

MAINE STATE LEGISLATURE

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Legislative Document

No. 1011

S.P. 328

March 6, 2007

An Act To Enhance Child Support Collections in Maine

(EMERGENCY)

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MARTIN of Aroostook.

Cosponsored by Senator SULLIVAN of York, Representative TUTTLE of Sanford and

Senators: BARTLETT of Cumberland, MARRACHÉ of Kennebec, Representatives: DUNN of Bangor, PATRICK of Rumford.

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** it has long been the policy in the State that parents should take financial
4 responsibility for their children; and

5 **Whereas,** a single parent has a difficult time raising a child when the other parent
6 does not provide for the child, causing unnecessary hardship for the single parent and the
7 child; and

8 **Whereas,** this hardship is currently being experienced by many single parents who
9 cannot effectively collect child support from the other parent; and

10 **Whereas,** while the State invests significant resources into collecting child support,
11 there still are needy and suffering children this winter due to the lack of enforcement of
12 child support in the State; and

13 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
14 the meaning of the Constitution of Maine and require the following legislation as
15 immediately necessary for the preservation of the public peace, health and safety; now,
16 therefore,

17 **Be it enacted by the People of the State of Maine as follows:**

18 **Sec. 1. 19-A MRSA §2201, sub-§1,** as amended by PL 2005, c. 352, §8, is
19 further amended to read:

20 **1. Notice.** The department may serve notice upon a support obligor who is not in
21 compliance with an order of support that informs the obligor of the department's intention
22 to submit the obligor's name to the appropriate board and the Secretary of State as a
23 licensee or registrant who is not in compliance with an order of support. The notice must
24 inform the obligor that:

25 A. The obligor may request an administrative hearing to contest the issue of
26 compliance;

27 B. A request for hearing must be made in writing and must be received by the
28 department within 20 days of service;

29 C. If the obligor requests a hearing within 20 days of service, the department shall
30 stay the action to certify the obligor to a board and the Secretary of State for
31 noncompliance with an order of support pending a decision after hearing;

32 D. If the obligor does not request a hearing within 20 days of service and is not in
33 compliance with an order of support, the department shall certify the obligor to the
34 appropriate board and the Secretary of State for noncompliance with an order of
35 support;

36 E. If the department certifies the obligor to a board or the Secretary of State for
37 noncompliance with an order of support, the board or the Secretary of State must
38 revoke the obligor's license, certificate of authority or registration and refuse to issue

1 or reissue a license, certificate of authority or registration until the obligor provides
2 the board or the Secretary of State with a written confirmation of compliance from
3 the department that states the obligor is in compliance with the obligor's order of
4 support. A revocation by an agency or a refusal by an agency to reissue, renew or
5 otherwise extend the license ~~or~~, certificate of authority or registration is deemed a
6 final determination within the meaning of Title 5, section 10002;

7 F. If the obligor files a motion to modify support with the court or requests the
8 department to amend a support obligation established by an administrative decision,
9 the department shall stay action to certify the obligor to a board and the Secretary of
10 State for noncompliance with an order of support; and

11 G. The obligor can comply with an order of support by:

12 (1) Paying current support;

13 (2) Paying all past-due support or, if unable to pay all past-due support and a
14 periodic payment for past-due support has not been ordered by the court, by
15 making periodic payments in accordance with a written payment agreement with
16 the department; and

17 (3) Meeting the obligor's health insurance obligation.

18 The notice must include the address and telephone number of the department's support
19 enforcement office that issues the notice and a statement of the need to obtain a written
20 confirmation of compliance from that office as provided in subsection 8. The department
21 shall attach a copy of the obligor's order of support to the notice. Service of the notice
22 must be made by certified mail, return receipt requested, by service in hand, or as
23 specified in the Maine Rules of Civil Procedure. For purposes of this section, authorized
24 representatives of the commissioner may serve the notice.

25 **Sec. 2. 19-A MRSA §2201, sub-§1-B**, as enacted by PL 1997, c. 466, §9 and
26 affected by §28, is amended to read:

27 **1-B. Failure to comply with written agreement.** Failure to comply with a written
28 payment agreement is grounds for license, certificate of authority or registration
29 revocation unless the obligor notifies the department that the obligor is unable to comply
30 with the agreement and provides the department with evidence of the obligor's current
31 financial circumstances to support the claim. The consequences of failing to comply with
32 a written payment agreement and the requirements to avoid license, certificate of
33 authority or registration revocation, if the obligor can not comply with the agreement,
34 must be stated in the agreement. If the obligor claims inability to comply with a written
35 payment agreement, the department, upon motion to the District Court, may request the
36 court to determine the obligor's ability to pay past-due support. After notice and an
37 opportunity for hearing, the court may make a finding of money due, render judgment in
38 that amount and order any relief provided under sections 2603 and 2603-A. For purposes
39 of this subsection, the commissioner may designate employees of the department who are
40 not attorneys to represent the department in District Court. The commissioner shall
41 ensure that appropriate training is provided to all employees designated to represent the
42 department under this subsection.

