

MAINE STATE LEGISLATURE

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(Governor's Bill)
SECOND REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1821

H. P. 1715 House of Representatives, January 18, 1980
Referred to the Committee on Judiciary. In concurrence and ordered printed.
EDWIN H. PERT, Clerk of the House
Presented by Ms. Benoit of South Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

AN ACT Concerning Removal of Sex Bias in Child Support Statutes.

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

Sec. 1. 19 MRSA § 214, 2nd sentence, is amended to read:

He may order the **mother or** father of the minor child to contribute to the support of such minor child or children such sums payable weekly, monthly or quarterly as are deemed reasonable and just and may enforce obedience by appropriate decrees, execution issuing for said sums when payable and for costs, which decrees shall be in force until further order of the judge or justice.

Sec. 2. 19 MRSA § 301, first 3 sentences, are amended to read:

Whenever a ~~man~~ **person**, having a **wife spouse**, a minor child or children, residing in this State and being of sufficient ability or being able to labor and provide for them, willfully and without reasonable cause, refuses or neglects to provide suitable maintenance for them, the Superior Court, the probate court and the District Court in the county where the **wife spouse** or such minor child or children reside, or in the county where the husband ~~or~~, father, **wife or mother** may be found on petition of the **wife spouse** for herself ~~or himself~~ and for such child or children, or of such child or children by their guardian or by the municipality that is providing suitable maintenance, after such notice to the husband ~~or~~, father, **wife or mother** as it may order, and hearing, may order him ~~or her~~ to contribute to the support of ~~his wife~~ **the spouse** and such minor child or children or either of

them such sums payable weekly, monthly or quarterly as are deemed reasonable and just, and may enforce obedience by appropriate decrees. Pending petition hereunder, the court may order ~~the husband one spouse~~ to pay to the court for the ~~wife~~ **other spouse** sufficient money for the prosecution thereof, upon default of which order execution may issue as in civil actions. Execution may issue for said sums when payable, and for costs, and when the husband **or wife** is committed to jail on execution the county having jurisdiction of the process shall bear the expense of his **or her** support.

Sec. 3. 19 MRSA § 722, 5th - 9th sentences, as repealed and replaced by PL 1973, c. 434, are amended to read:

When ~~the husband or father~~ **a spouse or parent** is committed to jail, having been found in criminal contempt of any payment due upon decree of alimony, or for payment of money instead thereof, or for the support of his **or her** minor children, or for support pending the divorce action, or for payment of counsel fees, the county having jurisdiction of the process shall bear the expense of his **or her** support and committment. The court, upon finding a ~~husband, ex-husband or father~~ **spouse, ex-spouse or parent** in contempt of its order, shall impose the following sentences: For the first offense, up to 10-day commitment to the county jail; for the 2nd offense, up to 30-day commitment to the county jail and for any subsequent offense, up to 90-day commitment to the county jail. Failure to pay any payment ordered for the support of minor children or payments of alimony or reasonable attorney's fees by ~~the husband, ex-husband or father~~ **a spouse, ex-spouse or parent**, shall be deemed a criminal contempt if said ~~husband, ex-husband or father~~ **spouse, ex-spouse or parent** has the ability to pay said payment at the time it was due. He **or she** may petition the court issuing such execution for relief, whereupon a judge of such court, after due notice to the ~~wife or mother~~ **other spouse or parent**, and hearing thereon, may order his **or her** discharge from imprisonment on such terms and conditions as justice may require. Counsel fees awarded in the nature of support to ~~the wife~~ **a spouse** may be made payable forthwith, or in weekly or monthly installments all as the judge may see fit in the premises.

Sec. 4. 19 MRSA § 752, first ¶, last sentence, is amended to read:

In all proceedings under this Title where the husband **or wife** is committed to jail on any execution issued upon order for alimony, or for payment of money instead thereof, or for the support of the minor children of the parties, the county having jurisdiction of the proceedings shall bear the expense of his **or her** commitment and support in jail.

STATEMENT OF FACT

Since the original passage of these 4 laws, the basic premise that the husband or father has the primary responsibility for supporting his spouse and children has been revised. In light of the fact that the Maine Legislature has approved the passage of the "Equal Rights Amendment" to the U. S. Constitution and has

enacted the Uniform Civil Liability for Support Act which imposes like burdens upon parents and spouses, it is clear that a wife or mother has an equal duty to support her spouse and children. In the United States Supreme Court Case of **Orr v. Orr**, 99 S. Ct. Rptr. 1102 (1975), the court struck down a state law which imposed duties and liabilities on a husband which could not be imposed on a wife. A recent Maine Supreme Court case construed the alimony statute, Title 19, section 721, in effect as of 1976, to allow benefits to flow equally to both spouses and to impose obligations equally upon both spouses. **Beal v. Beal**, 388 A.2d 72 (Me.1978). The decision of the Maine Court in **Wood v. Wood**, No. Yor-79-8 (Me. Supreme Ct., October 25, 1979), makes very clear that in Maine, the duty of child support is the equal responsibility of both mother and father, to be discharged in accordance with their respective capacity and ability. (emphasis added)

This proposed legislation, which amends 4 separate support-related statutes, will bring these statutes into conformance with legislative intent to treat men and women equally in similar situations and with the recent rulings of both the United States Supreme Court and the Maine Supreme Court.