

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 310**

(By Senators Palumbo and Cookman)

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[Originating in the Committee on the Judiciary;  
reported January 21, 2014.]

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A BILL to amend and reenact §61-5-29 of the Code of West Virginia, 1931, as amended, relating to adjusting penalties for willful failure to pay child support; requiring probation and home confinement instead of confinement in a correctional facility for first violations; creating the misdemeanor offense of a second conviction of willfully failing to pay child support; creating a felony offense of a third or subsequent conviction of willfully failing to pay child support; and requiring certain persons convicted of willfully failing to pay child support to

promptly obtain employment or register with WorkForce West Virginia and complete certain programs.

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

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

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

**§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  
3 of support ordered when he or she can reasonably do so for  
4 a total of six months or more shall be guilty of a  
5 misdemeanor and, upon conviction, shall be confined in jail  
6 for not more than one year. A person convicted of a first  
7 violation of this subsection shall be placed on probation upon  
8 initial disposition.

9 (b) Any person convicted of a second violation of  
10 subsection (a) of this section shall be guilty of a misdemeanor  
11 and, upon conviction, be confined in jail for not more than

12 one year, fined not less than \$100 nor more than \$1,000, or  
13 both.

14 (c) Any person convicted of a third violation of  
15 subsection (a) of this section shall be guilty of a misdemeanor  
16 and, upon conviction, be confined in jail for not less than  
17 ninety days nor more than one year and fined not less than  
18 \$500 or more than \$1,500.

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

27 (e) Any person convicted of a violation of this section  
28 who is not incarcerated as a result of his or her conviction  
29 and who is not gainfully employed shall, as a condition of  
30 supervision, 1) Promptly obtain gainful employment; or 2)

- 31 Register with WorkForce West Virginia and actively seek
- 32 employment or training therethrough.

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