1 **Sec. 3. 19-A MRSA §2201, sub-§5**, as enacted by PL 1995, c. 694, Pt. B, §2 and
2 affected by Pt. E, §2, is amended to read:

3 **5. Stay.** If an obligor timely requests a hearing to contest the issue of compliance,
4 the department may not certify the name of the obligor to a board or the Secretary of
5 State for noncompliance with an order of support until the department issues a decision
6 after hearing that finds the obligor is not in compliance with an order of support.

7 **Sec. 4. 19-A MRSA §2201, sub-§6**, as amended by PL 1997, c. 466, §§10 and 11
8 and affected by §28, is further amended to read:

9 **6. Certification of noncompliance.** The department may certify in writing to the
10 appropriate board and the Secretary of State that a support obligor is not in compliance
11 with an order of support if:

12 A. The obligor does not timely request a hearing upon service of a notice issued
13 under subsection 1 and is not in compliance with an order of support 21 days after
14 service of the notice;

15 B. The department issues a decision after a hearing that finds the obligor is not in
16 compliance with an order of support and the obligor has not appealed the decision
17 within the 30-day appeal period provided in subsection 3;

18 C. The court enters a judgment on a petition for judicial review that finds the
19 obligor is not in compliance with a support order;

20 D. The obligor abandons a timely request for a hearing on the department's notice
21 of noncompliance and is not in compliance with the support order; or

22 E. The obligor fails to comply with a written payment agreement, does not notify
23 the department that the obligor is unable to comply with the agreement and does not
24 provide the department with evidence of the obligor's current financial circumstances.

25 The department shall send by regular mail a copy of a certification of noncompliance
26 filed with a board and the Secretary of State to the obligor at the obligor's most recent
27 address of record.

28 **Sec. 5. 19-A MRSA §2201, sub-§7**, as enacted by PL 1995, c. 694, Pt. B, §2 and
29 affected by Pt. E, §2, is amended to read:

30 **7. Notice from board and the Secretary of State.** A board and the Secretary of
31 State shall notify an obligor certified by the department under subsection 6, without
32 undue delay, that the obligor's application for the issuance or renewal of a license,
33 certificate of authority or registration may not be granted or that the obligor's license,
34 certificate of authority or registration has been revoked because the obligor's name has
35 been certified by the department as a support obligor who is not in compliance with an
36 order of support.

37 **Sec. 6. 19-A MRSA §2201, sub-§10**, as enacted by PL 1995, c. 694, Pt. B, §2
38 and affected by Pt. E, §2, is amended to read:

1 **10. Agreement.** The department ~~and~~, the various boards ~~and~~ the Secretary of State
2 shall enter into ~~agreements~~ an agreement that ~~are~~ is necessary to carry out the
3 requirements of this section, but only to the extent the department determines it is cost-
4 effective.

5 **Sec. 7. 19-A MRSA §2201, sub-§12-A** is enacted to read:

6 **12-A. Commissioner of Inland Fisheries and Wildlife and Secretary of State**
7 **reporting.** The Commissioner of Inland Fisheries and Wildlife and the Secretary of State
8 shall provide annually to the department specified information, on magnetic tape or other
9 machine-readable form, according to standards established by the department, registration
10 information concerning obligors that are residents of this State. The information to be
11 provided must include all of the following information about the registrant:

12 A. Name;

13 B. Address of record;

14 C. Make, model and identification number for each motor vehicle registered under
15 Title 29-A, section 501; snowmobile registered under Title 12, section 13104; or
16 ATV registered under Title 12, section 13155;

17 D. Type of registration;

18 E. Effective date of registration or registration renewal; and

19 F. Expiration of registration.

20 **Sec. 8. 19-A MRSA §2201, sub-§13**, as enacted by PL 1995, c. 694, Pt. B, §2
21 and affected by Pt. E, §2, is amended to read:

22 **13. Effect of noncompliance.** The department, upon receipt of the licensee
23 information referred to in subsection 12 and registration information referred to in
24 subsection 12-A, shall identify and notify each board, the Secretary of State and the
25 Department of Professional and Financial Regulation, Division of Administrative
26 Services; of the names of ~~its~~ their licensees and registrants who are support obligors
27 subject to this section. The notice must include the social security number and address of
28 the support obligor, the name, address and telephone number of the department's designee
29 for implementing this section and a certification by the department that it has verified that
30 the licensee or registrant is a support obligor subject to this section. When the department
31 notifies a board or the Secretary of State under this subsection, the department shall
32 provide adequate notice of its action to the obligor. The notice must inform the obligor of
33 the right to request a hearing on the issue of whether the obligor is in compliance with an
34 order of support. The board or the Secretary of State may not issue or renew a license or
35 registration to a person whose name is on the most recent list from the department until
36 the board or the Secretary of State receives a copy of the written confirmation of
37 compliance specified in subsection 8.

38 **Sec. 9. 19-A MRSA §2201, sub-§14**, as enacted by PL 1995, c. 694, Pt. B, §2
39 and affected by Pt. E, §2, is amended to read:

