

LD4179324

HOUSE BILL NO. 2504

Offered January 23, 1995

A BILL to amend and reenact § 20-61 of the Code of Virginia, relating to nonsupport of a spouse or child; penalty.

Patron—Marshall

Referred to Committee for Courts of Justice

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, *except as otherwise provided in this section*, 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 .~~ *In lieu of the fine or confinement being imposed upon conviction by the court or by verdict of a jury he or she, the person* 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.

A violation of this section involving the failure to provide child support for a total accumulated period of twenty-six weeks out of 104 consecutive weeks, whether or not the twenty-six weeks were consecutive weeks, shall be punishable as a Class 6 felony. In any case where a failure to provide child support violates a court or administrative order, in addition to any other penalty or sanction otherwise imposed, the court shall assess all court costs and reasonable attorney's fees incurred by the party, other than the Commonwealth, against the parent who failed to pay.

This section shall not apply to any parent of any 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; and for this purpose any state agency shall use only the financial resources of the child of whatever age in determining eligibility.

2. That the provisions of this act may result in a net increase in periods of imprisonment in state correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0.

INTRODUCED

HB2504