

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 310**

4 (By Senators Palumbo and Cookman)

5 \_\_\_\_\_  
6 [Originating in the Committee on the Judiciary;

7 reported January 21, 2014.]

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10 A BILL to amend and reenact §61-5-29 of the Code of West Virginia,  
11 1931, as amended, relating to adjusting penalties for willful  
12 failure to pay child support; requiring probation and home  
13 confinement instead of confinement in a correctional facility  
14 for first violations; creating the misdemeanor offense of a  
15 second conviction of willfully failing to pay child support;  
16 creating a felony offense of a third or subsequent conviction  
17 of willfully failing to pay child support; and requiring  
18 certain persons convicted of willfully failing to pay child  
19 support to promptly obtain employment or register with  
20 WorkForce West Virginia and complete certain programs.

21 *Be it enacted by the Legislature of West Virginia:*

22 That §61-5-29 of the Code of West Virginia, 1931, as amended,  
23 be amended and reenacted to read as follows:

24 **ARTICLE 5. CRIMES AGAINST PUBLIC JUSTICE.**

25 **§61-5-29. Wilful Failure to Pay Child Support.**

1 (a) Any person who is subject to court order to pay child  
2 support who knowingly and wilfully fails to pay the amount of  
3 support ordered when he or she can reasonably do so for a total of  
4 six months or more shall be guilty of a misdemeanor and, upon  
5 conviction, shall be confined in jail for not more than one year.  
6 A person convicted of a first violation of this subsection shall be  
7 placed on probation upon initial disposition.

8 (b) Any person convicted of a second violation of subsection  
9 (a) of this section shall be guilty of a misdemeanor and, upon  
10 conviction, be confined in jail for not more than one year, fined  
11 not less than \$100 nor more than \$1,000, or both.

12 (c) Any person convicted of a third violation of subsection  
13 (a) of this section shall be guilty of a misdemeanor and, upon  
14 conviction, be confined in jail for not less than ninety days nor  
15 more than one year and fined not less than \$500 or more than  
16 \$1,500.

17 (d) Notwithstanding the provisions of subsection (a) of this  
18 section any person who is subject to a court order to pay child  
19 support who knowingly and wilfully fails to pay the amount of  
20 support ordered when he or she can reasonably do so for a total of  
21 twelve months or more shall be guilty of a felony and, upon  
22 conviction, be imprisoned in a state correction facility for not  
23 less than one year nor more than three years or fined \$1,000 nor  
24 more than \$5,000, or both.

25 (e) Any person convicted of a violation of this section who is  
26 not incarcerated as a result of his or her conviction and who is

1 not gainfully employed shall, as a condition of supervision: (1)  
2 Promptly obtain gainful employment; or (2) Register with WorkForce  
3 West Virginia and actively seek employment or training  
4 therethrough.

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(NOTE: This section is completely re-written; therefore, strike-throughs and underscoring have been omitted.)