

1 **SENATE FLOOR VERSION**

2 March 19, 2013

3 ENGROSSED HOUSE  
4 BILL NO. 2166

By: Echols, Nelson, Pittman,  
Stiles, Bennett,  
Wesselhoft, Hulbert, Henke,  
Biggs, O'Donnell, Smalley,  
Cooksey and Cox of the  
House

7 and

8 Crain of the Senate

9  
10  
11 An Act relating to child support; amending 21 O.S.  
12 2011, Section 566.1, which relates to contempt for  
13 failure to pay child support; permitting judge to  
14 order willfully unemployed obligor to complete  
15 certain community service program, if available; and  
16 providing an effective date.

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

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

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

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  
24 support, if the court finds by a preponderance of the evidence that

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

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

13 2. An alternative program may include:

14 a. a problem-solving court program for obligors when  
15 child support services under the state child support  
16 plan as provided in Section 237 of Title 56 of the  
17 Oklahoma Statutes are being provided for the benefit  
18 of the child. A problem-solving court program is an  
19 immediate and highly structured judicial intervention  
20 process for the obligor and requires completion of a  
21 participation agreement by the obligor and monitoring  
22 by the court. A problem-solving court program differs  
23 in practice and design from the traditional  
24 adversarial contempt prosecution and trial systems.

1           The problem-solving court program uses a team approach  
2           administered by the judge in cooperation with a child  
3           support state's attorney and a child support court  
4           liaison who focuses on removing the obstacles causing  
5           the nonpayment of the obligor. The obligors in this  
6           program shall be required to sign an agreement to  
7           participate in this program as a condition of the  
8           Department of Human Services agreement to stay  
9           contempt proceedings or in lieu of incarceration after  
10          a finding of guilt. The court liaisons assess the  
11          needs of the obligor, develop a community referral  
12          network, make referrals, monitor the compliance of the  
13          obligor in the program, and provide status reports to  
14          the court, and

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

20          D. In the case of indirect contempt for the failure to comply  
21          with an order for child support, child support arrears, or other  
22          support, the Supreme Court shall promulgate guidelines for  
23          determination of the sentence and purge fee. If the court fails to  
24          follow the guidelines, the court shall make a specific finding

1 stating the reasons why the imposition of the guidelines would  
2 result in inequity. The factors that shall be used in determining  
3 the sentence and purge fee are:

4 1. The proportion of the child support, child support arrearage  
5 payments, or other support that was unpaid in relation to the amount  
6 of support that was ordered paid;

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

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

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

15 5. The past history of compliance or noncompliance with the  
16 support order; and

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

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

19 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
20 March 19, 2013 - DO PASS  
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