

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4  
5 By: Senator S. Flowers

# A Bill

SENATE BILL 872

## For An Act To Be Entitled

8 AN ACT REQUIRING THE OFFICE OF CHILD SUPPORT  
9 ENFORCEMENT TO EXHAUST ALL AVAILABLE CIVIL REMEDIES  
10 BEFORE A PERSON COMMITS THE CRIME OF NONSUPPORT; TO  
11 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

## Subtitle

15 AN ACT REQUIRING THE OFFICE OF CHILD  
16 SUPPORT ENFORCEMENT TO EXHAUST ALL  
17 AVAILABLE CIVIL REMEDIES BEFORE A PERSON  
18 COMMITS THE CRIME OF NONSUPPORT AND TO  
19 DECLARE AN EMERGENCY.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

24 SECTION 1. Arkansas Code § 5-26-401(g), regarding defenses to the  
25 crime of nonsupport, is amended to read as follows:

26 (g)(1) It is an affirmative defense to a prosecution under this  
27 section that the defendant had just cause to fail to provide the support.

28 (2) If the Office of Child Support Enforcement of the Revenue  
29 Division of the Department of Finance and Administration is collecting child  
30 support from a person, it is a defense to a prosecution under this section  
31 against the person for failure to support the person's child that the office  
32 has failed to exhaust all available civil remedies against the person,  
33 including without limitation:

34 (A) Filing a petition for contempt in a civil proceeding;

35 (B) Attaching a lien to real or personal property; and

36 (C) Attaching wages.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that unpaid court-ordered child support is a serious problem, the enforcement of which costs the state both time and revenue; that there are civil remedies available to the Office of Child Support Enforcement to collect any outstanding court-ordered child support; and that this act is immediately necessary because these civil remedies need to be employed before criminal charges are brought that may lead to the incarceration of the person owing the court-ordered child support but do nothing toward satisfying the outstanding arrearage. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.