

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1339, L.D. 1802, Bill, "An Act to Adopt the Uniform Interstate Family Support Act"

Amend the bill by inserting after the enacting clause the following:

'PART A'

Further amend the bill in section 2 in that part designated "~~§421.~~" by inserting after subsection 19 the following:

'19-A. State information agency. "State information agency" in this State is the Department of Human Services.'

Further amend the bill in section 2 in that part designated "~~§421.~~" in subsection 20 by inserting at the end a new blocked paragraph to read:

'The support enforcement agency in this State is the Department of Human Services.'

Further amend the bill in section 2 in that part designated "~~§423.~~" by striking out all of subsection 3 (page 24, lines 38 to 44 in L.D.) and inserting in its place the following:

'3. Commencement of proceeding. A proceeding authorized under this Act may be commenced in any of the following ways.'

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2 A. An individual petitioner from another state or a support
3 enforcement agency of another state may file a petition with
4 the Department of Human Services, which is the state
5 information agency and the support enforcement agency for
6 this State.

8 B. An individual petitioner from another state or a support
9 enforcement agency of another state may file a petition or a
10 comparable pleading directly in a tribunal of another state
11 that has or can obtain personal jurisdiction over the
12 respondent. The resulting order may be forwarded to the
13 Department of Human Services, which is the state information
14 agency and the support enforcement agency in this State.

16 C. An individual petitioner in this State or the Department
17 of Human Services, which is the support enforcement agency
18 of this State, may file a petition with an initiating
19 tribunal in another state that has or can obtain personal
20 jurisdiction over the respondent.

22 D. An individual petitioner in this State may file a
23 petition with the Department of Human Services, which is the
24 support enforcement agency of this State, or with the court
25 in this State. The resulting order may be forwarded to a
26 responding tribunal in another state.'

28 Further amend the bill in section 2 in that part designated
29 "§423-D." by striking out all of subsection 1 (page 26, lines 49
30 and 50 and page 27, lines 1 to 4 in L.D.) and inserting in its
31 place the following:

32 '1. Duties of responding tribunal. Upon receipt of a
33 petition or comparable pleading from the state information
34 agency, a responding tribunal shall cause the petition or
35 pleading to be filed and notify the petitioner by first class
36 mail where and when it was filed.'

38 Further amend the bill in section 2 by striking out all of
39 that part designated "§423-E." (page 29, lines 12 to 19 in L.D.)
40 and inserting in its place the following:

42 '§423-E. Inappropriate tribunal

44 If a petition or comparable pleading is received by an
45 inappropriate tribunal of this State, the inappropriate tribunal
46 shall forward the petition or pleading and accompanying documents
47 to an appropriate tribunal or to the state information agency in
48 this State or another state.'

Further amend the bill in section 2 in that part designated "~~§423-F.~~" by inserting after the first line and before subsection 1 the following:

'The Department of Human Services is the support enforcement agency in this State.'

Further amend the bill in section 2 in that part designated "~~§423-F.~~" by striking out all of subsection 1 (page 29, lines 40 to 42 in L.D.) and inserting in its place the following:

'1. Services to petitioner. The support enforcement agency of this State, upon application and request by an individual or upon request of the support enforcement agency of another state, shall provide services to a petitioner in a proceeding under this Act.'

Further amend the bill in section 2 by striking out all of that part designated "~~§423-G.~~" (page 31, lines 8 to 14 in L.D.) and inserting in its place the following:

'§423-G. Duty of Attorney General

The Attorney General shall represent the support enforcement agency in court proceedings brought pursuant to this Act.'

Further amend the bill in section 2 in that part designated "~~§423-I.~~" in subsection 2 by striking out all of paragraph C (page 32, lines 7 to 12 in L.D.) and inserting in its place the following:

'C. Accept from initiating states all petitions and requests for registration and forward them to the support enforcement agency for enforcement under subchapters V and VI. If the department determines that appropriate remedies under those subchapters are not available with respect to the obligor, it shall forward the petition or the documents required for registration to the appropriate court; and'

Further amend the bill in section 2 in that part designated "~~§423-I.~~" in subsection 2 in paragraph D in the first line (page 32, line 14 in L.D.) by striking out the following: "Obtain" and inserting in its place the following: 'Upon application and request by an individual or upon request by the support enforcement agency of another state, obtain'

Further amend the bill in section 2 in that part designated "~~§424.~~" by striking out all of subsection 2 (page 40, lines 13 to 23 in L.D.) and inserting in its place the following:

2 '2. Tribunal issue temporary support order. A responding
3 tribunal of this State may issue a temporary support order
4 pursuant to the laws of this State.'

