

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1329

6
7 S.P. 492

In Senate, April 16, 1985

8 Submitted by the Department of Human Services pursuant to Joint Rule
9 24.

10 Referred to the Committee on Judiciary. Sent down for concurrence and
ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Najarian of Cumberland.

11 Cosponsored by Representative Cote of Auburn, Representative Melendy
of Rockland and Representative Rolde of York.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT to Facilitate the Collection of Child
18 Support.
19

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

22 Sec. 1. 10 MRSA §1329 is enacted to read:

23 §1329. Reporting of child support debts

24 1. Information available on request of consumer
25 reporting agency. The Department of Human Services,
26 upon request of a consumer reporting agency, shall
27 make available information regarding the amount of
28 overdue child support owed by any parent residing
29 within this State.

30 2. Notice of request; contest of accura-
31 cy. Prior to making the information available to a
32 requesting agency, the department shall provide the
33 obligor parent with notice of the proposed action.
34 The parent shall be given 20 days in which to contest
35 the accuracy of the information.

1 3. Fee. The department may impose a fee upon
2 the requesting agency in an amount not exceeding the
3 actual cost of providing the information.

4 4. Information provided without re-
5 quest. Nothing within this section may prevent the
6 department from voluntarily providing information to
7 a consumer reporting agency regarding any individual
8 who is indebted to the department for his failure to
9 pay child support.

10 Sec. 2. 19 MRSA §214, sub-§2, ¶B, as enacted by
11 PL 1983, c. 813, §1, is repealed and the following
12 enacted in its place:

13 B. Child support means money to be paid directly
14 to a parent or to the Department of Human Ser-
15 vices on behalf of a child receiving public as-
16 sistance and any medical or dental insurance cov-
17 erage provided on behalf of a child pursuant to
18 court order.

19 Sec. 3. 19 MRSA §214, sub-§4, as amended by PL
20 1983, c. 862, §48, is further amended to read:

21 4. Mediation. Prior to a contested hearing under
22 this section where there are minor children of the
23 parties, the court shall refer the parties to media-
24 tion; except that, the court, for good cause shown,
25 may hear contested motions on issues of parental
26 rights and responsibilities, child support or posses-
27 sion of the family residence pending a final order
28 under this section and prior to referring the parties
29 to mediation. Any agreement reached by the parties
30 through mediation on any issues shall be reduced to
31 writing, signed by the parties and presented to the
32 court for approval as a court order. When agreement
33 through mediation is not reached on any issue, the
34 court must determine that the parties made a good
35 faith effort to mediate the issue before proceeding
36 with a hearing. If the court finds that either party
37 failed to make a good faith effort to mediate, the
38 court may refer the parties back to mediation. Medi-
39 ation is not required when the contested issue is one
40 involving the establishment of a child support order,
41 the modification of an existing child support order
42 or the enforcement of a child support order.

1 Sec. 4. 19 MRSA §214, sub-§9, as enacted by PL
2 1983, c. 813, §1, is repealed and the following en-
3 acted in its place:

4 9. Support order. The court may order either
5 parent of a minor child to contribute reasonable and
6 just sums as child support payable weekly, monthly or
7 quarterly. Availability of public welfare benefits
8 to the family shall not affect the decision of the
9 court as to the responsibility of a parent to provide
10 child support. The court shall inquire of the par-
11 ties concerning the existence of a child support or-
12 der entered pursuant to subchapter V. If such an or-
13 der exists, the court shall consider its terms in es-
14 tablishing a child support obligation.

15 The court's order may include a requirement for the
16 payment of part or all of the medical expenses, hos-
17 pital expenses and other health care expenses of the
18 child. If medical, hospitalization or dental insur-
19 ance coverage for his child is available to an obli-
20 gated parent on a group basis through his employer or
21 union, the court's order shall include a provision
22 requiring the obligated parent to obtain and maintain
23 that coverage on behalf of his child. The court may
24 enforce a support order as provided in chapter 14-A.

25 Sec. 5. 19 MRSA §272, as enacted by PL 1967, c.
26 325, §2, is amended to read:

27 §272. Enforcement

28 Paternity may be determined upon the complaint of
29 the mother, child or the public authority chargeable
30 by law with the support of the child. If paternity
31 has been determined or has been acknowledged accord-
32 ing to the laws of this State, the liabilities of the
33 father may be enforced in the same or other proceed-
34 ings by the mother, child or the public authority
35 which has furnished or may furnish the reasonable ex-
36 penses of pregnancy, confinement, education, neces-
37 sary support or funeral expenses, and by other per-
38 sons including private agencies to the extent that
39 they have furnished the reasonable expenses of preg-
40 nancy, confinement, education, necessary support or
41 funeral expenses. Aid to Families with Dependent
42 Children benefits expended, pursuant to Title 22,

1 chapter 1053, on behalf of the mother by the public
2 authority shall be considered necessary support for
3 the child.

