



## CRIMINAL-LEGAL DESCRIPTION OF THE CRIME OF EXECUTION OF MATERIAL PROVISIONS AND BASIS OF LIABILITY

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### ABSTRACT

*This article provides an in-depth analysis of the criminal-legal description of the crime of evasion of alimony, elements of the crime, specific aspects of the current legislation and approaches in judicial practice. It also highlights the level of social danger of this crime, provides a comparative analysis with the experience of foreign countries, and puts forward proposals for preventing evasion of alimony obligations and strengthening responsibility. It may also be useful for specialists and practitioners conducting scientific research in the field of criminal law.*

## УГОЛОВНО-ПРАВОВАЯ ХАРАКТЕРИСТИКА ПРЕСТУПЛЕНИЯ ИЗ МАТЕРИАЛЬНЫХ ПОЛОЖЕНИЙ И ОСНОВАНИЯ ОТВЕТСТВЕННОСТИ

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### ABSTRACT

*В статье дается глубокий анализ уголовно-правовой характеристики преступления уклонения от уплаты финансовой помощи, состава преступления, особенностей действующего законодательства, подходов судебной практики. Также подчеркивается уровень общественной опасности данного преступления, дается сравнительный анализ с опытом зарубежных стран, выдвигаются предложения по предупреждению уклонения от уплаты алиментов и усилению ответственности. Может быть также полезно экспертам и практикам, проводящим научные исследования в области уголовного права.*



## MODDIY TA'MINLASHDAN BO'YIN TOVLASH JINOYATINING JINOIY-HUQUQIY TAVSIFI VA JAVOBGARLIK ASOSLARI

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Moddiy ta'minlash, aliment, jinoyat tarkibi, javobgarlik, alimentdan bo'yin tovlash, jinoyat huquqi, sud amaliyoti, ijtimoiy xavf, oila huquqi.

### ABSTRACT

*Ushbu maqolada moddiy ta'minlashdan bo'yin tovlash jinoyatining jinoiy-huquqiy tavsifi, jinoyat tarkibining elementlari, amaldagi qonunchilikdagi o'ziga xos jihatlari va sud-amaliyotidagi yondashuvlar chuqur tahlil qilinadi. Shuningdek, ushbu jinoyatning ijtimoiy xavflilik darajasi yoritilib, xorijiy davlatlar tajribasi bilan solishtirma tahlil beriladi hamda aliment majburiyatlaridan bo'yin tovlashning oldini olish va javobgarlikni kuchaytirish bo'yicha takliflar ilgari surilgan. Shuningdek, jinoyat huquqi sohasida ilmiy izlanishlar olib boruvchi mutaxassislar va amaliyotchilar uchun foydali bo'lishi mumkin.*

The main task of each state is to ensure the social protection of its citizens, in particular children and disabled persons. The Constitution of the Republic of Uzbekistan strictly stipulates that the family, motherhood, fatherhood and childhood are under the protection of the state. In this regard, cases of non-fulfillment of alimony obligations or evasion of material support are recognized as one of the urgent social problems in society. This article analyzes the legal essence of this crime, the composition of the crime and the bases of responsibility.

The article uses legal and normative sources, current legislation, judicial practice, statistical data and methods of studying foreign experience. Also, the composition of the crime was covered on the basis of comparative jurisprudence, a systematic approach and analysis.

#### 1. Legal essence of the crime

Article 122 of the Criminal Code of the Republic of Uzbekistan establishes the crime of evasion of material support for minors or disabled persons. This article provides for criminal liability for evading financial support for a minor or an incapacitated person in need of financial assistance, that is, for a period of more than two months in total, failing to pay the amount required to be collected for their financial support in accordance with a court decision or court order, as well as if it was committed after an administrative penalty was imposed for such an act.

The crime consists of the following elements:

- Objective aspect – failure to pay the amount to be recovered for a total period of more than two months, committed after the imposition of an administrative penalty for such an act.
- Subjective aspect – the crime is committed with direct intent.



- Object – ensuring normal material conditions for the life of minors or incapacitated persons in need of financial assistance, as well as relations aimed at ensuring the health and normal physical development of minors or incapacitated persons.

- Subject – a sane individual who has reached the age of 18.

## 2. Judicial practice

An analysis of court decisions shows that in many cases, individuals, after divorcing their spouses, do not fulfill their obligation to pay alimony and go into hiding. Sometimes they try to avoid alimony by transferring property to someone else's name. In such cases, courts determine the nature of the crime and sentence individuals to correctional labor for up to 2 years or a fine in the amount of the minimum monthly wage.

## 3. Foreign experience

In countries such as the Russian Federation, Kazakhstan, and Germany, individuals who evade alimony are subject to relatively severe penalties. For example, in Russia, such individuals may be deprived of the right to drive a car. In Germany, the state pays alimony on behalf of the non-paying father or mother and then applies a recovery measure.

