

Regular Session, 2010

SENATE BILL NO. 475

BY SENATOR QUINN

CRIME/PUNISHMENT. Provides relative to failure to pay child support obligation.
(8/15/10)

1 AN ACT

2 To amend and reenact R.S. 14:75(B) and (C)(1), (2), (3) and (4), relative to the crime of
3 failure to pay child support obligation; to provide for elements of the crime; to
4 provide for penalties; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 14:75(B) and (C)(1), (2), (3), and (4) are hereby amended and
7 reenacted to read as follows:

8 §75. Failure to pay child support obligation

9 * * *

10 B. It shall be unlawful for any obligor to intentionally fail to pay a support
11 obligation for any child who resides in the state of Louisiana, ~~if such obligation has~~
12 ~~remained unpaid for a period longer than one year or is greater than five thousand~~
13 ~~dollars.~~

14 C.(1) For a first offense when the obligor is more than thirty days late, the
15 penalty for failure to pay a legal child support obligation shall be a fine of ~~not more~~
16 ~~than five hundred dollars or imprisonment for not more than six months, or both.~~ no
17 less than five percent and no more than fifty percent of the outstanding child

1 support obligation. Additionally, the court may order imprisonment for not
2 more than six months, which may include home incarceration for the purpose
3 of allowing the obligor to work.

4 (2) For a second or subsequent offense which occurs within twelve months
5 of a first offense as set forth in Paragraph (C)(1) of this Section, whether or not
6 previously adjudicated as a first offense, the penalty for failure to pay a legal child
7 support obligation shall be a fine of ~~not more than twenty-five hundred dollars or~~
8 ~~imprisonment with or without hard labor for not more than two years, or both.~~ not
9 less than ten percent and not more than one hundred percent of the outstanding
10 child support obligation. Additionally, the court may order imprisonment with
11 or without hard labor for not more than two years.

12 (3) For a third or subsequent offense which occurs within twenty-four
13 months of a first and second offense as set forth in Paragraph (C)(1) of this
14 Section, whether or not previously adjudicated as a first or second offense, the
15 penalty for failure to pay a legal child support obligation shall be a fine of not
16 less than fifteen percent of the outstanding child support obligation.
17 Additionally, the court shall order imprisonment with or without hard labor for
18 not less than ten days nor more than two years.

19 ~~(3)~~ (4) Upon a conviction under this statute, the court shall order restitution
20 in an amount equal to the total unpaid support obligation as it exists at the time of
21 sentencing.

22 ~~(4)~~ In any case in which restitution is made prior to the time of sentencing,
23 the court may suspend all or any portion of the imposition or execution of the
24 sentence otherwise required in this Subsection.

25 * * *

The original instrument was prepared by Michael Bell. The following digest, which does not constitute a part of the legislative instrument, was prepared by Nancy Vicknair.

DIGEST

Quinn (SB 475)

Present law creates the "Deadbeat Parent's Punishment Act of Louisiana" and provides that it will be unlawful for any obligor to intentionally fail to pay a support obligation for any child who resides in the state of Louisiana, if such obligation has remained unpaid for a period longer than one year or is greater than \$5,000.

Proposed law retains present law but deletes requirement that the obligation remain unpaid for a period longer than one year or greater than \$5,000.

Present law provides that on a first offense, the penalty for failure to pay a legal child support obligation is a fine of not more than \$500 or imprisonment for not more than six months, or both.

Proposed law provides that on a first offense, when the obligor is more than 30 days late, the penalty for failure to pay a legal child support obligation will be a fine of no less than 5% and no more than 50% of the outstanding child support obligation. Additionally, the court may order imprisonment for not more than six months, which may include home incarceration for the purpose of allowing the obligor to work.

Present law provides that on a second or subsequent offense, the penalty for failure to pay a legal child support obligation will be a fine of not more than \$2,500 or imprisonment with or without hard labor for not more than two years, or both.

Proposed law provides that on a second or subsequent offense, which occurs within 12 months of a first offense, whether or not previously adjudicated as a first offense, the penalty for failure to pay a legal child support obligation will be a fine of not less than 10% and not more than 100% of the outstanding child support obligation and the deadbeat parent will be imprisoned with or without hard labor for not more than 2 years.

Proposed law provides that for a third or subsequent offense which occurs within 24 months of a first and second offense, whether or not previously adjudicated as a first or second offense, the penalty for failure to pay a legal child support obligation will be a fine of not less than 15% of the outstanding child support obligation. Further provides that the court will order imprisonment with or without hard labor for not less than 10 days nor more than 2 years.

Effective August 15, 2010.

(Amends R.S. 14:75(B) and (C)(1),(2),(3) and (4))

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill.

1. Adds 30-day time frame of delinquency to make first offense penalty applicable.
2. Changes the penalties for first offense nonpayment of child support obligations from a fine of not more than \$500 or imprisonment for not more than 6 months to a fine of not less than 5% and not more than 100% of the

child support obligation.

3. Adds 12-month and 24-month time frames for penalties for multiple offenses to be applicable.
4. Changes the penalties for second and subsequent offenses of nonpayment of child support obligations from not more than \$2,500 or imprisonment for not more than 2 years, or both to not less than 10% and no more than 100% of the outstanding child support obligation.
5. Deletes proposed law award of attorney fees.
6. Authorizes imprisonment for second or subsequent offenses to not more than 2 years.
7. Adds provisions for third or subsequent offenses.
8. Deletes the provision authorizing suspension of any portion of a sentence if restitution is made prior to the time of sentencing.