

TITLE 18
CRIMES AND PUNISHMENTS

CHAPTER 4
ABANDONMENT OR NONSUPPORT OF WIFE OR CHILDREN

18-401. DESERTION AND NONSUPPORT OF CHILDREN OR SPOUSE. Every person who:

(1) Having any child under the age of eighteen (18) years dependent upon him or her for care, education or support, deserts such child in any manner whatever, with intent to abandon it;

(2) Willfully omits, without lawful excuse, to furnish necessary food, clothing, shelter, or medical attendance for his or her child or children, or ward or wards; provided however, that the practice of a parent or guardian who chooses for his child treatment by prayer or spiritual means alone shall not for that reason alone be construed to be a violation of the duty of care to such child;

(3) Having sufficient ability to provide for a spouse's support, or who is able to earn the means for such spouse's support, who willfully abandons and leaves a spouse in a destitute condition, or who refuses or neglects to provide such spouse with necessary food, clothing, shelter, or medical attendance, unless by the spouse's misconduct he or she is justified in abandoning him or her;

Shall be guilty of a felony and shall be punishable by a fine of not more than five hundred dollars (\$500), or by imprisonment for not to exceed fourteen (14) years, or both.

[I.C., sec. 18-401, as added by 1972, ch. 336, sec. 1, p. 859; am. 1972, ch. 381, sec. 8, p. 1089; am. 2000, ch. 294, sec. 1, p. 1011.]

18-402. ORDERS PROVIDING FOR CHILDREN AND WIFE UPON VIOLATION OF PRECEDING SECTION. In any case enumerated in the previous section, the court may render one of the following orders:

1. Should a fine be imposed it may be directed by the court to be paid in whole or in part to the wife, or to the guardian or to the custodian of the child or children, or to an individual appointed by the court as trustee.

2. Before trial, or after conviction, with the consent of the defendant, the court, in its discretion, having regard to the circumstances and to the financial ability or earning capacity of the defendant, shall have the power to make an order which shall be subject to change by it from time to time as circumstances may require, directing the defendant to pay a certain sum weekly during such time as the court may direct, to the wife or to the guardian, or custodian of the minor child or children, or to an individual appointed by the court and to release the defendant from custody or probation during such time as the court may direct upon his or her entering into a recognizance, with or without sureties, in such sum as the court may direct. The condition of the recognizance to be such that if the defendant shall make his or her appearance in court whenever ordered to do so, and shall further comply with the terms of the order and of any subsequent modification thereof, then the recognizance shall be void, otherwise to remain in full force and effect.

3. When conviction is had and a sentence to imprisonment in the county jail is imposed, the court may direct that the person so convicted shall be compelled to work upon the public roads or highways or any other public work

in the county where such conviction is had, during the time of such sentence. And it shall be the duty of the county commissioners or of the highway district board within the county where such conviction and sentence is had and where such work is performed by persons under sentence to the county jail to allow an order of payment out of the current fund or maintenance road fund, to the wife, or to the guardian, or custodian of the child or children, or to an individual appointed by the court as trustee, at the end of each calendar month, for the support of such wife, or child or children, ward or wards, a sum not to exceed one and fifty one-hundredths dollars for each day's work of such person.

[18-402, added 1972, ch. 336, sec. 1, p. 860.]

18-403. ABANDONMENT OR NONSUPPORT PRIMA FACIE WILFUL. Proof of the abandonment or nonsupport of a wife, or the desertion of a child or children, ward or wards, or the omission to furnish necessary food, clothing, shelter, or medical attendance for a child or children, ward or wards, is prima facie evidence that such abandonment or nonsupport, or omission to furnish food, clothing, shelter, or medical attendance is wilful.

[18-403, added 1972, ch. 336, sec. 1, p. 860.]

18-404. PROCEEDINGS UPON VIOLATION OF PROVISIONAL ORDER -- DISPOSITION OF PROCEEDS OF FORFEITED RECOGNIZANCE. If the court be satisfied by the information or complaint and due proof, under oath, that at any time the defendant has violated the terms of such order, it may forthwith proceed with the trial of the defendant under the original indictment or information, or sentence him under the original conviction, or enforce the original sentence, as the case may be. In case of forfeiture of a recognizance and enforcement thereof by execution, the sum recovered may, in the discretion of the court, be paid in whole or in part to the wife or to the guardian or custodian of the minor child or children.

[I.C., sec. 18-4004, as added by 1972, ch. 336, sec. 1, p. 928; am. 1973, ch. 276, sec. 2, p. 588; am. 1977, ch. 154, sec. 3, p. 391; am. 1986, ch. 232, sec. 2, p. 639.]

18-405. RULES OF EVIDENCE. No other evidence shall be required to prove marriage of such husband and wife, or that such person is the lawful father or mother of such child or children, than is or shall be required to prove such facts in a civil action. In all prosecutions under this act, any existing provisions of law prohibiting the disclosure of confidential communications between husband and wife, shall not apply, and both husband and wife shall be competent witnesses to testify for or against each other to any and all relevant matters, including the fact of such marriage and the parentage of such child or children. Proof of the desertion of such wife, child or children in destitute or necessitous circumstances or of neglect to furnish such wife, child, or children necessary and proper food, clothing or shelter is prima facie evidence that such desertion or neglect is wilful.

[18-405, added 1972, ch. 336, sec. 1, p. 861.]