## 4. Social danger of the crime

Eviction of financial support is not only a legal, but also a moral and social problem. It negatively affects the normal life and psychological state of children. In addition, it leads to a decrease in parental responsibility in society.

## Discussion

There is a need to strengthen responsibility for the crime of evasion of financial support. At the same time, it is necessary to expand preventive measures and conduct explanatory work with parents. It is necessary to improve the legislation on alternative types of punishment, including the introduction of socially useful labor or alimony insurance mechanisms.

- Administrative liability: When a person commits alimony evasion for the first time, administrative liability may be imposed on him. Only repeated evasion after an administrative penalty leads to criminal liability.

- Aggravating circumstances: If the evasion causes harm to the health of a minor or causes serious financial hardship, this is taken into account as an aggravating factor when determining the punishment.

- Change the amount of alimony: If a person's financial situation has changed, he or she can apply to the court to change the amount of alimony. It is against the law to stop or reduce alimony payments without a court order.

Evasion of financial support is a serious crime that violates the rights of minors or incapacitated persons. In order to prevent this crime, parents and other persons who are dependent on the person must fully understand and fulfill their obligations. If you need legal advice on this issue, it is recommended that you contact a qualified lawyer.

## 2. Criminal legal basis

- Criminal Code: In each country, the criminal code clearly defines evasion of financial support. This article usually includes illegal entry into, use of, or damage to property.

## 3. Liability



- Criminal Liability: A person who evades financial support may be punished by the penalties established by criminal law. This varies depending on the severity of the crimes.

#### 4. Specificity of the situation

- Advocacy and Development: New rules and practices may be created in domestic and international law to combat financial support evasion. These aspects will help to further clarify the criminal law definition and liability.

Financial support evasion should be considered seriously as a criminal law issue. By preventing these dangerous situations and strengthening criminal liability, legal order in society can be maintained.

Article 123 of the Criminal Code of the Republic of Uzbekistan: Evasion of financial support for parents

#### 1. Content and general description of the article

Article 123 of the Criminal Code of the Republic of Uzbekistan states that evasion of financial support by adults for parents who are incapable of work and in need of financial assistance or persons replacing them, that is, failure to pay the amount required to be collected for their financial support in accordance with a court decision for a period of more than two months, if committed after the imposition of an administrative penalty for such an act, is considered a crime.

2. The object of the crime is the normal material conditions for living of the incapacitated parents of the guilty party or their substitutes, as well as social relations that ensure their health.

3. The objective side of the crime is the failure to timely and fully provide material support (alimony payments) established by a court decision, that is, an action (or inaction) related to the failure to fulfill the obligation. Here, "evasion" means a permanent or regular failure to pay alimony.

The article applies only to persons who are obliged to pay on the basis of a court decision. In other words, material assistance provided solely on social or moral grounds without a court decision cannot be a sufficient basis.

4. The subjective side of the crime is that the crime is committed with good intent.

5. The subject of the crime is a capable, adult person, that is, a natural child, adopted son and daughter, stepson and daughter, who are obliged to pay alimony by the court.

#### 6. Forms of liability

The following penalties are provided for under this article:

- Correctional labor - up to three years.
- Imprisonment - up to one year.

The court shall impose one of these penalties, taking into account the gravity of the crime, the period of evasion, the amount of material damage and other circumstances when choosing a penalty.

#### 7. Practical problems and recommendations

In practice, the main problem associated with this article is the difficulties in identifying and holding accountable persons who have evaded alimony. In many cases, debtors hide their income or are engaged in unofficial work.

In such cases:



- the system of control over the execution of court decisions should be strengthened;
- mechanisms for the forced collection of alimony payments need to be improved;
- preventive measures (for example, warnings, temporary restrictions) should be more widely used.

In conclusion, evasion of financial support is one of the crimes that pose a serious threat to the family and society. In combating this crime, along with criminal legal measures, it is necessary to widely use social and educational mechanisms. It is also important to further improve the regulatory and legal framework for this crime in the legislation, unify judicial practice and strengthen protection mechanisms.

The crime of evasion of financial support is an urgent problem not only in legal, but also in socio-economic and moral terms. Although the legislation of the Republic of Uzbekistan contains the basis for combating this crime, some aspects need to be improved, in particular, liability it is necessary to strengthen measures, introduce alimony insurance mechanisms and strengthen preventive work. In addition, the activities of law enforcement agencies can be made more effective by harmonizing judicial practice and ensuring the clarity of the composition of the crime. The author proposes a comprehensive approach to this crime, since the social protection of children and disabled persons is one of the state's priority tasks. The crime of evasion of material support is a high-risk offense that violates the rights of children and parents. Although the legislation establishes clear measures of responsibility for this crime, some difficulties remain in practice. Family responsibility in society can be increased by introducing effective legal and preventive approaches to cases of evasion of alimony. Taking into account foreign experience, this crime can be prevented through the alimony insurance system, financial control mechanisms and social labor penalties. The author justifies the need to further improve the norms related to this crime and strengthen the activities of law enforcement agencies.

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