

108TH CONGRESS
2D SESSION

H. R. 4861

To amend title 18, United States Code, to provide penalties for failure to pay certain obligations to spouses and ex-spouses that are similar to the penalties imposed for failure to pay child support obligations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 19, 2004

Mr. SWEENEY (for himself and Mrs. LOWEY) introduced the following bill;
which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to provide penalties for failure to pay certain obligations to spouses and ex-spouses that are similar to the penalties imposed for failure to pay child support obligations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SPOUSAL OBLIGATIONS.**

4 Chapter 11A of title 18, United States Code, is
5 amended by adding at the end the following:

6 **“§ 228A. Failure to pay legal spousal obligations**

7 “(a) OFFENSE.—Any person who—

1 “(1) willfully fails to pay a court ordered obli-
2 gation with respect to a spouse or former spouse
3 who resides in another State, if such obligation has
4 remained unpaid for a period longer than 1 year, or
5 is greater than \$5,000;

6 “(2) travels in interstate or foreign commerce
7 with the intent to evade a court ordered obligation
8 with respect to a spouse or former spouse, if such
9 obligation has remained unpaid for a period longer
10 than 1 year, or is greater than \$5,000; or

11 “(3) willfully fails to pay a court ordered obli-
12 gation with respect to a spouse or former spouse
13 who resides in another State, if such obligation has
14 remained unpaid for a period longer than 2 years,
15 or is greater than \$10,000;

16 shall be punished as provided in subsection (c).

17 “(b) PRESUMPTION.—The existence of an obligation
18 that was in effect for the time period charged in the indict-
19 ment or information creates a rebuttable presumption that
20 the obligor has the ability to pay the obligation for that
21 time period.

22 “(c) PUNISHMENT.—The punishment for an offense
23 under this section is—

1 “(1) in the case of a first offense under sub-
2 section (a)(1), a fine under this title, imprisonment
3 for not more than 6 months, or both; and

4 “(2) in the case of an offense under paragraph
5 (2) or (3) of subsection (a), or a second or subse-
6 quent offense under subsection (a)(1), a fine under
7 this title, imprisonment for not more than 2 years,
8 or both.

9 “(d) MANDATORY RESTITUTION.—Upon a conviction
10 under this section, the court shall order restitution under
11 section 3663A in an amount equal to the total unpaid obli-
12 gation as it exists at the time of sentencing.

13 “(e) VENUE.—With respect to an offense under this
14 section, an action may be inquired of and prosecuted in
15 a district court of the United States for—

16 “(1) the district in which the spouse or former
17 spouse who is the subject of the obligation resided
18 during a period during which the person who is al-
19 leged to have failed to pay the obligation or traveled
20 with the intent to evade the obligation, allegedly
21 failed to meet that obligation;

22 “(2) the district in which the alleged offender
23 resided during a period described in paragraph (1);
24 or

1 “(3) any other district with jurisdiction other-
2 wise provided for by law.

3 “(f) DEFINITIONS.—As used in this section—

4 “(1) the term ‘Indian tribe’ has the meaning
5 given that term in section 102 of the Federally Rec-
6 ognized Indian Tribe List Act of 1994 (25 U.S.C.
7 479a);

8 “(2) the term ‘State’ includes any State of the
9 United States, the District of Columbia, and any
10 commonwealth, territory, or possession of the United
11 States; and

12 “(3) the term ‘court ordered obligation to a
13 spouse or former spouse’ means any amount deter-
14 mined under a court order pursuant to the law of a
15 State or of an Indian tribe to be due from a person
16 for the support and maintenance of a spouse or
17 former spouse, or as an equitable or other distribu-
18 tion to a spouse or former spouse of assets in con-
19 nection with a separation or divorce.”.

20 **SEC. 2. CONFORMING AMENDMENT TO TABLE OF SEC-**
21 **TIONS.**

22 The table of sections at the beginning of chapter 11A
23 of title 18, United States Code, is amended by adding at
24 the end the following new item:

“228A. Failure to pay legal spousal obligations.”.