

STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

HOUSE BILL 2166

By: Echols

AS INTRODUCED

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

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

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

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

1. Proof that:

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

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

3 d. the parent was present in court at the time the order
4 was pronounced; and

5 2. Proof of noncompliance with the order,

6 shall be prima facie evidence of an indirect civil contempt of
7 court.

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

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

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

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

19 3. In the case of indirect contempt for the failure to comply
20 with an order for child support, child support arrears, or other
21 support, if the court finds by a preponderance of the evidence that
22 the obligor is willfully unemployed, the court may require the
23 obligor to work two (2) eight-hour days per week in a community
24 service program as defined in Section 339.7 of Title 19 of the

1 Oklahoma Statutes, if the county commissioners of that county have
2 implemented a community service program.

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

10 2. An alternative program may include:

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

liaison who focuses on removing the obstacles causing the nonpayment of the obligor. The obligors in this program shall be required to sign an agreement to participate in this program as a condition of the Department of Human Services agreement to stay contempt proceedings or in lieu of incarceration after a finding of guilt. The court liaisons assess the needs of the obligor, develop a community referral network, make referrals, monitor the compliance of the obligor in the program, and provide status reports to the court, and

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

D. In the case of indirect contempt for the failure to comply with an order for child support, child support arrears, or other support, the Supreme Court shall promulgate guidelines for determination of the sentence and purge fee. If the court fails to follow the 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:

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

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

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

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

12 5. The past history of compliance or noncompliance with the
13 support order; and

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

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

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