

## **CHAPTER 12.1-37 CHILD SUPPORT NONPAYMENT**

### **12.1-37-01. Willful failure to pay child support - Classification of offenses - Affirmative defense - Penalty.**

1. A person is guilty of an offense if the person willfully fails to pay child support in an amount ordered by a court or other governmental agency having authority to issue the orders.
2.
  - a. If the unpaid amount is greater than the greater of two thousand dollars or six times the monthly child support obligation, the offense is a class C felony.
  - b. If the unpaid amount is greater than the greater of one thousand dollars or three times the monthly child support obligation, but less than the amount required under subdivision a, the offense is a class A misdemeanor.
  - c. If the unpaid amount is less than the amount required under subdivision b, the offense is a class B misdemeanor.
3. If the failure to pay child support occurs while the defendant was in another state, and while the child was in this state, the offense must be construed to have been committed in this state.
4. It is an affirmative defense to a charge under subsection 1 that the defendant suffered from a disability during the periods an unpaid child support obligation accrued, such as to effectively preclude the defendant's employment at any gainful occupation. This defense is available only if the defendant lacked the means to pay the ordered amounts other than from employment.
5. For purposes of this section, "child support" has the meaning provided in section 14-09-09.10.
6. This section applies only to the willful failure to pay child support after August 1, 1995.
7. In a prosecution under this chapter, a copy of a record certified under section 14-08.1-08 is admissible as prima facie evidence of the contents of the record.