4 In execution of the powers given the court under
5 this subchapter, the court may employ any compulsory
6 process which it deems proper, by execution, attach-
7 ment or other effectual form, on which costs shall be
8 taxed as in other actions. The court may enforce any
9 support order established under this subchapter as
10 provided in chapter 14-A.

11 Sec. 6. 19 MRSA §273, as enacted by PL 1967, c.
12 325, §2, is amended by adding at the end a new para-
13 graph to read:

14 All complainants may commence an action at any
15 time prior to the child's 18th birthday. The child
16 has an additional 6 years from the end of his minori-
17 ty to act under this subchapter.

18 Sec. 7. 19 MRSA §277, as enacted by PL 1967, c.
19 325, §2, is amended to read:

20 §277. Authority for blood or tissue typing tests

21 The court, upon its own initiative or upon sug-
22 gession made by or on behalf of any person whose
23 blood is involved, or the mother, may order or, upon
24 motion of any party to the action made at a time so
25 as not to delay the proceedings unduly, shall order
26 the mother, child and alleged father to submit to
27 blood or tissue typing tests which may include, but
28 are not limited to, tests of red cell antigens, red
29 cell isoenzymes, human leukocyte antigens and serum
30 proteins. If any party refuses to submit to ~~such~~
31 those tests, the court may resolve the question of
32 paternity against ~~such~~ that party or enforce its order
33 if the rights of others and the interests of jus-
34 tice so require.

35 Sec. 8. 19 MRSA §278, as enacted by PL 1967, c.
36 325, §2, is amended to read:

37 §278. Selection of experts

1 The tests shall be made by experts qualified as
2 examiners of blood or tissue types who shall be ap-
3 pointed by the court. The experts shall may be called
4 by the court as witnesses to testify to their find-
5 ings and shall may be subject to cross-examination by
6 the parties. Any party or person at whose suggestion
7 the tests have been ordered may demand that other ex-
8 perts, qualified as examiners of blood or tissue
9 types, perform independent tests under order of
10 court, the results of which may be offered in evi-
11 dence. The number and qualifications of such those
12 experts shall be determined by the court.

13 Sec. 9. 19 MRSAs §280, as enacted by PL 1967, c.
14 325, §2, is repealed and the following enacted in its
15 place:

16 §280. Effect of test results

17 1. Effect of results. The results of those
18 tests shall have the following effect.

19 A. If the court finds that the conclusion of all
20 the experts, as disclosed by the evidence based
21 upon the tests, is that the alleged father is not
22 the parent of the child, the question of paterni-
23 ty shall be resolved accordingly.

24 B. If the experts disagree in their findings or
25 conclusions, the question shall be submitted upon
26 all the evidence.

27 C. If the experts conclude that the blood or
28 tissue tests show that the alleged father is not
29 excluded and that the probability of the alleged
30 father's paternity is less than 97%, this evi-
31 dence must be admitted by the court and shall be
32 weighed with other competent evidence of paterni-
33 ty.

34 D. If the experts conclude that the blood or
35 tissue tests show that the alleged father is not
36 excluded and that the probability of the alleged
37 father's paternity is 97% or higher, the alleged
38 father is presumed to be the father, and this evi-
39 dence must be admitted.

1 2. Chain of custody; evidence. Notarized docu-
2 mentation of the chain of custody of the blood and
3 tissue samples is competent evidence to establish the
4 chain of custody.

5 3. Notarized reports; challenges. A notarized
6 report of the blood and tissue tests, prepared by the
7 appointed experts, shall be admitted at trial, unless
8 a written challenge to the testing procedure or the
9 results of the blood and tissue tests have been filed
10 with the court and delivered to opposing counsel at
11 least 30 days before any hearing set to determine the
12 issue of paternity. Failure to make that timely
13 challenge constitutes a waiver of the right to have
14 the experts appear in person and is not grounds for a
15 continuance of the hearing to determine paternity.

16 Sec. 10. 19 MRSA §§280-A and 280-B are enacted
17 to read:

18 §280-A. Rebuttal of presumption

19 An alleged father may rebut the presumption of
20 paternity contained in section 280, subsection 1,
21 paragraph D, by clear and convincing evidence.

