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HOUSE BILL NO. 320

Offered January 14, 2004

Prefiled January 12, 2004

A BILL to amend and reenact § 16.1-278.16 of the Code of Virginia, relating to capias for nonsupport.

Patron—Kilgore

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 16.1-278.16 of the Code of Virginia is amended and reenacted as follows:**

§ 16.1-278.16. Failure to comply with support obligation; payroll deduction; commitment.

In cases involving (i) the custody, visitation or support of a child arising under subdivision A 3 of § 16.1-241, (ii) spousal support arising under subsection L of § 16.1-241, (iii) support, maintenance, care, and custody of a child or support and maintenance of a spouse transferred to the juvenile and domestic relations district court pursuant to § 20-79, or (iv) motions to enforce administrative support orders entered pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, when the court finds that the respondent (i) has failed to perform or comply with a court order concerning the custody and visitation of a child or a court or administrative order concerning the support and maintenance of a child or a court order concerning the support and maintenance of a spouse or (ii) under existing circumstances, is under a duty to render support or additional support to a child or pay the support and maintenance of a spouse, the court may order a payroll deduction as provided in § 20-79.1, or the giving of a recognizance as provided in § 20-114. ~~If the court, upon petition, finds that the respondent has failed to perform or comply with such order, and personal or substitute service has been obtained, the court may issue a civil show cause summons or a capias pursuant to this section.~~ The court also may order the commitment of the person as provided in § 20-115 or the court may, in its discretion, impose a sentence of up to ~~twelve~~ 12 months in jail, notwithstanding the provisions of §§ 16.1-69.24 and 18.2-458, relating to punishment for contempt. If the court finds that an employer, who is under a payroll deduction order pursuant to § 20-79.1, has failed to comply with such order after being given a reasonable opportunity to show cause why he failed to comply with such order, then the court may proceed to impose sanctions on the employer pursuant to subdivision A 9 of § 20-79.3.

Proceedings to enforce compliance with support orders shall be commenced by the filing of a motion for a civil show cause summons or a criminal show cause summons with the court. If a respondent fails to appear at a hearing after the service of a show cause summons by any manner as provided by law or cannot be found at the address that the respondent has provided to the court or to the Division of Child Support Enforcement, the court may issue a capias for failure to comply with the support order.

INTRODUCED

HB320