

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2279

02/25/2014 Authored by Lohmer and Pugh

The bill was read for the first time and referred to the Committee on Civil Law

1.1 A bill for an act
1.2 relating to crime; adding a definition of support for the crime of nonsupport of
1.3 spouse or child; amending Minnesota Statutes 2012, section 609.375.
1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2012, section 609.375, is amended to read:

1.6 **609.375 NONSUPPORT OF SPOUSE OR CHILD.**

1.7 Subdivision 1. **Crime defined.** Whoever is legally obligated to provide care and
1.8 support to a spouse or child, whether or not the child's custody has been granted to another,
1.9 and knowingly omits and fails to ~~do so~~ pay support is guilty of a misdemeanor, and upon
1.10 conviction may be sentenced to imprisonment for not more than 90 days or to payment of
1.11 a fine of not more than \$1,000, or both.

1.12 Subd. 2. **Gross misdemeanor violation.** A person who violates subdivision 1 is
1.13 guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than
1.14 one year or to payment of a fine of not more than \$3,000, or both, if:

1.15 (1) the violation continues for a period in excess of 90 days but not more than 180
1.16 days; or

1.17 (2) the person is in arrears in court-ordered ~~child support or maintenance~~ payments;
1.18 ~~or both~~, in an amount equal to or greater than six times but less than nine times the
1.19 person's total monthly support and maintenance payments.

1.20 Subd. 2a. **Felony violation.** A person who violates subdivision 1 is guilty of a
1.21 felony and upon conviction may be sentenced to imprisonment for not more than two
1.22 years or to payment of a fine of not more than \$5,000, or both, if:

1.23 (1) the violation continues for a period in excess of 180 days; or

2.1 (2) the person is in arrears in court-ordered ~~child~~ support ~~or maintenance~~ payments;
2.2 ~~or both~~, in an amount equal to or greater than nine times the person's total monthly support
2.3 ~~and maintenance~~ payments.

2.4 Subd. 2b. **Attempt to obtain contempt order as prerequisite to prosecution.** A
2.5 person may not be charged with violating this section unless there has been an attempt
2.6 to obtain a court order holding the person in contempt for failing to pay support ~~or~~
2.7 ~~maintenance~~ under chapter 518 or 518A. This requirement is satisfied by a showing that
2.8 reasonable attempts have been made at service of the order.

2.9 Subd. 5. **Venue.** A person who violates this section may be prosecuted and tried
2.10 in the county in which the support obligor resides or in the county in which the obligee
2.11 or the child resides.

2.12 Subd. 7. **Conditions of work release; probation violation.** Upon conviction
2.13 under this section, a defendant may obtain work release only upon the imposition of an
2.14 automatic income withholding order, and may be required to post a bond in avoidance of
2.15 jail time and conditioned upon payment of all ~~child~~ support owed. Nonpayment of ~~child~~
2.16 support is a violation of any probation granted following conviction under subdivision 2a.

2.17 Subd. 8. **Defense.** It is an affirmative defense to criminal liability under this section
2.18 if the defendant proves by a preponderance of the evidence that the omission and failure
2.19 to provide ~~care and~~ support ~~were~~ was with lawful excuse.

2.20 Subd. 9. **Definition.** For purposes of this section, "support" means a legal obligation
2.21 under a support order as defined in section 518A.26, subdivision 21.

2.22 **EFFECTIVE DATE.** This section is effective August 1, 2014, and applies to crimes
2.23 committed on or after that date.