22 §280-B. Admissible evidence

23 1. Evidence of paternity; admissible. In an ac-
24 tion brought under this subchapter, evidence relating
25 to paternity may include, but is not limited to:

26 A. An expert's opinion concerning the time of
27 conception;

28 B. Evidence of sexual intercourse between the
29 mother and alleged father at any possible time of
30 conception;

31 C. Medical, scientific or genetic evidence re-
32 lating to the alleged father's paternity of the
33 child based upon tests performed by experts; and

34 D. The statistical probability of the alleged
35 father's paternity based upon the blood or tissue
36 tests.

1 2. Evidence inadmissible. Testimony relating to
2 sexual relations or possible sexual relations of the
3 mother at any time other than the probable time of
4 conception of the child is inadmissible in evidence,
5 unless offered by the mother.

6 Sec. 11. 19 MRSA §301, sub-§5, as enacted by PL
7 1979, c. 668, §3, is amended to read:

8 5. Enforcement. The court may enforce an order
9 as provided under chapter 14 14-A.

10 Sec. 12. 19 MRSA §302, as amended by PL 1979, c.
11 733, §6, is further amended to read:

12 §302. Support of child committed to custodial agency

13 Whenever a child under the age of 17 years is
14 committed by the District Court, or the District
15 Court acting as a juvenile court, to custody other
16 than that of its parent, such commitment shall be
17 subject to Title 22, sections 4038, 4061 and 4063.
18 The court may, after giving a parent a reasonable op-
19 portunity to be heard, adjudge that such parent shall
20 pay in such manner as the court may direct such sum
21 as will cover in whole or in part the support of such
22 child, and if such parent shall ~~wilfully~~ fail ~~or~~
23 ~~refuse~~ to pay such sum, he may be proceeded against
24 as provided by law for cases of desertion or failure
25 to provide subsistence in chapter 14-A.

26 Sec. 13. 19 MRSA §303-A, 2nd ¶, as enacted by PL
27 1975, c. 532, §1, is amended to read:

28 No court, officer, political subdivision or agen-
29 cy of the State ~~shall~~ may be required to use the
30 scale, except the Department of Human Services may
31 require the use of the scale in proceedings initiated
32 pursuant to subchapter V.

33 Sec. 14. 19 MRSA §400, sub-§1, ¶C, as repealed
34 and replaced by PL 1971, c. 393, §10, is repealed and
35 the following enacted in its place:

36 C. Receive all petitions from initiating states
37 and forward them to the IV-D agency for enforce-
38 ment under subchapter V, unless the department

1 has determined that appropriate remedies under
2 this subchapter are not available with respect to
3 the obligor. In that instance, the petition
4 shall be forwarded to the appropriate court with-
5 in the responding state.

6 Sec. 15. 19 MRSA §400, sub-§1, ¶D is enacted to
7 read:

8 D. Forward to the court in this State which has
9 jurisdiction over the obligor or his property pe-
10 titions, certificates and copies of the Act it
11 receives from courts or information agencies of
12 other states, provided that the department has
13 not acted pursuant to paragraph C.

14 Sec. 16. 19 MRSA §405, sub-§3, as amended by PL
15 1971, c. 393, §14, is amended to read:

16 3. Violations. To punish under the power of con-
17 tempt the obligor who violates any order of the
18 court, or to issue ~~executions as in actions of debt~~
19 any order pursuant to chapter 14-A. When the obligor
20 is committed to jail for contempt ~~or an execution~~
21 ~~issued~~, as provided, the county having jurisdiction
22 of the process shall bear the expense of his support
23 and commitment and he may be discharged in the same
24 manner as provided by section 722.

25 Sec. 17. 19 MRSA §448 is amended to read:

26 §448. Enforcement of rights

27 The obligee may enforce his right of support
28 against the obligor, pursuant to chapter 14-A, and
29 the State or any political subdivision thereof may
30 proceed on behalf of the obligee to enforce his right
31 of support against the obligor. Whenever the State or
32 a political subdivision thereof furnishes support to
33 an obligee, it has the same right as the obligee to
34 whom the support was furnished, for the purpose of
35 securing reimbursement and of obtaining continuing
36 support.

37 Sec. 18. 19 MRSA §448-A, sub-§1, as enacted by
38 PL 1981, c. 657, §2, is amended to read:

1 1. Enforcement of support obligation. Upon ap-
2 plication, the Department of Human Services may, for
3 a fee, locate absent parents, establish support obli-
4 gations, enforce support obligations and determine
5 paternity on behalf of applicants who are not recipi-
6 ents of public assistance, by actions under any ap-
7 propriate statute, including, but not limited to,
8 remedies established in subchapter V, to establish
9 and enforce the support obligations. The department
10 and the applicant shall sign an agreement in dupli-
11 cate describing the fee. On a showing of necessity,
12 the department may defer or waive that fee.

