should a fine be imposed, the court may order the same to be paid in whole or in part to the needy spouse, parent or to the guardian, custodian, or trustee of the child. The office of child support attorneys, in addition to any other duly authorized person, may prosecute cases under this section in Vermont district court.

Virginia

§ 20-61. Desertion or nonsupport of wife, husband or children in necessitous circumstances

Any spouse who without cause deserts or willfully neglects or refuses or fails to provide for the support and maintenance of his or her spouse, and any parent who deserts or willfully neglects or refuses or fails to provide for the support and maintenance of his or her child under the age of eighteen years of age, or child of whatever age who is crippled or otherwise incapacitated from earning a living, the spouse, child or children being then and there in necessitous circumstances, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not exceeding \$ 500, or confinement in jail not exceeding twelve months, or both, or on work release employment as provided in [§ 53.1-131](#) for a period of not less than ninety days nor more than twelve months; or in lieu of the fine or confinement being imposed upon conviction by the court or by verdict of a jury he or she may be required by the court to suffer a forfeiture of an amount not exceeding the sum of \$ 1,000 and the fine or forfeiture may be directed by the court to be paid in whole or in part to the spouse, or to the guardian, curator, custodian or trustee of the minor child or children, or to some discreet person or responsible organization designated by the court to receive it. This section shall not apply to the parent of a child of whatever age, if the child qualifies for and is receiving aid under a federal or state program for aid to the permanently and totally disabled; or is an adult and meets the visual requirements for aid to the blind; and for this purpose any state agency shall use only the financial resources of the child of whatever age in determining eligibility; however, such parent is subject to prosecution under this section for the desertion or nonsupport of a spouse or of another child who is not receiving such aid.

West Virginia

§ 61-5-29. Failure to meet an obligation to pay support to a minor; penalties.

(1) A person who: (a) Repeatedly and willfully fails to pay his or her court-ordered support which he or she can reasonably provide and which he or she knows he or she has a duty to provide to a minor; and (b) is subject to court order to pay any amount for the support of a minor child and is delinquent in meeting the full obligation established by the order and has been delinquent for a period of at least six months' duration is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000, or confined in jail for not more than one year, or both fined and confined.

(2) A person who repeatedly and willfully fails to pay his or her court-ordered support which he or she can reasonably provide and which he or she knows he or she has a duty to provide to a minor by virtue of a court or administrative order and the failure results in twelve months without payment of support that remains unpaid is guilty of a felony and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000, or

imprisoned for not less than one year nor more than three years, or both fined and imprisoned.

Wisconsin

948.22. Failure to support.

(1) In this section:

(a) "Child support" means an amount which a person is ordered to provide for support of a child by a court of competent jurisdiction in this state or in another state, territory or possession of the United States, or, if not ordered, an amount that a person is legally obligated to provide under [s. 49.90 \(b\)](#) "Grandchild support" means an amount which a person is legally obligated to provide under [s. 49.90 \(1\) \(a\)](#) 2. and (11) (c) "Spousal support" means an amount which a person is ordered to provide for support of a spouse or former spouse by a court of competent jurisdiction in this state or in another state, territory or possession of the United States, or, if not ordered, an amount that a person is legally obligated to provide under [s. 49.90](#)

(2) Any person who intentionally fails for 120 or more consecutive days to provide spousal, grandchild or child support which the person knows or reasonably should know the person is legally obligated to provide is guilty of a Class I felony. A prosecutor may charge a person with multiple counts for a violation under this subsection if each count covers a period of at least 120 consecutive days and there is no overlap between periods.

(3) Any person who intentionally fails for less than 120 consecutive days to provide spousal, grandchild or child support which the person knows or reasonably should know the person is legally obligated to provide is guilty of a Class A misdemeanor.

(4) Under this section, the following is prima facie evidence of intentional failure to provide child, grandchild or spousal support:

(a) For a person subject to a court order requiring child, grandchild or spousal support payments, when the person knows or reasonably should have known that he or she is required to pay support under an order, failure to pay the child, grandchild or spousal support payment required under the order.

(b) For a person not subject to a court order requiring child, grandchild or spousal support payments, when the person knows or reasonably should have known that he or she has a dependent, failure to provide support equal to at least the amount established by rule by the department of children and families under [s. 49.22 \(9\)](#) or causing a spouse, grandchild or child to become a dependent person, or continue to be a dependent person, as defined in [s. 49.01 \(2\)](#)

(5) Under this section, it is not a defense that child, grandchild or spousal support is

provided wholly or partially by any other person or entity.

(6) Under this section, affirmative defenses include but are not limited to inability to provide child, grandchild or spousal support. A person may not demonstrate inability to provide child, grandchild or spousal support if the person is employable but, without reasonable excuse, either fails to diligently seek employment, terminates employment or reduces his or her earnings or assets. A person who raises an affirmative defense has the burden of proving the defense by a preponderance of the evidence.

(7) (a) Before trial, upon petition by the complainant and notice to the defendant, the court may enter a temporary order requiring payment of child, grandchild or spousal support.

(b) In addition to or instead of imposing a penalty authorized for a Class I felony or a Class A misdemeanor, whichever is appropriate, the court shall:

1. If a court order requiring the defendant to pay child, grandchild or spousal support exists, order the defendant to pay the amount required including any amount necessary to meet a past legal obligation for support.

2. If no court order described under subd. 1. exists, enter such an order. For orders for child or spousal support, the court shall determine the amount of support in the manner required under [s. 767.511](#) or [767.89](#), regardless of the fact that the action is not one for a determination of paternity or an action specified in [s. 767.511 \(1\) \(bm\)](#). Upon request, the court may modify the amount of child or spousal support payments determined under par. (b) 2. if, after considering the factors listed in [s. 767.511 \(1m\)](#), regardless of the fact that the action is not one for a determination of paternity or an action specified in [s. 767.511 \(1\)](#), the court finds, by the greater weight of the credible evidence, that the use of the percentage standard is unfair to the child or to either of the child's parents.

(c) An order under par. (a) or (b), other than an order for grandchild support, constitutes an income assignment under [s. 767.75](#) and may be enforced under [s. 767.77](#). Any payment ordered under par. (a) or (b), other than a payment for grandchild support, shall be made in the manner provided under [s. 767.57](#).