

As Introduced

**127th General Assembly
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H. B. No. 610

Representative Celeste

**Cosponsors: Representatives McGregor, J., Luckie, Foley, Williams, B.,
Skindell, Peterson, Letson, Newcomb, Fende, Hagan, R., Yuko, Brown,
Stewart, D., Heard**

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A B I L L

To amend sections 2919.21 and 2929.17 of the Revised 1
Code regarding sentencing for failure to provide 2
adequate support to a child or other person an 3
individual is legally obligated to support. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2919.21 and 2929.17 of the Revised 5
Code be amended to read as follows: 6

Sec. 2919.21. (A) No person shall abandon, or fail to provide 7
adequate support to: 8

(1) The person's spouse, as required by law; 9

(2) The person's child who is under age eighteen, or mentally 10
or physically handicapped child who is under age twenty-one; 11

(3) The person's aged or infirm parent or adoptive parent, 12
who from lack of ability and means is unable to provide adequately 13
for the parent's own support. 14

(B) No person shall abandon, or fail to provide support as 15
established by a court order to, another person whom, by court 16

order or decree, the person is legally obligated to support. 17

(C) No person shall aid, abet, induce, cause, encourage, or 18
contribute to a child or a ward of the juvenile court becoming a 19
dependent child, as defined in section 2151.04 of the Revised 20
Code, or a neglected child, as defined in section 2151.03 of the 21
Revised Code. 22

(D) It is an affirmative defense to a charge of failure to 23
provide adequate support under division (A) of this section or a 24
charge of failure to provide support established by a court order 25
under division (B) of this section that the accused was unable to 26
provide adequate support or the established support but did 27
provide the support that was within the accused's ability and 28
means. 29

(E) It is an affirmative defense to a charge under division 30
(A)(3) of this section that the parent abandoned the accused or 31
failed to support the accused as required by law, while the 32
accused was under age eighteen, or was mentally or physically 33
handicapped and under age twenty-one. 34

(F) It is not a defense to a charge under division (B) of 35
this section that the person whom a court has ordered the accused 36
to support is being adequately supported by someone other than the 37
accused. 38

(G)(1) Except as otherwise provided in this division, whoever 39
violates division (A) or (B) of this section is guilty of 40
nonsupport of dependents, a misdemeanor of the first degree. If 41
the offender previously has been convicted of or pleaded guilty to 42
a violation of division (A)(2) or (B) of this section or if the 43
offender has failed to provide support under division (A)(2) or 44
(B) of this section for a total accumulated period of twenty-six 45
weeks out of one hundred four consecutive weeks, whether or not 46
the twenty-six weeks were consecutive, then a violation of 47

division (A)(2) or (B) of this section is a felony of the fifth 48
degree. If the offender previously has been convicted of or 49
pleaded guilty to a felony violation of this section, a violation 50
of division (A)(2) or (B) of this section is a felony of the 51
fourth degree. ~~If~~ 52

If the violation of division (A)(2) or (B) of this section is 53
a felony of the fourth or fifth degree, the court shall sentence 54
the offender to one or more community control sanctions authorized 55
under section 2929.16, 2929.17, or 2929.18 of the Revised Code. If 56
the court imposes a nonresidential sanction under section 2929.17 57
of the Revised Code, the court shall include as a condition of the 58
sanction that the offender participate in and complete a community 59
corrections program, as established under sections 5149.30 to 60
5149.37 of the Revised Code, if available in the county in which 61
the court imposing the sentence is located. 62

(2) If the offender is guilty of nonsupport of dependents by 63
reason of failing to provide support to the offender's child as 64
required by a child support order issued on or after April 15, 65
1985, pursuant to section 2151.23, 2151.231, 2151.232, 2151.33, 66
3105.21, 3109.05, 3111.13, 3113.04, 3113.31, or 3115.31 of the 67
Revised Code, the court, in addition to any other sentence 68
imposed, shall assess all court costs arising out of the charge 69
against the person and require the person to pay any reasonable 70
attorney's fees of any adverse party other than the state, as 71
determined by the court, that arose in relation to the charge. 72

~~(2)~~(3) Whoever violates division (C) of this section is 73
guilty of contributing to the nonsupport of dependents, a 74
misdemeanor of the first degree. Each day of violation of division 75
(C) of this section is a separate offense. 76

Sec. 2929.17. Except as provided in this section, the court 77
imposing a sentence for a felony upon an offender who is not 78

required to serve a mandatory prison term may impose any 79
nonresidential sanction or combination of nonresidential sanctions 80
authorized under this section. If the court imposes one or more 81
nonresidential sanctions authorized under this section, the court 82
shall impose as a condition of the sanction that, during the 83
period of the nonresidential sanction, the offender shall abide by 84
the law and shall not leave the state without the permission of 85
the court or the offender's probation officer. 86

The court imposing a sentence for a fourth degree felony OVI 87
offense under division (G)(1) or (2) of section 2929.13 of the 88
Revised Code or for a third degree felony OVI offense under 89
division (G)(2) of that section may impose upon the offender, in 90
addition to the mandatory term of local incarceration or mandatory 91
prison term imposed under the applicable division, a 92
nonresidential sanction or combination of nonresidential sanctions 93
under this section, and the offender shall serve or satisfy the 94
sanction or combination of sanctions after the offender has served 95
the mandatory term of local incarceration or mandatory prison term 96
required for the offense. Nonresidential sanctions include, but 97
are not limited to, the following: 98

(A) A term of day reporting; 99

(B) A term of house arrest with electronic monitoring or 100
continuous alcohol monitoring or both electronic monitoring and 101
continuous alcohol monitoring, a term of electronic monitoring or 102
continuous alcohol monitoring without house arrest, or a term of 103
house arrest without electronic monitoring or continuous alcohol 104
monitoring; 105

(C) A term of community service of up to five hundred hours 106
pursuant to division (B) of section 2951.02 of the Revised Code 107
or, if the court determines that the offender is financially 108
incapable of fulfilling a financial sanction described in section 109
2929.18 of the Revised Code, a term of community service as an 110

alternative to a financial sanction;	111
(D) A term in a drug treatment program with a level of security for the offender as determined necessary by the court;	112 113
(E) A term of intensive probation supervision;	114
(F) A term of basic probation supervision;	115
(G) A term of monitored time;	116
(H) A term of drug and alcohol use monitoring, including random drug testing;	117 118
(I) A curfew term;	119
(J) A requirement that the offender obtain employment;	120
(K) A requirement that the offender obtain education or training;	121 122
(L) Provided the court obtains the prior approval of the victim, a requirement that the offender participate in victim-offender mediation;	123 124 125
(M) A license violation report;	126
(N) If the offense is a violation of section 2919.25 or a violation of section 2903.11, 2903.12, or 2903.13 of the Revised Code involving a person who was a family or household member at the time of the violation, if the offender committed the offense in the vicinity of one or more children who are not victims of the offense, and if the offender or the victim of the offense is a parent, guardian, custodian, or person in loco parentis of one or more of those children, a requirement that the offender obtain counseling. This division does not limit the court in requiring the offender to obtain counseling for any offense or in any circumstance not specified in this division.	127 128 129 130 131 132 133 134 135 136 137
<u>(O) If the offense is a felony violation of division (A)(2) or (B) of section 2919.21 of the Revised Code, a requirement that</u>	138 139

the offender participate in and complete a community corrections 140
program, as established under sections 5149.30 to 5149.37 of the 141
Revised Code, if available in the county in which the court 142
imposing the sentence is located. 143

Section 2. That existing sections 2919.21 and 2929.17 of the 144
Revised Code are hereby repealed. 145