

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
109TH LEGISLATURE  
FIRST REGULAR SESSION

L.D. 861  
(Filing No. H-292)

COMMITTEE AMENDMENT "A" to H.P. 701, L.D. 861, Bill,  
"AN ACT to Amend the Alternative Method of Support Enforcement."

Amend the Bill by striking out everything after the enacting clause and inserting in its place the following:

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Sec. 3. 19 MRSA §499, as enacted by PL 1975, c. 532, §3, is repealed and the following enacted in its place: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, is 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 request 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. 594, §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.'

Statement of Fact

This amendment changes the bill by prohibiting the Department of Human Services from modifying the obligations of a court order of support. The amendment allows the department to enforce a court order and provides for a review and hearing procedure for that enforcement action.

Reported by the Committee on Judiciary  
Reproduced and distributed under the direction of the  
Clerk of the House.  
4/30/79 (Filing No. H-292)