

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 851

By: Williamson

AS INTRODUCED

An Act relating to criminal procedure; amending 21 O.S. 2001, Section 566, as amended by Section 1, Chapter 461, O.S.L. 2002 (21 O.S. Supp. 2004, Section 566), which relates to contempt; requiring issuance of certain warrant under specified circumstances; amending 22 O.S. 2001, Section 456, which relates to felony bench warrants; requiring certain form of warrant for specified offense; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2001, Section 566, as amended by Section 1, Chapter 461, O.S.L. 2002 (21 O.S. Supp. 2004, 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;
- 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;
- c. The present capacity of the party found in contempt to pay any arrearages;
- d. Any willful actions taken by the party found in contempt to reduce factor c;
- e. The past history of compliance or noncompliance with the support or visitation order; and
- f. Willful acts to avoid the jurisdiction of the court.

2. 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.

C. Any court in this state of competent jurisdiction where venue is proper for collection of child support through income

assignment as provided by subsection I of Section 1171.3 of Title 12 of the Oklahoma Statutes has the power to enforce an order for child support, other support, visitation, or other court orders regarding minor children of any other court in this state of competent jurisdiction and to punish an individual for failure to comply therewith, as set forth in subsection A of this section. A court shall issue a felony bench warrant, as provided in Section 456 of Title 22 of the Oklahoma Statutes, for a person who fails to appear at a child support contempt hearing.

SECTION 2. AMENDATORY 22 O.S. 2001, Section 456, is amended to read as follows:

Section 456. The bench warrant must, if the offense is a felony or a failure to appear at a child support contempt hearing, be substantially in the following form:

County of.....

State of Oklahoma,

To any sheriff, constable, policeman or marshal in this state:

An indictment having been found (or information filed) on the day of , A. D., 19... , in the district court in and for the county of , charging C. D. with the crime of , (designating it generally) you are therefore commanded forthwith to arrest the above named C. D., and bring him before the court (or before the court to which the indictment or information may have been removed, naming it) to answer said indictment or information; or if the court have adjourned for the term, that you deliver him into the custody of the sheriff of the county of

Given under my hand, with the seal of said court affixed this day of A. D., 19.....

By order of the court.

(Seal)

E. F., Clerk.

SECTION 3. This act shall become effective November 1, 2005.

50-1-811

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