6 Further amend the bill in section 2 by striking out all of
7 that part designated "§425." (page 40, line 49 and page 41, lines
8 2 to 30 in L.D.) and inserting in its place the following:

10 '§425. Enforcement of income-withholding order of another state

12 1. Income-withholding order. Upon application and request
13 by an individual, upon request of the support enforcement agency
14 of another state or pursuant to an assignment of rights, the
15 Department of Human Services may implement an income-withholding
16 order issued by another state in the same manner as an
17 income-withholding order issued under chapter 14-B. An
18 income-withholding order implemented by the department under this
19 section has the same effect and creates the same obligations as
20 an income-withholding order implemented under chapter 14-B. The
21 obligor's employer or other payor of income shall send all
22 payments withheld from the obligor's income to the department for
23 credit and disbursement.

24 2. Right to hearing. An obligor may request an
25 administrative hearing to contest withholding. Section 426-C
26 applies to the hearing. The department shall notify the obligor
27 of the right to hearing when withholding is implemented.'

28 Further amend the bill in section 2 by striking out all of
29 that part designated "§425-A." (page 42, lines 34 to 49 and page
30 43, lines 1 and 2 in L.D.) and inserting in its place the
31 following:

34 '§425-A. Administrative enforcement of orders

36 1. Documents to state information agency. A party residing
37 in another state seeking to enforce a support order or an
38 income-withholding order, or both, issued by a tribunal of
39 another state shall send the documents required for registering
40 the order to the state information agency, which shall forward
41 them to the support enforcement agency of this State for
42 enforcement.

44 2. Consider and enforce. Upon receipt of the documents,
45 the support enforcement agency, without initially seeking to
46 register the order, shall consider and, if appropriate, use any
47 administrative procedure authorized by the law of this State to
48 enforce a support order or an income-withholding order, or both.
49 If the order can not be enforced using available administrative

2 procedures, the department may register the support order or the
3 income-withholding order with the appropriate court.'

4 Further amend the bill in section 2 in that part designated
5 "~~§426.~~" in the first paragraph in the 2nd line (page 43, line 36
6 in L.D.) by striking out the following: "registered" and
7 inserting in its place the following: 'sent to the state
8 information agency in this State for registration'

10 Further amend the bill in section 2 in that part designated
11 "~~§426-A.~~" in subsection 1 by striking out all of the first
12 paragraph (page 44, lines 23 to 26 in L.D.) and inserting in its
13 place the following:

14 '1. Required documents and information. A party residing
15 in this State or the state information agency may forward the
16 following documents and information to the appropriate court in
17 this State for registration in this State for enforcement.'

20 Further amend the bill in section 2 in that part designated
21 "~~§427.~~" by striking out all of subsection 2 (page 58, lines 19 to
22 22 in L.D.) and inserting in its place the following:

24 '2. Law applied. In a proceeding to determine parentage, a
25 responding tribunal of this State shall apply the procedural and
26 substantive law of this State, including provisions for blood or
27 tissue typing tests, and the rules of this State on choice of
28 law.'

30 Further amend the bill in section 2 in that part designated
31 "~~§429-A.~~" in the first paragraph in the first line (page 60, line
32 47 in L.D.) by striking out the following: "chapter" and
33 inserting in its place the following: 'subchapter'

34 Further amend the bill in section 2 in that part designated
35 "~~§429-B.~~" in the first paragraph in the first line (page 61, line
36 11 in L.D.) by striking out the following: "Act" and inserting
37 in its place the following: 'subchapter'

40 Further amend the bill in section 3 in the first line (page
41 61, line 13 in L.D.) by striking out the following: "Act" and
42 inserting in its place the following: 'Part'

44 Further amend the bill by inserting after section 3 the
45 following:

46 **'PART B**

48 **Sec. B-1. 19 MRSA §286, as amended by PL 1973, c. 625, §97,**
49 **is repealed and the following enacted in its place:**

2 §286. Rules of civil procedure

4 1. Procedure. The rules of civil procedure apply to this
6 subchapter in all cases of birth out of wedlock when the birth
occurs after October 7, 1967.

8 2. Dismissal without prejudice. Dismissals of paternity
10 actions must be without prejudice in all cases except:

12 A. When an adjudication on the merits has occurred; or

14 B. When the Department of Human Services is a party to the
16 action and the department consents to the dismissal with
18 prejudice.'

Further amend the bill by renumbering the sections to read
consecutively.

Further amend the bill by inserting at the end before the
statement of fact the following:

22 **FISCAL NOTE**

24 The Department of the Attorney General will require
26 additional General Fund appropriations beginning in fiscal year
28 1995-96 for an Assistant Attorney General and a legal secretary
to assist in representing the support enforcement agency in
certain court proceedings.

30 The additional costs to revise certain interstate child
32 support enforcement procedures can be absorbed by the Department
of Human Services utilizing existing budgeted resources.

34 The additional workload and administrative costs associated
36 with the minimal number of new cases filed in the court system
38 can be absorbed within the budgeted resources of the Judicial
Department.'

40
42 **STATEMENT OF FACT**

44 This amendment makes several changes to the original bill to
46 conform the Uniform Interstate Family Support Act to current
successful practices and procedures followed by the courts and
48 the Department of Human Services with regard to enforcement of
out-of-state support orders.

