

MAINE STATE LEGISLATURE

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(New Draft of H.P. 1839 L.D. 1839)
(New Title)
SECOND REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 2070

H. P. 2184 House of Representatives, March 18, 1982
Reported by the Majority from the Committee on Judiciary and
printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-TWO

AN ACT to Amend the Child Support Laws.

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

Sec. 1. 17-A MRSA §552, sub-§2-A is enacted to read:

2-A. Prosecution may be brought in any venue where
either the dependent or the defendant resides.

Sec. 2. 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§2, is repealed and the following enacted in its place: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 obligation. Upon applica-
tion, the Department of Human Services may, for a fee,
locate absent parents, enforce support obligations and

1 determine paternity on behalf of applicants who are not
2 recipients of public assistance, by actions under any appro-
3 priate statute, including, but not limited to, remedies
4 established in subchapter V, to establish and enforce the
5 support obligations. The department and the applicant shall
6 sign an agreement in duplicate describing the fee. On a
7 showing of necessity, the department may defer or waive that
8 fee.

9 2. Termination of department enforcement of support
10 obligations. The department shall terminate its services to
11 an applicant when the support obligation is no longer in
12 arrears, except as otherwise mandated by a court. This sub-
13 section shall not apply to interstate enforcement of sup-
14 port.

15 3. Fees. The department shall by rule establish a
16 schedule of fees for enforcement of support obligations. In
17 enforcing support obligations, the department shall impose
18 such fees against the obligor as are mandated by federal law
19 and regulations. The department may impose such other
20 reasonable fees and costs against the obligee or obligor as
21 are not prohibited by federal law and regulations.

22 4. Application of fees. The department shall retain
23 all fees and apply them toward the administration of the
24 location, paternity and support enforcement programs.

25 5. Definitions. As used in this section, the follow-
26 ing terms shall have the following meanings.

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

29 B. "Support obligations" means the amount due an obli-
30 gee for support under a court order or administrative
31 decision and includes any arrearages of support which
32 has accrued.

33 Sec. 3. 19 MRSA §493, sub-§6, as enacted by PL 1975,
34 c. 532, §3, is amended to read:

35 6. "Earnings" means compensation paid or payable for
36 personal services, whether denominated as wages, salary,
37 commission, bonus or otherwise, and specifically includes
38 periodic payments pursuant to pension or retirement pro-
39 grams, or insurance policies of any type, and all gain
40 derived from capital, from labor or from both combined,
41 including profit gained through sale or conversion of capi-
42 tal assets, and unemployment compensation benefits, but does

1 not include payments by any department or division of the
2 State or Federal Government based upon inability to work or
3 obtain employment.

4 Sec. 4. 19 MRSA §495, as repealed and replaced by PL
5 1979 c. 309, §2, is repealed and the following enacted in
6 its place:

7 §495. Creation of debt to department

8 1. Public assistance. Debts due the department for
9 public assistance are as follows.

10 A. When no court order of support has been estab-
11 lished, a payment of public assistance for the benefit of
12 of the dependent child creates a debt due the depart-
13 ment from the responsible parent in the amount of
14 public assistance paid. When a periodic support pay-
15 ment has been established under section 498, the debt
16 shall be limited to the amount stated in the decision.

17 B. Whenever a court order of support has been estab-
18 lished, the debt due the department from the responsi-
19 ble parent shall be the amount established under that
20 order.

21 (1) The debt shall not be limited by the amount
22 of public assistance paid for the benefit of the
23 dependent child. Amounts collected by the depart-
24 ment in excess of public assistance expended shall
25 be distributed pursuant to section 513.

26 (2) The issuance of a court order of support
27 shall not relieve the responsible parent of any
28 liability for a debt which previously had accrued
29 under paragraph A.

30 1-A. Failure to pay child support. For actions ini-
31 tiated pursuant to section 448-A, failure to pay support
32 obligations under a court or administrative order of support
33 shall create a debt due the applicant. Upon assignment of
34 the debt to the Department of Human Services by the appli-
35 cant, the department may take action to enforce or collect
36 the debt under any appropriate statute including, but not
37 limited to, remedies contained in this subchapter.

