

MAINE STATE LEGISLATURE

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STATE OF MAINE

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SENATE

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132ND LEGISLATURE

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SECOND REGULAR SESSION

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COMMITTEE AMENDMENT "A" to S.P. 860, L.D. 2142, "An Act to Establish Guidance for Awarding General Spousal Support"

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Amend the bill by striking out everything after the enacting clause and inserting the following:

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Sec. 1. 19-A MRSA §951-A, sub-§1-A is enacted to read:

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1-A. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

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A. "Length of the marriage" means the length of time from the date that the parties were married to the date of the filing of the action for divorce.

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B. "Spousal support income" means, with respect to each party and regardless of whether there are any children of the marriage, the party's gross income, as defined in section 2001, subsection 5, less, for a party who is a child support obligee, any amount the party is determined to spend directly in support of the minor child or children of the marriage as reflected on the child support worksheet and less, for a party who is a child support obligor, any amount the party is obligated to pay directly in support of the minor child or children of the marriage as reflected on the child support worksheet.

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Sec. 2. 19-A MRSA §951-A, sub-§2, as amended by PL 2023, c. 646, Pt. C, §1, is further amended to read:

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2. Types of spousal support. The court may, after consideration of the facts of the case and of all factors set forth in subsection 5, award or modify spousal support for on one or more of the following reasons grounds.

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A. General support may be awarded to provide financial assistance to a spouse with substantially less income potential than the other spouse so that both spouses can maintain a reasonable standard of living after the divorce allocate equitably between spouses financial losses that either or both may incur due to dissolution of a marriage of a significant length when the family is divided into separate economic units. A spouse married to someone with significantly greater income or earning capacity is

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entitled at the dissolution of the marriage to compensation for a portion of the decrease in the standard of living the spouse would otherwise experience, if the length of the marriage is of sufficient duration that equity requires that some portion of the loss be treated as the spouses' joint responsibility.

(1) There is a rebuttable presumption that general support may not be awarded if the parties were married for less than 10 years as of the date of the filing of the action for divorce. There is also a rebuttable presumption that general support may not be awarded for a term exceeding 1/2 the length of the marriage if the parties were married for at least 10 years but not more than 20 years as of the date of the filing of the action for divorce. There is a rebuttable presumption that general support must be awarded for an indefinite period if the parties were married for more than 20 years as of the date of the filing of the action for divorce.

(1-A) There is a rebuttable presumption that a spouse is entitled to an award of general support if the parties have been married for at least 10 years as of the date of the filing of the action for divorce and if that spouse's spousal support income as of the date of the filing of the action for divorce is equal to or less than 65% of the other spouse's spousal support income as of the date of the filing of the action for divorce.

(1-B) There is a rebuttable presumption that the annual amount of any general support awarded under this paragraph must equal the difference in the parties' spousal support incomes multiplied by a durational factor that is calculated by multiplying the number of years of the marriage by 0.015, except that the durational factor may not exceed 0.3. The amount of general support must be calculated on an annual basis, but the court may order the obligor to pay general support on a monthly, weekly or other scheduled basis.

(2) If the court finds that a spousal support award based upon a presumption established by this paragraph would be inequitable or unjust, that finding is sufficient to rebut the applicable presumption. The court shall use the factors set forth in subsection 5 and may use any other fact the court considers relevant to determine whether a presumption under this paragraph would be inequitable or unjust and shall make written findings supporting the court's conclusion. A court may award general support in cases for which there is a presumption that no general support may be awarded if the court finds that a substantial injustice will result if there is no award and the court makes written findings supporting the court's conclusion.

B. Transitional support may be awarded to provide for a spouse's transitional needs, including, but not limited to:

- (1) Short-term needs resulting from financial dislocations associated with the dissolution of the marriage; or
- (2) Reentry or advancement in the work force, including, but not limited to, physical or emotional rehabilitation services, vocational training and education.

C. Reimbursement support may be awarded to achieve an equitable result in the overall dissolution of the parties' financial relationship in response to exceptional circumstances. Exceptional circumstances include, but are not limited to:

- 1 (1) Economic misconduct by a spouse;
- 2 (2) Substantial contributions a spouse made towards the educational or
- 3 occupational advancement of the other spouse during the marriage; and
- 4 (3) Economic abuse by a spouse. For the purposes of this subparagraph,
- 5 "economic abuse" has the same meaning as in section 4102, subsection 5.

6 Reimbursement support may be awarded only if the court determines that the parties'
 7 financial circumstances do not permit the court to fully address equitable
 8 considerations through its distributive order pursuant to section 953.