Two amendments are made to the definition sections. First, a new subsection is added to clearly specify that the state information agency in this State is the Department of Human Services. The subsection defining "support enforcement agency" is amended to clearly specify that the Department of Human Services is the support enforcement agency in this State. These 2 additions help users of the new Act understand who to contact for services and information. As the state information agency, the department will have a central filing of all petitions and orders from out of state to be enforced in Maine.

The Maine Revised Statutes, Title 19, section 423, subsection 3 is replaced to clearly set out how an interstate enforcement proceeding may be started. This is not substantively different from the wording in the original bill, but it does provide clear directions for those who want to use the Act on where to start and whom to contact.

Section 423-D is amended to track what currently happens in Maine with interstate enforcement cases when an out-of-state order is to be enforced in Maine. All out-of-state orders are now sent to the Department of Human Services. If the department can enforce the order through administrative procedures, it will do so. If those procedures are unsuccessful or unavailable, the department will file the order with the appropriate court for enforcement.

Section 423-E is amended to direct a tribunal in the State to forward petitions or comparable pleadings inappropriately filed in that tribunal to the appropriate tribunal or to the state information agency in this State or another state.

Section 423-F is amended in 2 ways. First, a sentence is added to clearly designate the Department of Human Services as the support enforcement agency. Second, the amendment makes clear that an individual must apply for and request services from the Department of Human Services or the support enforcement agency of another state must request services under the Act for services to be provided. This language conforms with federal requirements relating to incentive payments and federal matching funds for support enforcement agencies providing support enforcement services. The same language is added in section 423-I, subsection 2, paragraph D.

Section 423-G is replaced to accurately state the role of the Attorney General under this Act. It provides that the Attorney General will represent the support enforcement agency in court in proceedings under the Act.

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2 Section 423-I, subsection 2, paragraph C is replaced to
3 identify the Department of Human Services as the central
4 repository for all petitions and requests for registration from
5 outside the State. This eliminates direct filings with courts
6 unless the holder of the out-of-state order is now residing in
7 Maine.

8 Section 424 is amended to clarify that a responding tribunal
9 in this State may issue a temporary support order when the
10 existing law of this State allows it, rather than setting up new
11 criteria for temporary support orders. For example, a temporary
12 support order is not otherwise authorized in Maine during a
13 paternity action.

14 Section 425 is replaced to require that income-withholding
15 orders issued in another state be implemented through the
16 Department of Human Services, which is the current practice in
17 Maine, rather than being sent directly to the payor of the
18 obligor's income. Without this change from the bill, each
19 employer or payor would have to determine the legitimacy of each
20 out-of-state income-withholding order it receives, calculate the
21 appropriate amount and then disburse the amount separately to
22 each obligee for which an income-withholding order is received.
23 The amendment allows the department, which is much better
24 equipped to determine whether an income-withholding order is
25 appropriately issued, to implement the withholding orders,
26 receive the payments from the employers and payors and then send
27 the payments to the appropriate recipient. Employers and other
28 payors need write only one check or make only one transfer to the
29 Department of Human Services for all the obligors to which they
30 are paying income and from whom they are required to withhold
31 income.

34 Section 425-A covers the registration of support orders and
35 income-withholding orders issued by another state. All such
36 orders, to be registered, must be first sent to the Department of
37 Human Services as the state information agency. If the
38 department determines that the order can not be enforced using
39 the administrative procedures available, it will forward the
40 documents to the appropriate court for registration. If the
41 department determines that enforcement is possible using the
42 administrative procedures, it internally forwards the documents
43 to the support enforcement agency, which is also the Department
44 of Human Services. If the support enforcement agency tries to
45 enforce the out-of-state order and is unsuccessful in doing so,
46 it is free to send the order to the appropriate court for
47 registration and enforcement by the court.

48 Sections 426 and 426-A are amended to make it clear that an
49 order must first go to the state information agency before it can
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be sent to a court for registration for enforcement, unless the holder of the order now resides in Maine.

Section 427 is amended to clarify that in paternity actions, the applicable procedural and substantive law of this State includes the use of blood and tissue typing tests.

This amendment adds a Part B to the bill to amend current law concerning dismissals of paternity cases. The new language provides that dismissals of paternity actions must be without prejudice in all cases except when an adjudication on the merits has occurred or when the Department of Human Services is a party and consents to the dismissal with prejudice. The purpose of this provision is to protect children from judgments that would deny them a legal father and are not based on the merits of the case. It is also consistent with a federal mandate of an 18-year statute of limitations on bringing paternity cases. It also encourages an alleged father to come forward and take a blood test or otherwise complete the litigation of a case rather than ignore a case in hopes that the action will be dismissed, thus forcing dismissal of a later case. Finally, the provision recognizes that paternity cases are fundamentally different from other matters. A parent should not be able to avoid the duty of support of that parent's child because of a legal technicality.

The amendment also adds a fiscal note to the bill.