

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND NINTH LEGISLATURE

FIRST REGULAR SESSION

January 3, 1979 to June 15, 1979

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

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**PUBLIC LAWS**  
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**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, school administrative units must plan driver education courses for the 1979-80 school year prior to September 1979; and

Whereas, some administrative units may be able to offer driver education courses solely because of the provisions of this Act; and

Whereas, the encouragement of a greater availability of driver education courses is in the best interests of Maine students; and

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

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

20 MRSA § 2455 is enacted to read:

**§ 2455. Temporary driver education teacher certification**

1. **Temporary certification.** When an instructor duly certified by the State Board of Education is not available, the Commissioner of Educational and Cultural Services may grant temporary driver education teacher certification to a person licensed by the Secretary of State to teach driver education.

2. **Contract authority.** Any administrative unit, private school or academy may contract for the provision of driver education with any person certified under this section or any commercial driver education school, provided that the person offering the instruction for the school shall be certified under this section.

3. **Certification requests; limitation.** All requests for temporary certification shall be initiated by the administrative unit. These certificates shall be for not more than one year. All programs conducted under this certification shall be subject to the rules and regulations established under this chapter.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective May 21, 1979

## CHAPTER 259

H. P. 701 — L. D. 861

### AN ACT to Amend the Alternative Method of Support Enforcement.

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

Sec. 1. 19 MRSA § 498, sub-§ 4, ¶C, sub-¶¶ (6) and (7), as enacted by

PL 1975, c. 532, § 3, are amended to read:

(6) The need of the responsible parent; and

(7) The responsibility of the responsible parent for other dependents; but in any case the child for whom support is sought must benefit as much as any other dependent from the income and resources of the responsible parent; and

Sec. 2. 19 MRSA § 498, sub-§ 4, ¶ C, sub-¶ (8), is enacted to read:

**(8) The responsibility of the responsible parent for creating his own unstable financial condition by voluntarily incurring subsequent obligations. This condition shall not relieve him of his duty to provide support.**

Sec. 3. 19 MRSA § 499, as enacted by PL 1975, c. 532, § 3, is repealed and the following enacted in its place:

**§ 499. Right of support enforcement when court order exists**

1. **Subrogation of support rights. If a court order of support exists, the department shall be subrogated to the right of any dependent child or person having custody of the child named in the court order to pursue any support action or any administrative remedy to secure payment of the debt accrued or accruing under section 495 and to enforce the court order. The department shall not be required to seek an amendment to the court order of support in order to subrogate itself to the rights of the payee.**

2. **Limits on subrogation. When payment of public assistance for the benefit of a dependent child has ceased, he, or a person having the custody of the child named in the court order, may pursue any support action or any administrative remedy to secure payment of any support arrearage which accrued before or after the period of receiving public assistance and which is not part of the debt under section 495. The department shall not be subrogated to this right.**

Sec. 4. 19 MRSA § 500, sub-§ 1, ¶¶ D and E, as enacted by PL 1975, c. 532, § 3, are further amended to read:

D. A demand for payment of the support debt within 20 days of service of the notice of debt; and

E. A statement that the net proceeds of any collection action will be applied to the satisfaction of the support debt;

Sec. 5. 19 MRSA § 500, sub-§ 1, ¶¶ F, G and H, are enacted to read:

F. A statement that the responsible parent has the right to request a hearing under section 515, or, in the alternative, to seek relief in a court of proper jurisdiction;

G. A statement that at the administrative hearing only the following issues shall be considered:

- (1) Receipt of public assistance by the responsible parent;
- (2) Uncredited cash payments;
- (3) The amount of the debt accrued and accruing; and
- (4) The accuracy of the terms of the court order as stated in the notice of debt.

A statement that any other issues regarding the accrued debt or the current child support order shall not be considered at the administrative hearing and must be addressed to a court of proper jurisdiction.

H. A statement that the department will stay collection action upon receipt of a request for review under section 515 or on service of pleadings filed in a court of proper jurisdiction.

Sec. 6. 19 MRSA § 500, sub-§ 4, is enacted to read:

4. Stay of collection action. If the responsible parent requests review of a notice of debt accrued or accruing under section 515, or seeks relief in a court of proper jurisdiction, and if the department receives the request or service of pleadings within 21 days after service of the notice of debt, it shall stay the collection action. The department shall accept ordinary mail service of copies of all pleadings, which shall be addressed to the department representative whose name appears on the face of the notice of debt. Service upon the department shall be in addition to any other service required under the Maine Rules of Civil Procedure.

Sec. 7. 19 MRSA § 500-A is enacted to read:

§ 500-A. Expeditious procedure during stay

When a responsible parent has requested a stay under section 500, subsection 4, and that stay has been granted, because he seeks relief in a court, he shall request, within 30 days of filing the papers with the court, that the court set the matter for hearing on the next available court date. If he fails to make the request during that time, the department may remove the stay and proceed with the collection proceeding.

Sec. 8. 19 MRSA § 503, first paragraph, first sentence, as amended by PL 1977, c. 694, § 299, is further amended to read:

Twenty-one days after receipt of the notice of debt under section 500 or upon receipt of the decision under section 498, the amount stated in the notice of debt or in the decision shall be a lien in favor of the department against all **nonexempt** property of the responsible parent.

**Sec. 9.** 19 MRSA § 515, sub-§ 2, as repealed and replaced by PL 1977, c. 694, § 301, is repealed.

**Sec. 10.** 19 MRSA § 515, sub-§ 2-A, is enacted to read:

**2-A. Hearing.**

**A.** The hearing shall be conducted according to rules promulgated by the commissioner. The rules shall provide at least the right to confront and cross-examine witnesses, to present witnesses, to be represented by an attorney or other person and to be notified of these rights in writing. The decision shall be limited to evidence presented at the hearing.

**B.** If the hearing is on a notice of debt issued under section 500, only the following issues shall be considered:

- (1) Receipt of public assistance by the responsible parent;
- (2) Uncredited cash payments;
- (3) The amount of the debt accrued and accruing; and
- (4) The accuracy of the terms of the court order as stated in the notice of debt.

**C.** Within 30 days, the responsible parent shall be served with a notice of the results, together with a notice of his right to a judicial review.

**Sec. 11.** 19 MRSA § 515, sub-§ 3, as enacted by PL 1975, c. 532, § 3, is repealed and the following enacted in its place:

**3. Stay.** If a pleading is filed in any court that requests modification of a court order for support after a final administrative decision under this section is served on the responsible parent, there shall not be a stay of the department's collection action. If a pleading is filed for judicial review of agency action, the collection action may be stayed as provided in the Maine Administrative Procedure Act, Title 5, section 11004.

Effective September 14, 1979

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## CHAPTER 260

H. P. 863 — L. D. 1062

**AN ACT to Provide for Voter Approval of School Construction Projects.**

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