

SECOND REGULAR SESSION

# HOUSE BILL NO. 1430

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES FLOOK (Sponsor), GATSCHENBERGER, RUESTMAN,  
FUNDERBURK, EMERY, SCHARNHORST, GRISAMORE AND ROORDA (Co-sponsors).

3421L.02I

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 568.040, RSMo, and to enact in lieu thereof two new sections relating to criminal nonsupport, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 568.040, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 313.819 and 568.040, to read as follows:

**313.819. 1. No person who has been found guilty of or has pled guilty to the crime of nonsupport of a spouse or child under section 568.040 shall be admitted on an excursion gambling boat or in a casino in this state until such time as the person has satisfied all arrearages due.**

**2. The family support division within the department of social services shall provide a list to every excursion gambling boat or casino in this state containing the names of all persons known to the division who are barred from admittance on an excursion gambling boat or casino under subsection 1 of this section. Such list shall be updated by the division on at least a monthly basis and may be provided in an electronic format.**

**3. The restriction on admittance to excursion gambling boats and casinos in this state contained in this section is intended to operate as a remedial measure only for the sole purpose of protecting the financial support of the spouse and children in this state.**

**4. Any excursion gambling boat or casino that knowingly permits a person barred from admittance under subsection 1 of this section to gamble on such boat or in such casino shall be subject to a fine of one thousand dollars.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16           **5. Any person who has been barred from admission on an excursion gambling boat**  
17 **under the provisions of this section who then satisfies in full all arrearages may petition the**  
18 **court in the county where he or she was found guilty of or pled guilty to the crime of**  
19 **nonsupport of a spouse or child under section 568.040 to have the court order the family**  
20 **support division within the department of social services to remove such person's name**  
21 **from the list of those who are barred from admittance and further order the family**  
22 **support division to notify all excursion gambling boats and casinos in this state to remove**  
23 **such person's name from their list of persons who are barred. The court shall grant such**  
24 **petition and enter such orders upon proof by the petitioner that all arrearages have been**  
25 **satisfied in full. If the court finds that all arrearages have not been satisfied in full the**  
26 **petition shall be denied.**

          568.040. 1. A person commits the crime of nonsupport if such person knowingly fails  
2 to provide, without good cause, adequate support for his or her spouse; a parent commits the  
3 crime of nonsupport if such parent knowingly fails to provide, without good cause, adequate  
4 support which such parent is legally obligated to provide for his or her child or stepchild who is  
5 not otherwise emancipated by operation of law.

6           2. For purposes of this section:

7           (1) "Child" means any biological or adoptive child, or any child whose paternity has been  
8 established under chapter 454, RSMo, or chapter 210, RSMo, or any child whose relationship  
9 to the defendant has been determined, by a court of law in a proceeding for dissolution or legal  
10 separation, to be that of child to parent;

11           (2) "Good cause" means any substantial reason why the defendant is unable to provide  
12 adequate support. Good cause does not exist if the defendant purposely maintains his **or her**  
13 inability to support;

14           (3) "Support" means food, clothing, lodging, and medical or surgical attention;

15           (4) It shall not constitute a failure to provide medical and surgical attention, if  
16 nonmedical remedial treatment recognized and permitted under the laws of this state is provided.

17           3. Inability to provide support for good cause shall be an affirmative defense under this  
18 section. A person who raises such affirmative defense has the burden of proving the defense by  
19 a preponderance of the evidence.

20           4. The defendant shall have the burden of injecting the issues raised by subdivisions (2)  
21 and (4) of subsection 2 and subsection 3 of this section.

22           5. Criminal nonsupport is a class A misdemeanor, unless the total arrearage is in excess  
23 of an aggregate of twelve monthly payments due under any order of support issued by any court  
24 of competent jurisdiction or any authorized administrative agency, in which case it is a class D  
25 felony.

26           6. If at any time a defendant convicted of criminal nonsupport is placed on probation or  
27 parole, there may be ordered as a condition of probation or parole that the defendant commence  
28 payment of current support as well as satisfy the arrearages. Arrearages may be satisfied first  
29 by making such lump sum payment as the defendant is capable of paying, if any, as may be  
30 shown after examination of defendant's financial resources or assets, both real, personal, and  
31 mixed, and second by making periodic payments. Periodic payments toward satisfaction of  
32 arrears when added to current payments due may be in such aggregate sums as is not greater than  
33 fifty percent of the defendant's adjusted gross income after deduction of payroll taxes, medical  
34 insurance that also covers a dependent spouse or children, and any other court or administrative  
35 ordered support, only. If the defendant fails to pay the current support and arrearages as ordered,  
36 the court may revoke probation or parole and then impose an appropriate sentence within the  
37 range for the class of offense that the defendant was convicted of as provided by law, unless the  
38 defendant proves good cause for the failure to pay as required under subsection 3 of this section.

39           7. During any period that a nonviolent defendant is incarcerated for criminal nonsupport,  
40 if the defendant is ready, willing, and able to be gainfully employed during said period of  
41 incarceration, the defendant, if he or she meets the criteria established by the department of  
42 corrections, may be placed on work release to allow the defendant to satisfy defendant's  
43 obligation to pay support. Arrearages shall be satisfied as outlined in the collection agreement.

44           8. Beginning August 28, 2009, every nonviolent first- and second-time offender then  
45 incarcerated for criminal nonsupport, who has not been previously placed on probation or parole  
46 for conviction of criminal nonsupport, may be considered for parole, under the conditions set  
47 forth in subsection 6 of this section, or work release, under the conditions set forth in subsection  
48 7 of this section.

49           9. [Beginning January 1, 1991,] Every prosecuting attorney in any county which has  
50 entered into a cooperative agreement with the [division of] child support enforcement **service**  
51 **of the family support division of the department of social services** shall report to the division  
52 on a quarterly basis the number of charges filed and the number of convictions obtained under  
53 this section by the prosecuting attorney's office on all IV-D cases. The division shall consolidate  
54 the reported information into a statewide report by county and make the report available to the  
55 general public.

56           10. Persons accused of committing the offense of nonsupport of the child shall be  
57 prosecuted:

58           (1) In any county in which the child resided during the period of time for which the  
59 defendant is charged; or

60           (2) In any county in which the defendant resided during the period of time for which the  
61 defendant is charged.

62           **11. Any person who has been found guilty of or has pled guilty to criminal**  
63 **nonsupport of a spouse or a child under this section shall be barred from admittance on**  
64 **an excursion gambling boat or casino in this state until all arrearages due are satisfied in**  
65 **accordance with section 313.819. The restriction on admittance to excursion gambling**  
66 **boats and casinos in this state contained in this subsection and section 313.819 is intended**  
67 **to operate as a remedial measure only for the sole purpose of protecting the financial**  
68 **support of the spouses and children in this state.**

69           **12. Any person who has been barred from admission on an excursion gambling**  
70 **boat under the provisions of subsection 11 of this section and in accordance with the**  
71 **provisions of section 313.819 who then satisfies in full all arrearages may petition the court**  
72 **in the county where he or she was found guilty of or pled guilty to the crime of nonsupport**  
73 **of a spouse or child to have the court order the family support division within the**  
74 **department of social services to remove such person's name from the list of those who are**  
75 **barred from admittance and further order the family support division to notify all**  
76 **excursion gambling boats and casinos in this state to remove such person's name from their**  
77 **list of persons who are barred. The court shall grant such petition and enter such orders**  
78 **upon proof by the petitioner that all arrearages have been satisfied in full. If the court**  
79 **finds that all arrearages have not been satisfied in full the petition shall be denied.**

80           **13. Any person who violates the provisions of subsection 11 of this section is guilty**  
81 **of a class B misdemeanor.**

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