9 D. Nominal support may be awarded to preserve the court's authority to grant spousal
 10 support in the future.

11 E. Interim support may be awarded to provide for a spouse's separate support during
 12 the pendency of an action for divorce or judicial separation.

13 **Sec. 3. 19-A MRSA §951-A, sub-§4-A is enacted to read:**

14 **4-A. Award at expiration of child support obligation.** If a child support obligation
 15 for the minor child or children of the marriage will terminate within 3 years of the
 16 anticipated date of a final judgment awarding general support, the court may establish a
 17 separate general support award that will take effect upon the termination of the child
 18 support obligation.

19 **Sec. 4. 19-A MRSA §951-A, sub-§5, ¶H, as enacted by PL 1999, c. 634, §3, is**
 20 **amended to read:**

21 H. The ~~tax~~ consequences of the division of marital property, including the tax
 22 consequences ~~of the sale of the marital home~~ resulting from division of the marital
 23 property, if applicable;

24 **Sec. 5. 19-A MRSA §951-A, sub-§5, ¶P, as enacted by PL 1999, c. 634, §3, is**
 25 **amended to read:**

26 P. The effect of the following on a party's need for spousal support or a party's ability
 27 to pay spousal support:

28 (1) Actual or potential income from marital or nonmarital property awarded or set
 29 apart to each party as part of the court's distributive order pursuant to section 953;
 30 ~~and~~

31 ~~(2) Child support for the support of a minor child or children of the marriage~~
 32 ~~pursuant to chapter 63; and~~

33 **Sec. 6. 19-A MRSA §951-A, sub-§5, ¶P-1 is enacted to read:**

34 **P-1. Whether the spousal support award combined with a child support obligation for**
 35 **the support of a minor child or children of the marriage would be inequitable or unjust;**

36 **Sec. 7. 19-A MRSA §951-A, sub-§5, ¶P-2 is enacted to read:**

37 **P-2. Whether the spousal support incomes of the parties are sufficiently low or**
 38 **sufficiently high that application of the presumptive calculation in subsection 2,**
 39 **paragraph A, subparagraph (1-B) would be inequitable or unjust; and**

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Sec. 8. Application. This Act applies to all actions pending on or after January 1, 2027. If a party files a motion to modify a general spousal support award that was issued before January 1, 2027, the following provisions apply.

1. The court may not use the rebuttable presumption in the Maine Revised Statutes, Title 19-A, section 951-A, subsection 2, paragraph A, subparagraph (1-B) as the basis for finding a substantial change in financial circumstances under Title 19-A, section 951-A, subsection 4.

2. If a party establishes a substantial change in financial circumstances through means other than application of the presumption under the Maine Revised Statutes, Title 19-A, section 951-A, subsection 2, paragraph A, subparagraph (1-B) and it appears to the court that justice requires the award to be modified, the court may consider the presumption in determining the amount of the modified general support award.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment makes the following changes to the bill.

1. It clarifies that the parties' spousal support income is calculated using the definition of "gross income" under the child support statutes, regardless of whether there are any children of the marriage. If there are children of the marriage, the spousal support income of the party obligated to pay child support must be reduced based on the amount that party is obligated to pay directly in support of the children of the marriage as reflected on the child support worksheet and the spousal support income of the party receiving child support must be reduced by the amount that party is determined to spend directly in support of children of the marriage as reflected on the child support worksheet.

2. It increases the income disparity between the spouses required to trigger a presumptive entitlement to general spousal support by providing that there is a rebuttable presumption that a spouse is entitled to general spousal support if the parties have been married for at least 10 years and that spouse's spousal support income is an amount equal to or less than 65% of the other spouse's spousal support income.

3. It clarifies that, after a court calculates a presumptive spousal support award in appropriate cases using the formula set forth in the amendment, the court must consider the factors set forth in the Maine Revised Statutes, Title 19-A, section 951-A, subsection 5 and any other fact the court determines relevant in deciding whether that presumptive spousal support amount would be equitable or unjust. It also amends the list of factors to require a court to consider whether the incomes of the parties are sufficiently low or sufficiently high that application of the presumptive general spousal support calculation is inequitable or unjust.

4. It clarifies that the court must make written findings supporting any decision that any of the general spousal support rebuttable presumptions have been rebutted because its application would be inequitable or unjust.

5. It clarifies that the court may enter a separate spousal support award that will take effect upon expiration of a child support obligation that is expected to expire within 3 years

1 of a final judgment awarding general support only in cases when the court has entered an
2 award of general spousal support.

3 6. It changes the structure of the language of the bill to more closely match the structure
4 of current law.