
By: Delegates Hubbard, Menes, R. Baker, Grosfeld, M. Burns, Hurson, Owings, Schisler, Frush, Pitkin, Proctor, Hecht, Heller, Shriver, W. Baker, Rosapepe, and Healey

Introduced and read first time: January 20, 1997

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Failure to Pay Spousal or Child Support - Constructive Civil Contempt**

3 FOR the purpose of establishing that, in a constructive civil contempt proceeding for
4 failure to make a payment of court-ordered spousal or child support, inability to
5 pay a certain amount during a certain period is not a defense to civil contempt;
6 providing for certain exceptions; requiring the court to issue a certain written order
7 upon a finding of contempt and specifying the contents of the order; authorizing the
8 court to defer a sanction for a determinate period of time under certain
9 circumstances; and generally relating to constructive civil contempt proceedings for
10 failure to pay court-ordered spousal or child support.

11 BY adding to

12 Article - Family Law
13 Section 10-104
14 Annotated Code of Maryland
15 (1991 Replacement Volume and 1996 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Family Law**

19 10-104.

20 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IN A
21 CONSTRUCTIVE CIVIL CONTEMPT PROCEEDING FOR FAILURE TO MAKE A PAYMENT
22 OF COURT-ORDERED SPOUSAL OR CHILD SUPPORT, INABILITY TO PAY THE FULL
23 AMOUNT OWED UNDER THE ORDER, FROM THE EFFECTIVE DATE OF THE SUPPORT
24 ORDER TO THE DATE OF THE HEARING, IS NOT A DEFENSE TO CIVIL CONTEMPT.

25 (B) AN OBLIGOR MAY NOT BE FOUND IN CONTEMPT UNDER SUBSECTION (A)
26 OF THIS SECTION IF THE OBLIGOR DEMONSTRATES BY CLEAR AND CONVINCING
27 EVIDENCE THAT, FROM THE DATE OF THE SUPPORT ORDER TO THE DATE OF THE
28 HEARING, THE OBLIGOR:

2

1 (1) DID NOT HAVE THE ABILITY TO PAY MORE THAN THE AMOUNT OF
2 THE SUPPORT OBLIGATION THAT WAS ACTUALLY PAID;

3 (2) DID NOT HAVE ACCESS TO THE RESOURCES TO MEET THE CHILD
4 SUPPORT OBLIGATION AND WAS PHYSICALLY OR MENTALLY DISQUALIFIED FROM
5 PERFORMING A JOB; OR

6 (3) WAS INCARCERATED DURING THE ENTIRE PERIOD FOR WHICH THE
7 CONTEMPT ORDER IS BEING SOUGHT.

8 (C) IF A COURT FINDS AN OBLIGOR IN CONTEMPT FOR FAILURE TO PAY
9 SPOUSAL OR CHILD SUPPORT, THE COURT SHALL ISSUE A WRITTEN ORDER
10 STATING:

11 (1) THE AMOUNT OF THE ARREARS;

12 (2) THE SANCTION IMPOSED FOR THE CONTEMPT; AND

13 (3) A METHOD TO ENABLE THE OBLIGOR TO PURGE THE CONTEMPT.

14 (D) AFTER A FINDING OF CIVIL CONTEMPT, A COURT MAY DEFER THE
15 SANCTION FOR A DETERMINATE PERIOD OF TIME TO ALLOW THE OBLIGOR AN
16 OPPORTUNITY TO PURGE THE CONTEMPT FINDING BY:

17 (1) COMPLYING WITH THE ORDER FOR SPOUSAL OR CHILD SUPPORT;

18 (2) SEEKING EMPLOYMENT OR EMPLOYMENT TRAINING AND
19 PERIODICALLY REPORTING THE OBLIGOR'S EFFORTS TO THE COURT; OR

20 (3) DEMONSTRATING OTHER ACTIVITIES THAT, IN THE COURT'S
21 DISCRETION, INDICATE AN ABILITY TO COMPLY WITH THE SUPPORT ORDER.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 1997.