

SCS SB 140 -- CRIMINAL NONSUPPORT

This bill allows criminal nonsupport courts to be established by any circuit court to provide an alternative for the disposal of criminal nonsupport cases. The court must combine judicial supervision, substance abuse treatment, education, vocational or employment training, work programs, and support payment plans for participants. Charges and penalties may be dismissed, reduced, or modified based upon the successful completion of the program or support payment plan, the defendant becoming gainfully employed, or the defendant commencing payment of the current and accrued support. Courts may place incarcerated persons on work release subject to conditions mandating payment of child support and any arrearage. The bill establishes a 10-member Criminal Nonsupport Courts Coordinating Commission to coordinate the allocation of resources made available through the newly created Criminal Nonsupport Court Resources Fund. Beginning August 28, 2009, every nonviolent first- and second-time offender incarcerated for criminal nonsupport, who has not previously been placed on probation or parole for the conviction of criminal nonsupport, may be considered for parole or work release.

The penalty for criminal nonsupport will be a class A misdemeanor unless the total arrearage is in excess of the total of 12 monthly payments in which case it will be a class D felony. Currently, it is a class D felony if the person owes more than \$5,000 or has failed to pay six months of payments within the last 12-month period. Individuals on probation and parole for criminal nonsupport may be ordered to begin payment of current support as well as satisfy the arrearages or have their probation or parole revoked and an appropriate sentence imposed unless he or she proves good cause for the failure. The affirmative defense of inability to provide support for good cause must be proven by a preponderance of the evidence.