

STATE OF NEW YORK

8385

2025-2026 Regular Sessions

IN ASSEMBLY

May 13, 2025

Introduced by M. of A. BURROUGHS -- read once and referred to the
Committee on Judiciary

AN ACT to amend the family court act, in relation to decreasing the
amount of time courts can imprison an individual for the non-payment
of child support and requiring courts to order alternatives to impri-
sonment prior to imprisoning an individual for the non-payment of
child support

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. Subdivisions 1 and 3 of section 454 of the family court
2 act, as amended by chapter 892 of the laws of 1986, paragraph (b) of
3 subdivision 3 as added and paragraph (c) of subdivision 3 as relettered
4 by chapter 699 of the laws of 1996, are amended to read as follows:

5 1. (a) If a respondent is brought before the court for failure to obey
6 any lawful order of support and if, after hearing, the court is satis-
7 fied by competent proof that the respondent has failed to obey any such
8 order, the court may use any or all of the powers conferred upon it by
9 this part. The court has the power to use any or all enforcement powers
10 in every proceeding brought for violation of a court order under this
11 part regardless of the relief requested in the petition.

12 (b) In determining whether a respondent has willfully failed to obey
13 any lawful order of support for the purposes of subdivision three of
14 this section, the court shall not make such a determination unless such
15 willfulness is proven beyond a reasonable doubt during the hearing
16 required pursuant to paragraph (a) of this subdivision.

17 3. Upon a finding by the court that a respondent has willfully failed
18 to obey any lawful order of support, the court shall order respondent to
19 pay counsel fees to the attorney representing petitioner pursuant to
20 section four hundred thirty-eight of this act and may in addition to or
21 in lieu of any or all of the powers conferred in subdivision two of this
22 section or any other section of law:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD11292-03-5

1 (a) commit the respondent to jail for a term not to exceed [~~six~~
2 ~~months~~] five days for each failure to obey any lawful order of support.
3 The respondent shall not be committed for a period exceeding thirty
4 days. [~~For purposes of this subdivision, failure to pay support, as~~
5 ~~ordered, shall constitute prima facie evidence of a willful violation.~~]

6 Such commitment may be served upon certain specified days or parts of
7 days as the court may direct, and the court may, at any time within the
8 term of such sentence, revoke such suspension and commit the respondent
9 for the remainder of the original sentence, or suspend the remainder of
10 such sentence. Such commitment does not prevent the court from subse-
11 quently committing the respondent for failure thereafter to comply with
12 any such order. The court shall not commit a respondent to jail before
13 considering and ordering other alternatives, including but not limited
14 to requiring the respondent to participate in a rehabilitative program
15 pursuant to paragraph (b) of this subdivision; or

16 (b) require the respondent to participate in a rehabilitative program
17 if the court determines that such participation would assist the
18 respondent in complying with such order of support and access to such a
19 program is available. Such rehabilitative programs shall include, but
20 not be limited to, work preparation and skill programs, non-residential
21 alcohol and substance abuse programs and educational programs; or

22 (c) place the respondent on probation under such conditions as the
23 court may determine and in accordance with the provisions of the crimi-
24 nal procedure law.

25 § 2. This act shall take effect immediately.