

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 54th Legislature (2013)

4   HOUSE BILL 2166

                              By: Echols of the House

5   and

6   Crain of the Senate

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8  
9                                       AS INTRODUCED

10           An Act relating to child support; amending 21 O.S.  
11           2011, Section 566.1, which relates to contempt for  
12           failure to pay child support; permitting judge to  
          order willfully unemployed obligor complete certain  
          community service program, if available; and  
          providing an effective date.

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

16           SECTION 1.        AMENDATORY        21 O.S. 2011, Section 566.1, is  
17   amended to read as follows:

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

23           1.   Proof that:

1 a. the order was made, filed, and served on the parent,

2 b. the parent had actual knowledge of the existence of  
3 the order,

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

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

8 2. Proof of noncompliance with the order,

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

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

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

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

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

22 3. In the case of indirect contempt for the failure to comply  
23 with an order for child support, child support arrears, or other

1 support, if the court finds by a preponderance of the evidence that  
2 the obligor is willfully unemployed, the court may require the  
3 obligor to work two (2) eight-hour days per week in a community  
4 service program as defined in Section 339.7 of Title 19 of the  
5 Oklahoma Statutes, if the county commissioners of that county have  
6 implemented a community service program.

7 C. 1. During proceedings for indirect contempt of court, the  
8 court may order the obligor to complete an alternative program and  
9 comply with a payment plan for child support and arrears. If the  
10 obligor fails to complete the alternative program and comply with  
11 the payment plan, the court shall proceed with the indirect contempt  
12 and shall impose punishment pursuant to subsection B of this  
13 section.

14 2. An alternative program may include:

15 a. a problem-solving court program for obligors when  
16 child support services under the state child support  
17 plan as provided in Section 237 of Title 56 of the  
18 Oklahoma Statutes are being provided for the benefit  
19 of the child. A problem-solving court program is an  
20 immediate and highly structured judicial intervention  
21 process for the obligor and requires completion of a  
22 participation agreement by the obligor and monitoring  
23 by the court. A problem-solving court program differs  
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1 in practice and design from the traditional  
2 adversarial contempt prosecution and trial systems.  
3 The problem-solving court program uses a team approach  
4 administered by the judge in cooperation with a child  
5 support state's attorney and a child support court  
6 liaison who focuses on removing the obstacles causing  
7 the nonpayment of the obligor. The obligors in this  
8 program shall be required to sign an agreement to  
9 participate in this program as a condition of the  
10 Department of Human Services agreement to stay  
11 contempt proceedings or in lieu of incarceration after  
12 a finding of guilt. The court liaisons assess the  
13 needs of the obligor, develop a community referral  
14 network, make referrals, monitor the compliance of the  
15 obligor in the program, and provide status reports to  
16 the court, and

- 17 b. participation in programs such as counseling,  
18 treatment, educational training, social skills  
19 training or employment training to which the obligor  
20 reports daily or on a regular basis at specified times  
21 for a specified length of time.

22 D. In the case of indirect contempt for the failure to comply  
23 with an order for child support, child support arrears, or other  
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1 support, the Supreme Court shall promulgate guidelines for  
2 determination of the sentence and purge fee. If the court fails to  
3 follow the guidelines, the court shall make a specific finding  
4 stating the reasons why the imposition of the guidelines would  
5 result in inequity. The factors that shall be used in determining  
6 the sentence and purge fee are:

7 1. The proportion of the child support, child support arrearage  
8 payments, or other support that was unpaid in relation to the amount  
9 of support that was ordered paid;

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

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

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

18 5. The past history of compliance or noncompliance with the  
19 support order; and

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

21 SECTION 2. This act shall become effective November 1, 2013.

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23 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/06/2013 - DO  
24 PASS, As Coauthored.