

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 828

H. P. 668

House of Representatives, February 28, 1979

On Motion of Mr. Hobbins of Saco, referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Bachrach of Brunswick.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Facilitate the Enforcement of Child Support Obligations and Make Statutory Changes Consistent with the Administrative Procedure Act.

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

Sec. 1. 19 MRSA § 448-A, as enacted by PL 1975, c. 532, § 2, is repealed and the following enacted in its place:

§ 448-A. Duty of Department of Human Services to enforce support obligations

1. Enforcement of support obligations. Upon application, the Department of Human Services may, for a fee, locate absent parents, enforce support obligations and determine paternity on behalf of applicants who are not recipients of public assistance, by actions under any appropriate statute, including, but not limited to, remedies established in subchapter V, section 491 et seq., to establish and enforce the support obligations. The department and the applicant shall sign an agreement in duplicate describing the fee.

2. Definitions.

A. "Applicant" means an individual, state, political subdivision of a state or instrumentality of a state.

B. "Enforce support obligations" means both the collection of a current

support order as well as the collection of a support arrearage which has accrued under a court order or administrative decision.

C. "State" includes any state, territory or possession of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

3. Fees. The department shall by rule establish a schedule of fees for enforcement of support obligations. On a showing of necessity, the department may defer or waive any fee. The department shall retain all fees and apply them toward the administration of the location, paternity and support enforcement programs.

Sec. 2. 19 MRSA § 494, as enacted by PL 1975, c. 532, § 3, is amended by adding after the first sentence a new sentence to read:

For the purposes of this subchapter only, authorized representatives of the commissioner may serve any notice or lien described in this subchapter.

Sec. 3. 19 MRSA § 495, as enacted by PL 1975, c. 532, § 3, is repealed and the following enacted in its place:

§ 495. Payment of public assistance creates debt to department

1. Public assistance. A payment of public assistance for the benefit of a dependent child creates a debt due the department by any responsible parent in the amount of public assistance paid.

2. Failure to pay child support. For actions initiated pursuant to section 448-A, failure to pay child support under a court or administrative order of support shall create a debt due the applicant. Upon assignment of the debt to the Department of Human Services by the applicant, the department may take action to enforce or collect the debt under any appropriate statute, including, but not limited to, remedies contained in this subchapter.

Sec. 4. 19 MRSA § 498, sub-§ 4, ¶ B, as amended by PL 1977, c. 694, § 296, is repealed and the following enacted in its place:

B. Decision. The decision shall include a statement of the responsibility of the alleged responsible parent, a statement of the periodic support payment, the amount of debt accrued and the periodic payment against the accrued debt. A copy of the decision shall be served upon the responsible parent. Written notice of the responsible parent's right to review or appeal of the decision within the department or review of the decision by the courts, as the case may be, and of the action required and the time within which the action shall be taken in order to exercise the right of review or appeal shall be given to the responsible parent with the decision.

Sec. 5. 19 MRSA § 498, sub-§ 6, as enacted by PL 1975, c. 532, § 3, is repealed and the following enacted in its place:

6. Subsequent court order. An administrative decision under this section

shall remain in effect until superseded by a subsequent court order, or subsequent administrative hearing.

An administrative hearing decision under this subsection shall be treated as an order of support for purposes of enforcement under section 448-A.

Sec. 6. 19 MRSA § 500, sub-§ 1, ¶ D, as enacted by PL 1975, c. 532, § 3, is repealed and the following enacted in its place:

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

Sec. 7. 19 MRSA § 504, sub-§ 4, as enacted by PL 1975, c. 532, § 3, is repealed and the following enacted in its place:

4. Answer. Any persons served with an order to withhold and deliver shall answer the order within 20 days of receipt of the order.

Sec. 8. 19 MRSA § 504, sub-§ 5, 2nd sentence, as enacted by PL 1975, c. 532, § 3, is repealed and the following enacted in its place:

After 20 days from the date of receipt of this order and upon demand of the commissioner, the property of the responsible parent shall be delivered forthwith to the commissioner.

Sec. 9. 19, MRSA § 510, as enacted by PL 1975, c. 532, § 3, is amended by adding at the end a new sentence to read:

An aggrieved employee may maintain a civil action against his employer for violation of this section.

STATEMENT OF FACT

The purpose of this bill is to expand remedies available to a nonwelfare individual who needs assistance in regularly obtaining child support payments from the obligor parent.

Federal law requires the State to provide support enforcement services to individuals who do not receive public assistance. The Department of Human Services is doing this within the context and limitations of existing laws. The statutes which would be changed by this bill are presently only applicable in welfare situations.

The enactment of this bill will:

1. Produce considerable tax savings by keeping some prospective recipients off welfare and allowing some current recipients to terminate their assistance grants; and

2. Improve the quality of life for the many divorced or separated custodial parents and children who do not choose to enter the welfare system.