



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5641

by Rep. Deborah Conroy

SYNOPSIS AS INTRODUCED:

750 ILCS 16/15

Amends the Non-Support Punishment Act. Provides that it is a Class 4 felony if a person willfully fails to pay a support obligation required under a court or administrative order for support, if the obligation has remained unpaid for a period longer than 1 year, or is in arrears in an amount greater than \$15,000 (instead of \$20,000), and the person has the ability to provide the support.

LRB098 17189 HEP 52278 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning family law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Non-Support Punishment Act is amended by
5 changing Section 15 as follows:

6 (750 ILCS 16/15)

7 Sec. 15. Failure to support.

8 (a) A person commits the offense of failure to support when
9 he or she:

10 (1) willfully, without any lawful excuse, refuses to
11 provide for the support or maintenance of his or her
12 spouse, with the knowledge that the spouse is in need of
13 such support or maintenance, or, without lawful excuse,
14 deserts or willfully refuses to provide for the support or
15 maintenance of his or her child or children in need of
16 support or maintenance and the person has the ability to
17 provide the support; or

18 (2) willfully fails to pay a support obligation
19 required under a court or administrative order for support,
20 if the obligation has remained unpaid for a period longer
21 than 6 months, or is in arrears in an amount greater than
22 \$5,000, and the person has the ability to provide the
23 support; or

1 (3) leaves the State with the intent to evade a support
2 obligation required under a court or administrative order
3 for support, if the obligation, regardless of when it
4 accrued, has remained unpaid for a period longer than 6
5 months, or is in arrears in an amount greater than \$10,000;
6 or

7 (4) willfully fails to pay a support obligation
8 required under a court or administrative order for support,
9 if the obligation has remained unpaid for a period longer
10 than one year, or is in arrears in an amount greater than
11 \$15,000 ~~\$20,000~~, and the person has the ability to provide
12 the support.

13 (a-5) Presumption of ability to pay support. The existence
14 of a court or administrative order of support that was not
15 based on a default judgment and was in effect for the time
16 period charged in the indictment or information creates a
17 rebuttable presumption that the obligor has the ability to pay
18 the support obligation for that time period.

19 (b) Sentence. A person convicted of a first offense under
20 subdivision (a)(1) or (a)(2) is guilty of a Class A
21 misdemeanor. A person convicted of an offense under subdivision
22 (a)(3) or (a)(4) or a second or subsequent offense under
23 subdivision (a)(1) or (a)(2) is guilty of a Class 4 felony.

24 (c) Expungement. A person convicted of a first offense
25 under subdivision (a)(1) or (a)(2) who is eligible for the
26 Earnfare program, shall, in lieu of the sentence prescribed in

1 subsection (b), be referred to the Earnfare program. Upon
2 certification of completion of the Earnfare program, the
3 conviction shall be expunged. If the person fails to
4 successfully complete the Earnfare program, he or she shall be
5 sentenced in accordance with subsection (b).

6 (d) Fine. Sentences of imprisonment and fines for offenses
7 committed under this Act shall be as provided under Articles 8
8 and 9 of Chapter V of the Unified Code of Corrections, except
9 that the court shall order restitution of all unpaid support
10 payments and may impose the following fines, alone, or in
11 addition to a sentence of imprisonment under the following
12 circumstances:

13 (1) from \$1,000 to \$5,000 if the support obligation has
14 remained unpaid for a period longer than 2 years, or is in
15 arrears in an amount greater than \$1,000 and not exceeding
16 \$10,000;

17 (2) from \$5,000 to \$10,000 if the support obligation
18 has remained unpaid for a period longer than 5 years, or is
19 in arrears in an amount greater than \$10,000 and not
20 exceeding \$20,000; or

21 (3) from \$10,000 to \$25,000 if the support obligation
22 has remained unpaid for a period longer than 8 years, or is
23 in arrears in an amount greater than \$20,000.

24 (e) Restitution shall be ordered in an amount equal to the
25 total unpaid support obligation as it existed at the time of
26 sentencing. Any amounts paid by the obligor shall be allocated

1 first to current support and then to restitution ordered and
2 then to fines imposed under this Section.

3 (f) For purposes of this Act, the term "child" shall have
4 the meaning ascribed to it in Section 505 of the Illinois
5 Marriage and Dissolution of Marriage Act.

6 (Source: P.A. 91-613, eff. 10-1-99; 92-876, eff. 6-1-03.)