

SENATE BILL 26

Unofficial Copy
D4
SB 297/97 - JPR

1998 Regular Session
8r0230
CF 8r1241

(PRE-FILED)

By: **Senators Green, Forehand, Madden, Haines, Kelley, Hollinger, Colburn, and Middleton**

Requested: August 12, 1997
Introduced and read first time: January 14, 1998
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: February 3, 1998

CHAPTER _____

1 AN ACT concerning

2 **Support Enforcement - Contempt**

3 FOR the purpose of establishing that in certain contempt proceedings for failure to
4 pay court-ordered child or spousal support, the court may find the obligor in
5 contempt based on the failure to pay support; prohibiting the court from making
6 a finding of contempt under certain circumstances; authorizing the court to
7 defer a sentence of incarceration for a determinate period of time with an
8 appropriate purge condition; requiring the court to impose a sentence of
9 incarceration if the obligor fails to comply with the conditions for purging
10 contempt; and generally relating to enforcement of child and spousal support.

11 BY adding to
12 Article - Family Law
13 Section 10-102.1
14 Annotated Code of Maryland
15 (1991 Replacement Volume and 1997 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 10-102.1.

20 (A) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EXCEPT AS
21 PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IN A PROCEEDING FOR

1 CONSTRUCTIVE CIVIL CONTEMPT FOR FAILURE TO PAY CHILD OR SPOUSAL SUPPORT
2 UNDER A COURT ORDER, A COURT MAY FIND THE OBLIGOR IN CONTEMPT BASED ON
3 THE FAILURE TO PAY SUPPORT.

4 (2) THE COURT MAY NOT MAKE A FINDING OF CONTEMPT IF THE
5 OBLIGOR PROVES BY A PREPONDERANCE OF EVIDENCE THAT THE OBLIGOR:

6 (I) NEVER HAD THE ABILITY TO PAY MORE THAN THE AMOUNT
7 ACTUALLY PAID FROM THE DATE OF THE SUPPORT ORDER THROUGH THE DATE OF
8 THE CONTEMPT HEARING;

9 (II) MADE REASONABLE EFFORTS TO BECOME OR REMAIN
10 EMPLOYED OR OTHERWISE LAWFULLY OBTAIN THE FUNDS NECESSARY TO MAKE
11 PAYMENT;

12 (III) LACKED PERSONAL ~~OR REAL~~ PROPERTY THAT COULD BE SOLD;
13 ~~MORTGAGED~~, OR PLEDGED ~~OR REAL~~ PROPERTY THAT COULD BE MORTGAGED OR
14 PLEDGED TO RAISE THE NEEDED SUM;

15 (IV) HAD NO OTHER SOURCE FROM WHICH THE SUM COULD HAVE
16 BEEN BORROWED OR SECURED; OR

17 (V) COULD NOT, FOR SOME OTHER REASON, REASONABLY COMPLY
18 WITH THE ORDER.

19 (B) AFTER A FINDING OF CIVIL CONTEMPT, A COURT MAY DEFER, FOR A
20 DETERMINATE PERIOD OF TIME, A SENTENCE OF INCARCERATION WITH AN
21 APPROPRIATE PURGE PROVISION IN ORDER TO GIVE THE OBLIGOR AN OPPORTUNITY
22 TO REMEDY THE CONTEMPT BY:

23 (1) COMING INTO COMPLIANCE WITH THE ORDER FOR CHILD SUPPORT;

24 (2) SEEKING EMPLOYMENT OR EMPLOYMENT TRAINING AND
25 PERIODICALLY REPORTING TO THE COURT ALL EFFORTS TO FIND EMPLOYMENT; OR

26 (3) TAKING ANY OTHER ACTION THAT, IN THE COURT'S DISCRETION,
27 REASONABLY DEMONSTRATES THAT THE OBLIGOR WILL COMPLY WITH, OR WILL
28 REGAIN THE ABILITY TO COMPLY WITH, THE ORDER FOR SUPPORT.

29 (C) IF THE OBLIGOR REASONABLY FAILS TO COMPLY WITH THE CONDITIONS
30 FOR PURGING CONTEMPT, THE COURT SHALL IMMEDIATELY IMPOSE A SANCTION OF
31 INCARCERATION.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 1998.

