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 imprisonment prior to imprisoning an individual for the non-payment of child support

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

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

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

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

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

(a) commit the respondent to jail for a term not to exceed [~~six months~~] **five days for each failure to obey any lawful order of support. The respondent shall not be committed for a period exceeding thirty days**. [~~For purposes of this subdivision, failure to pay support, as ordered, shall constitute prima facie evidence of a willful violation.~~] Such commitment may be served upon certain specified days or parts of days as the court may direct, and the court may, at any time within the term of such sentence, revoke such suspension and commit the respondent for the remainder of the original sentence, or suspend the remainder of such sentence. Such commitment does not prevent the court from subsequently committing the respondent for failure thereafter to comply with any such order**. The court shall not commit a respondent to jail before considering and ordering other alternatives, including but not limited to requiring the respondent to participate in a rehabilitative program pursuant to paragraph (b) of this subdivision**; or

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

(c) place the respondent on probation under such conditions as the court may determine and in accordance with the provisions of the criminal procedure law.

§ 2. This act shall take effect immediately.