

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997  
4

As Engrossed: S2/27/97 S3/10/97

## A Bill

ACT 1282 OF 1997  
SENATE BILL 315

5 By: Senator Mahony  
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### For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED § 5-26-401  
10 PERTAINING TO THE CRIMINAL OFFENSE OF NONSUPPORT; AND FOR  
11 OTHER PURPOSES."  
12

### Subtitle

13 "TO AMEND A.C.A. § 5-26-401 PERTAINING TO  
14 THE CRIMINAL OFFENSE OF NONSUPPORT."  
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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19 SECTION 1. Arkansas Code Annotated § 5-26-401 is amended to read as  
20 follows:

21 "5-26-401. Nonsupport.

22 (a) A person commits the offense of nonsupport if, ~~without just cause,~~  
23 he fails to provide support to:

24 (1) His spouse who is physically or mentally infirm, or  
25 financially dependent; or

26 (2) His legitimate child who is less than eighteen (18) years  
27 old; or

28 (3) His illegitimate child who is less than eighteen (18) years  
29 old and whose parentage has been determined in a previous judicial proceeding;  
30 or

31 (4) His dependent child who is physically or mentally infirm.

32 (b)(1) Nonsupport is a Class A misdemeanor, except that it is a Class D  
33 felony if:

34 (1)(A) The person leaves or remains without the State of  
35 Arkansas ~~with purpose to avoid a legal duty to provide support to another~~  
36 ~~person~~ for more than thirty (30) days while a current duty of support is

1 unpaid; provided, it is an affirmative defense to a charge under this section  
2 that the defendant did not leave or remain outside the state with the purpose  
3 of avoiding the payment of support;

4 ~~\_\_\_\_\_ (2)(B)~~ The person has previously been convicted of  
5 nonsupport; or

6 (C) The person owes more than five thousand dollars  
7 (\$5,000) in past due child support, pursuant to a court order or by operation  
8 of law.

9 (2) Nonsupport is a Class B felony if the person owes more than  
10 twenty-five thousand dollars (\$25,000) in past due child support, pursuant to  
11 a court order or by operation of law.

12 (c) The court may direct that a fine imposed upon conviction of  
13 nonsupport or a bond forfeited in connection with a prosecution for nonsupport  
14 be paid for the support and maintenance of the person entitled to support.

15 (d) The municipal courts located in a county having a population in  
16 excess of two hundred thousand (200,000) inhabitants shall cause a warrant of  
17 arrest to be issued upon affidavits of a spouse or any person who is  
18 responsible for maintenance of dependent children which states that nonsupport  
19 has taken place.

20 (e) Any person found guilty of nonsupport shall also be responsible for  
21 the court costs and administrative costs incurred by the court.

22 (f) The state may take judgment against any defendant convicted of  
23 nonsupport for all moneys expended by any state agency for the support and  
24 maintenance of the person with respect to whom the defendant had a duty to  
25 support."

26 (g) It is an affirmative defense to prosecution under this section that  
27 the defendant had just cause to fail to provide the support.

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29 SECTION 2. All provisions of this act of a general and permanent nature  
30 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
31 Revision Commission shall incorporate the same in the Code.

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33 SECTION 3. If any provision of this act or the application thereof to  
34 any person or circumstance is held invalid, such invalidity shall not affect  
35 other provisions or applications of the act which can be given effect without  
36 the invalid provision or application, and to this end the provisions of this

1 act are declared to be severable.

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3 SECTION 4. All laws and parts of laws in conflict with this act are  
4 hereby repealed.

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*/s/Mahony*

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APPROVED: 4-09-97

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