SUBJECT MATTER (list criminal definition, penalty, or procedure affected):

Increasing the felony penalty for Failure to Pay Child Support from 2 years to 5 years in R.S. 14:75, the Deadbeat Parents Punishment Act of Louisiana.

PRESENT LAW (cite Statute and current function):

Present penalty is 2 years for felony grade.

PROPOSED LAW (proposed change and effect and cite of amended or new statute):

Our experience is that defendants who owe large sums of child support arrearages sometimes find it more appealing to expose themselves to a 2-year jail term, which turns out to be a lot less time in reality, rather than pay the money.

Extending the exposure to 5 years makes the choice of paying more appealing than exposure to 1 to 5 years in jail. The purpose of the criminal statute is to obtain the money for the support of the defendant's children.

PROPOSED STATUTORY LANGUAGE (Clearly indicate language added and/or deleted.)
Note: Words in strikethrough are deletions from existing law; words underscored and boldfaced are additions.)

75. Failure to pay child support obligation

C.
(2) For a second or subsequent offense, the penalty for failure to pay a legal child support obligation shall be a fine of not more than twenty-five hundred dollars or imprisonment with or without hard labor for not less than one year nor more than two-years five years, or both.

(5) The penalty for failure to pay a legal child support obligation when the amount of the arrearage is more than fifteen thousand dollars and the obligation has been outstanding for at least one year shall be a fine of not more than twenty-five hundred dollars, or imprisonment with or without hard labor for not less than one year nor more than two years five years, or both.
REASON FOR PROPOSAL (brief description of need for change):
Defendants are pleading guilty and serving a short sentence in lieu of paying the child support arrearages. The jail term needs to be longer to give incentive to pay the child support arrearages in lieu of serving a 5-year jail sentence.

PROPOSER'S I.D. INFORMATION:
Name & Title: Jerry L. Jones, D.A.
JD: Fourth
Address: P.O. Box 1652
Phone: (318) 388-4720 Fax: (318) 327-1420

I understand that my participation may be required in ADA Board and ADA Legislative Advisory Committee meetings and/or LDAA Board and LDAA Legislative Committee meetings. If this proposal is accepted as part of the 2016 LDAA Legislative Package, I agree to personally attend legislative committee hearings and be available to testify on any bill filed as a result of this proposal.

Elected District Attorney's Signature

(required): Proposer's Signature (required):
MEMORANDUM

TO: LDA BOARD OF DIRECTORS
    ALL ELECTED DISTRICT ATTORNEYS

FROM: Jerry L. Jones, PROPOSER

DATE: October 21, 2015

RE: 2016 LEGISLATIVE PROPOSAL

We see a need to expand the felony sentence for Failure to Pay Child Support from 2 years to 5 years. In cases where large amounts of child support arrearages are owed, the defendants often consider serving the 2-year sentence and getting debt free. The purpose of the statute is to obtain the payment of child support for the defendant’s children. Expanding the sentence and exposing a defendant to a 5-year sentence will not be as appealing as a way out of the obligation.
TALKING POINTS

- We see a need to expand the felony sentence for Failure to Pay Child Support from 2 years to 5 years. In cases where large amounts of child support arrearages are owed, the defendants often consider serving the 2-year sentence and getting debt free. The purpose of the statute is to obtain the payment of child support for the defendant’s children. Expanding the sentence and exposing a defendant to a 5-year sentence will not be as appealing as a way out of the obligation.
AN ACT

Be it enacted by the Legislature of Louisiana:

75. Failure to pay child support obligation

A. This law may be cited as the "Deadbeat Parents Punishment Act of Louisiana".

B. It shall be unlawful for any obligor to intentionally fail to pay a support obligation for any child who resides in the state of Louisiana, if such obligation has remained unpaid for a period longer than six months or is greater than two thousand five hundred dollars.

C. (1.) For a first offense, the penalty for failure to pay a legal child support obligation shall be a fine of not more than five hundred dollars or imprisonment for not more than six months, or both.

(2) For a second or subsequent offense, the penalty for failure to pay a legal child support obligation shall be a fine of not more than twenty-five hundred dollars or imprisonment with or without hard labor for not less than one year nor more than two years five years, or both.

(3) Upon a conviction under this statute, the court shall order restitution in an amount equal to the total unpaid support obligation as it exists at the time of sentencing.

(4) In any case in which restitution is made prior to the time of sentencing, except for a second or subsequent offense, the court may suspend all or
any portion of the imposition or execution of the sentence otherwise required in this Subsection.

(5) The penalty for failure to pay a legal child support obligation when the amount of the arrearage is more than fifteen thousand dollars and the obligation has been outstanding for at least one year shall be a fine of not more than twenty-five hundred dollars, or imprisonment with or without hard labor for not less than one year nor more than two years, or both.

D. With respect to an offense under this Section, an action may be prosecuted in a judicial district court in this state in which any child who is the subject of the support obligation involved resided during a period during which an obligor failed to meet that support obligation; or the judicial district in which the obligor resided during a period described in Subsection B of this Section; or any other judicial district with jurisdiction otherwise provided for by law.

E. As used in this Section, the following terms mean:

1. "Obligor" means any person who has been ordered to pay a support obligation in accordance with law.
2. "Support obligation" means any amount determined by a court order or an order of an administrative process pursuant to the law of the state of Louisiana to be due from a person for the support and maintenance of a child or children.

F. It shall be an affirmative defense to any charge under this Section that the obligor was financially unable to pay the support obligation during and after the period that he failed to pay as ordered by the court.