

2010 SESSION

HOUSE SUBSTITUTE

10104596D

HOUSE BILL NO. 40

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on January 27, 2010)

(Patron Prior to Substitute—Delegate Orrock)

A BILL to amend and reenact § 20-61 of the Code of Virginia, relating to criminal nonsupport; disabled parent.

Be it enacted by the General Assembly of Virginia:

1. That § 20-61 of the Code of Virginia is amended and reenacted as follows:

§ 20-61. Desertion or nonsupport of wife, husband or children in necessitous circumstances.

Any spouse who without cause deserts or willfully neglects or refuses or fails to provide for the support and maintenance of his or her spouse, and any parent who deserts or willfully neglects or refuses or fails to provide for the support and maintenance of his or her child under the age of eighteen years of age, or child of whatever age who is crippled or otherwise incapacitated from earning a living, the spouse, child or children being then and there in necessitous circumstances, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not exceeding \$500, or confinement in jail not exceeding twelve months, or both, or on work release employment as provided in § 53.1-131 for a period of not less than ninety days nor more than twelve months; or in lieu of the fine or confinement being imposed upon conviction by the court or by verdict of a jury he or she may be required by the court to suffer a forfeiture of an amount not exceeding the sum of \$1,000 and the fine or forfeiture may be directed by the court to be paid in whole or in part to the spouse, or to the guardian, curator, custodian or trustee of the minor child or children, or to some discreet person or responsible organization designated by the court to receive it. This section shall not apply to ~~any~~ the parent of ~~any~~ a child of whatever age, if the child qualifies for and is receiving aid under a federal or state program for aid to the permanently and totally disabled; or is an adult and meets the visual requirements for aid to the blind; *however, such parent is subject to prosecution under this section for the desertion or nonsupport of another child who is not receiving such aid or of a spouse*; and for this purpose any state agency shall use only the financial resources of the child of whatever age in determining eligibility.

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