

SENATE BILL No. 87

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-9-2-123.8; IC 31-16-16-7; IC 35-46-1-5; IC 35-50-2-6.

Synopsis: Nonsupport of a dependent child. Decriminalizes nonsupport of a dependent child and makes it a Class B infraction. Makes it a Class A infraction instead of a Class C felony if the amount of unpaid support is at least \$10,000. Provides for certain defenses. Makes a conforming change.

Effective: July 1, 1998.

Bowser

January 8, 1998, read first time and referred to Committee on Judiciary.



Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

SENATE BILL No. 87

A BILL FOR AN ACT to amend the Indiana Code concerning family law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 31-9-2-123.8 IS ADDED TO THE INDIANA
2 CODE AS A **NEW SECTION** TO READ AS FOLLOWS: **Sec. 123.8.**
3 **"Support", for purposes of IC 31-16-16-7, has the meaning set**
4 **forth in IC 35-46-1-1.**

5 SECTION 2. IC 31-16-16-7 IS ADDED TO THE INDIANA CODE
6 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 1998]: **Sec.7. (a) A person who fails to provide support (as**
8 **defined in IC 35-46-1-1) to the person's dependent child commits**
9 **nonsupport of a child, a Class B infraction. However, the violation**
10 **is a Class A infraction if the amount of unpaid support that is due**
11 **and owing is at least ten thousand dollars (\$10,000).**

12 **(b) It is a defense to an action under this section that the child**
13 **had abandoned the home of the child's family without the consent**
14 **of the child's parent or on the order of a court, but it is not a**
15 **defense to an action under this section that the child had**
16 **abandoned the home of the child's family if the cause of the child's**
17 **leaving was the fault of the child's parent.**



1 **(c) It is a defense to an action under this section that the accused**
 2 **person, in the legitimate practice of the accused person's religious**
 3 **belief, provided treatment by spiritual means through prayer,**
 4 **instead of medical care, to the accused person's dependent child.**

5 **(d) It is a defense that the accused person was unable to provide**
 6 **support.**

7 SECTION 3. IC 35-50-2-6, AS AMENDED BY P.L.213-1996,
 8 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 1998]: Sec. 6. ~~(a)~~ A person who commits a Class C felony
 10 shall be imprisoned for a fixed term of four (4) years, with not more
 11 than four (4) years added for aggravating circumstances or not more
 12 than two (2) years subtracted for mitigating circumstances. In addition,
 13 he may be fined not more than ten thousand dollars (\$10,000).

14 ~~(b) Notwithstanding subsection (a), if a person has committed~~
 15 ~~nonsupport of a child as a Class E felony under IC 35-46-1-5, upon~~
 16 ~~motion of the prosecuting attorney, the court may enter judgment of~~
 17 ~~conviction of a Class D felony under IC 35-46-1-5 and sentence the~~
 18 ~~person accordingly. The court shall enter in the record detailed reasons~~
 19 ~~for the court's action when the court enters a judgment of conviction of~~
 20 ~~a Class D felony under this subsection.~~

21 SECTION 4. IC 35-46-1-5 IS REPEALED [EFFECTIVE JULY 1,
 22 1998].

