

SHORT TITLE: Child support; providing penalties for failure to comply with court order for payment of child support; effective date.

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

SENATE BILL NO. 749

By: Pierce

AS INTRODUCED

An Act relating to child support; amending 21 O.S.

1991, Section 566, which relates to punishment for direct or indirect contempt; providing penalties for failure to comply with court order for payment of child support; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 1991, Section 566, is amended to read as follows:

Section 566. A. Unless otherwise provided for by law, punishment for direct or indirect contempt shall be by the imposition of a fine in a sum not exceeding Five Hundred Dollars (\$500.00) or by imprisonment in the county jail not exceeding six (6) months, or by both, at the discretion of the court.

B. 1. In the case of indirect contempt for the failure to comply with an order for child support, other support, visitation, or other court orders regarding minor children the Supreme Court shall promulgate guidelines for determination of the sentence and purge fee. If the court fails to follow said guidelines, the court shall make a specific finding stating the reasons why the imposition of the guidelines would result in inequity. The factors that shall be used in determining the sentence and purge fee are:

- a. the proportion of the child support or other support that was unpaid in relation to the amount of support that was ordered paid~~+~~1
- b. the proportion of the child support or other support that could have been paid by the party found in contempt in relation to the amount of support that was ordered paid~~+~~1
- c. the present capacity of the party found in contempt to pay any arrearages~~+~~1
- d. any ~~willful actions taken~~ attempt by the party found in contempt to reduce ~~factor e~~ or avoid any arrearage,
- e. the past history of compliance or noncompliance with the support or visitation order~~+~~1 and
- f. willful acts to avoid the jurisdiction of the court.

2. In the case of indirect contempt for the failure to comply with an order for child support, any person who willfully and without lawful excuse violates such order, shall, upon conviction thereof, be punished by imprisonment in the county jail for:

- a. not less than five (5) days nor more than ten (10) days if the amount owed is less than Two Thousand Five Hundred Dollars (\$2,500.00), or
- b. not less than ten (10) days nor more than twenty (20) days if the amount owed is more than Two Thousand Five Hundred Dollars (\$2,500.00).

3. When a court of competent jurisdiction makes an order compelling a parent to furnish monetary support, necessary food, clothing, shelter, medical attention, medical insurance or other remedial care for the minor child of the parent:

- a. proof that:
 - (1) the order was made, filed, and served on the parent, or

- (2) the parent had actual knowledge of the existence of the order, or
- (3) the order was granted by default after prior due process notice to the parent, or
- (4) the parent was present in court at the time the order was pronounced; and

b. proof of noncompliance with the order, shall be prima facie evidence of an indirect civil contempt of court.

SECTION 2. This act shall become effective September 1, 1994.

44-2-1368

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