

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 1994

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5
6 AS INTRODUCED

7 An Act relating to crimes and punishments; amending
8 Section 13, Chapter 407, O.S.L. 2008 (21 O.S. Supp.
9 2008, Section 566.1), which relates to indirect
10 contempt of court in certain circumstances;
11 establishing burden of proof requirement; and
12 providing an effective date.

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

14 SECTION 1. AMENDATORY Section 13, Chapter 407, O.S.L.
15 2008 (21 O.S. Supp. 2008, Section 566.1), is amended to read as
16 follows:

17 Section 566.1 A. When a court of competent jurisdiction has
18 entered an order compelling a parent to furnish child support,
19 necessary food, clothing, shelter, medical support, payment of child
20 care expenses, or other remedial care for the minor child of the
21 parent:

22 1. Proof that:

23 a. the order was made, filed, and served on the parent,
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1 b. the parent had actual knowledge of the existence of
2 the order,

3 c. the order was granted by default after prior due
4 process notice to the parent, or

5 d. the parent was present in court at the time the order
6 was pronounced; and

7 2. Proof of noncompliance with the order,

8 shall be prima facie evidence of an indirect civil contempt of
9 court.

10 B. 1. In the case of indirect contempt for the failure to
11 comply with an order for child support, child support arrears, or
12 other support, punishment shall be, at the discretion of the court:

13 a. incarceration in the county jail not exceeding six (6)
14 months, or

15 b. incarceration in the county jail on weekends or at
16 other times that allow the obligor to be employed,
17 seek employment or engage in other activities ordered
18 by the court.

19 2. Punishment may also include imposition of a fine in a sum
20 not exceeding Five Hundred Dollars (\$500.00).

21 C. Indirect contempt of court shall be established by clear and
22 convincing evidence.

23 D. 1. During proceedings for indirect contempt of court, the
24 court may order the obligor to complete an alternative program and

1 comply with a payment plan for child support and arrears. If the
2 obligor fails to complete the alternative program and comply with
3 the payment plan, the court shall proceed with the indirect contempt
4 and shall impose punishment pursuant to subsection B of this
5 section.

6 2. An alternative program may include:

7 a. a problem-solving court program for obligors when
8 child support services under the state child support
9 plan as provided in Section 237 of Title 56 of the
10 Oklahoma Statutes are being provided for the benefit
11 of the child. A problem-solving court program is an
12 immediate and highly structured judicial intervention
13 process for the obligor and requires completion of a
14 participation agreement by the obligor and monitoring
15 by the court. A problem-solving court program differs
16 in practice and design from the traditional
17 adversarial contempt prosecution and trial systems.
18 The problem-solving court program uses a team approach
19 administered by the judge in cooperation with a child
20 support state's attorney and a child support court
21 liaison who focuses on removing the obstacles causing
22 the nonpayment of the obligor. The obligors in this
23 program shall be required to sign an agreement to
24 participate in this program as a condition of the

1 Department of Human Services agreement to stay
2 contempt proceedings or in lieu of incarceration after
3 a finding of guilt. The court liaisons assess the
4 needs of the obligor, develop a community referral
5 network, make referrals, monitor the compliance of the
6 obligor in the program, and provide status reports to
7 the court, and

- 8 b. participation in programs such as counseling,
9 treatment, educational training, social skills
10 training or employment training to which the obligor
11 reports daily or on a regular basis at specified times
12 for a specified length of time.

13 ~~D.~~ E. In the case of indirect contempt for the failure to
14 comply with an order for child support, child support arrears, or
15 other support, the Supreme Court shall promulgate guidelines for
16 determination of the sentence and purge fee. If the court fails to
17 follow the guidelines, the court shall make a specific finding
18 stating the reasons why the imposition of the guidelines would
19 result in inequity. The factors that shall be used in determining
20 the sentence and purge fee are:

- 21 1. The proportion of the child support, child support arrearage
22 payments, or other support that was unpaid in relation to the amount
23 of support that was ordered paid;

1 2. The proportion of the child support, child support arrearage
2 payments, or other support that could have been paid by the party
3 found in contempt in relation to the amount of support that was
4 ordered paid;

5 3. The present capacity of the party found in contempt to pay
6 any arrearages;

7 4. Any willful actions taken by the party found in contempt to
8 reduce the capacity of that party to pay any arrearages;

9 5. The past history of compliance or noncompliance with the
10 support order; and

11 6. Willful acts to avoid the jurisdiction of the court.

12 SECTION 2. This act shall become effective November 1, 2009.

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14 52-1-5956 SDR 01/07/09

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