38 2. Interstate cooperation. A payment of public assis-
39 tance by another state for the benefit of a dependent child
40 located within that state creates a debt to that state by a
41 responsible parent in the amount of the public assistance

1 paid. Upon certification by a state to the Department of
2 Human Services that public assistance is being rendered and
3 that a responsible parent resides within the State of Maine,
4 the Department of Human Services, after obtaining an
5 Inter-state Assignment of Rights, may attempt to collect the
6 debt, by action under any appropriate statute, including,
7 but not limited to, remedies established by this subchapter.

8 3. Definition of state. "State" means any state, ter-
9 ritory or possession of the United States, the District of
10 Columbia and the Commonwealth of Puerto Rico.

11 Sec. 5. 19 MRSA §496, last 2 paragraphs, as enacted by
12 PL 1975, c. 532, §3, are repealed as follows:

13 When a court order of support has been issued, the debt
14 shall be limited to the amount of the court order.

15 When a periodic support payment has been established
16 under section 498, the debt shall be limited to the amount
17 stated in the decision.

18 Sec. 6. 19 MRSA §498, sub-§7 is enacted to read:

19 7. Enforcement under section 448-A. An administrative
20 decision under this section shall be treated as a support
21 obligation for purposes of enforcement under section 448-A.

22 Sec. 7. 19 MRSA §499, sub-§1, first sentence, as
23 repealed and replaced by PL 1979, c. 663, §125, is amended
24 to read:

25 If a court order of support exists, the department shall be
26 subrogated to the right of any dependent child or person
27 having custody of the child named in the court order to
28 pursue any support action or any administrative remedy to
29 secure payment of the debt accrued or accruing under section
30 495, subsection 1 and to enforce the court order.

31 Sec. 8. 19 MRSA §500, first ¶, as amended by PL 1979,
32 c. 309, §6, is further amended to read:

33 When the department is subrogated to a court order of
34 support under section 499, the commissioner may issue to the
35 responsible parent a notice of debt accrued or accruing
36 under section 495, subsection 1.

37 Sec. 9. 19 MRSA §515, sub-§1, first sentence, as
38 enacted by PL 1975, c. 532, §3, is repealed and the follow-
39 ing enacted in its place:

1 If the responsible parent moves, within 7 days of receipt of
2 the request for review, the department shall send the
3 responsible parent a notice of hearing setting a hearing
4 date not less than 15 nor more than 30 days from the date of
5 service of the request for review.

6 STATEMENT OF FACT

7 This new draft amends the child support enforcement
8 laws as follows.

9 Section 1 allows criminal nonsupport cases to be tried
10 in one of 2 venues. Although this provision is present
11 in one criminal nonsupport statute, Title 19, section 481,
12 it is not present in the Maine Criminal Code. Having a
13 choice of venues is essential to avoid unnecessary travel on
14 behalf of witnesses.

15 Section 2 amends state law to implement new federal
16 legislation which imposes a "surcharge" upon an obligor for
17 his previous failure to have paid support. It also allows
18 other reasonable fees and costs against the obligor or obli-
19 gee to alleviate the department costs in collecting the sup-
20 port obligations.

21 Section 3 modifies the definition of "earnings" to con-
22 form with the recently enacted federal legislation, Public
23 Law 97-35, Section 2335.

24 Sections 4 to 6 clarify the law and the Department of
25 Human Services' policy concerning the collection of past due
26 child support obligations when public assistance is
27 expended. The current language is ambiguous and has
28 resulted in court challenges to the department's practices.
29 This new draft removes all doubt, as well as insuring com-
30 pliance with the federal regulations.

31 Sections 2 and 4 also allow the department to use
32 existing administrative remedies to aid the collection of
33 child support on behalf of applicants to the department who
34 are not recipients of public assistance. Section 2 of the
35 new draft also terminates the department's involvement in
36 areas of child support from these applicants when the
37 arrearage has been paid.

38 Sections 7, 8 and 9 are technical amendments to conform
39 those sections of the law to the changes made by sections 2
40 and 4 of the new draft, which allow the use of administra-
41 tive remedies in nonpublic assistance cases.

1 Section 10 allows the Department of Human Services to
2 mail notices of administrative review by regular mail,
3 rather than registered mail or certified mail, return
4 receipt requested.

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