

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2155 Session of
1993

INTRODUCED BY ROONEY, PETRONE, LaGROTTA, BATTISTO, VAN HORNE,
JAROLIN, SERAFINI, RUDY, JOSEPHS, FREEMAN, VEON, RAYMOND,
ULIANA, MELIO, CURRY, LEH, WOZNIAK AND TRELLO,
OCTOBER 13, 1993

REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 13, 1993

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, further providing for criminal
3 penalties.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. The heading and subsections (a) and (b) of
7 section 4354 of Title 23 of the Pennsylvania Consolidated
8 Statutes are amended and the section is amended by adding
9 subsections to read:

10 § 4354. [Willful failure to pay support order] Criminal
11 penalties.

12 (a) Offense defined.--An individual [who willfully] commits
13 a misdemeanor of the third degree if the individual, being a
14 spouse or parent, does any of the following:

15 (1) Separates from a spouse or a child without
16 reasonable cause.

17 (2) Intentionally neglects to maintain a spouse or child

1 who is dependent on the individual's earnings for support.

2 (3) Intentionally fails to comply with a support order
3 of a court of this Commonwealth when the individual has the
4 financial ability to comply with the support order [commits a
5 summary offense].

6 (b) Application.--[This section] Subsection (a)(3) applies
7 to all support cases, whether civil or criminal and whether the
8 defendant is married, unmarried, separated or divorced.

9 * * *

10 (d) Application for relief.--For an alleged offense under
11 subsection (a)(1) or (2), the following shall apply:

12 (1) A spouse or child may file a petition, prepared by
13 the district attorney and joined in and consented to by the
14 alleged violator, in the court of common pleas of the
15 judicial district where the spouse or child resides or in the
16 judicial district where the desertion or failure to maintain
17 took place, setting forth the facts relating to the
18 violation. Upon receipt of the petition, the court shall
19 enter an order fixing a time and place for hearing.

20 (2) A spouse or child, or any other person, may
21 institute a criminal action under 42 Pa.C.S. § 1123 (relating
22 to jurisdiction and venue), 1143 (relating to jurisdiction
23 and venue) or 1515 (relating to jurisdiction and venue).

24 (e) Security.--In a county of the first class, the defendant
25 shall not be required to give security for compliance, or be
26 imprisoned for failure to give security for compliance, unless
27 the court finds on substantial evidence all of the following:

28 (1) The defendant is possessed of property, in
29 sufficient amount and in such form as to enable the defendant
30 to give the required security.

1 (2) The defendant is likely to dissipate assets or flee
2 the jurisdiction.

3 (f) Property subject to execution.--The court may also issue
4 the appropriate writ of execution against any property in which
5 the defendant has legal title or equitable interest. The writ
6 shall remain a continuing levy until the order has been paid in
7 full with costs. The person against whom an order is made shall
8 not be entitled to the benefits of any statutory exemption.
9 Equitable interest under this paragraph includes any trust,
10 whether it is known as a spendthrift trust or otherwise, and
11 whether the trust was created or came into existence before or
12 after the effective date of this subsection.

13 (g) Competency of spouse as witness.--A spouse shall be a
14 competent witness in an action under this section.

15 (h) Disposition of fine.--The court may apply a fine imposed
16 under subsection (a) to the support of the spouse or child.

17 (i) Effect of conviction and sentence on support orders.--
18 Except as provided in subsection (h), no sentence under
19 subsection (a) shall affect the obligation of any order for
20 support made against the defendant in a court of competent
21 jurisdiction. In such a case, the court may suspend sentence
22 upon and during compliance by the defendant with any order for
23 support as already made or as thereafter modified.

24 Section 2. This act shall take effect immediately.