13 Sec. 19. 19 MRSA §448-A, sub-§2, as enacted by
14 PL 1981, c. 657, §2, is repealed.

15 Sec. 20. 19 MRSA §491, as enacted by PL 1975, c.
16 532, §3, is amended to read:

17 §491. Purpose

18 With this subchapter the Legislature intends to
19 provide additional remedies for the enforcement of
20 support for dependent children, spouses and former
21 spouses by establishing an alternative method di-
22 rected to the real and personal property of the re-
23 sponsible parents. These remedies are in addition to,
24 not in lieu of, existing law.

25 Sec. 21. 19 MRSA §492-A is enacted to read:

26 §492-A. Persons subject to jurisdiction

27 1. Declaration of purpose. It is declared, as a
28 matter of legislative determination, that the public
29 interest demands that the State provide its citizens
30 with an effective means of redress against nonresi-
31 dent persons who, through certain significant minimal
32 contacts with this State, incur obligations to citi-
33 zens entitled to the State's protection.

34 This section, to insure maximum protection to citi-
35 zens of this State, shall be applied so as to assert
36 jurisdiction over nonresident responsible parents to
37 the fullest extent permitted by the due process
38 clause of the United States Constitution, Amendment
39 XIV.

1 2. Causes of action. Any person, whether or not
2 a citizen or resident of this State, who does any of
3 the acts enumerated in this section, thereby submits
4 such person to the jurisdiction of the Department of
5 Human Services for the purpose of enforcing this sub-
6 chapter as to any cause of action arising from the
7 doing of any such acts:

8 A. Maintaining a domicile in this State while
9 subject to a marital or family relationship out
10 of which arises a claim for child support,
11 spousal support, alimony or the commission in
12 this State of any act giving rise to such a
13 claim; or

14 B. Conception resulting in paternity within the
15 meaning of chapter 5, subchapter III.

16 3. Personal service. Service of any notice sent
17 pursuant to section 498 upon any person who is sub-
18 ject to the jurisdiction of this subchapter, as pro-
19 vided in this section, shall be made by personally
20 serving the notice upon the responsible parent out-
21 side this State, with the same force and effect as
22 though it had been served personally within this
23 State.

24 Sec. 22. 19 MRSA §493, sub-§10 is enacted to
25 read:

26 10. Spousal support order. "Spousal support or-
27 der" means any judgment or order for support or main-
28 tenance, including alimony, issued by any court of
29 the State or any state for the benefit of a spouse or
30 former spouse of the responsible parent where depen-
31 dent children are residing with that spouse or former
32 spouse.

33 Sec. 23. 19 MRSA §495, sub-§1, ¶A, as enacted by
34 PL 1981, c. 657, §4, is amended to read:

35 A. When no court order of support has been es-
36 ablished, a payment of public assistance for the
37 benefit of the dependent child creates a debt due
38 the department from the responsible parent in the
39 amount of public assistance paid. Aid to Fami-
40 lies with Dependent Children benefits expended by

1 the department, pursuant to Title 22, chapter
2 1053, on behalf of the recipient parent or other
3 relative of the child shall be considered a pay-
4 ment of public assistance for the benefit of the
5 dependent child. When a periodic support payment
6 has been established under section 498, the debt
7 shall be limited to the amount stated in the de-
8 cision.

9 Sec. 24. 19 MRSA §495, sub-§1-A, as enacted by
10 PL 1981, c. 657, §4, is amended to read:

11 1-A. Failure to pay child or spousal support.
12 For actions initiated pursuant to section 448-A,
13 failure to pay support obligations under a court or
14 administrative order of support shall create a debt
15 due the applicant. Upon assignment of the debt to
16 the Department of Human Services by the applicant ex-
17 ecution of a contract between the department and the
18 applicant, the department may take action to estab-
19 lish, enforce or collect the debt under any appropri-
20 ate statute including, but not limited to, remedies
21 contained in this subchapter.

22 Sec. 25. 19 MRSA §495, sub-§2, as repealed and
23 replaced by PL 1981, c. 657, §4, is repealed and the
24 following enacted in its place:

25 2. Interstate cooperation. A payment of public
26 assistance by another state for the benefit of a de-
27 pendent child located within that state creates a
28 debt due that state from a responsible parent in the
29 amount of the public assistance paid. With the exe-
30 cution of an application for nonwelfare services be-
31 tween a state and a resident of that state, the state
32 may request the department to enforce or collect any
33 unpaid support debt belonging to the applicant. Upon
34 written request by a state to the department, the de-
35 partment may attempt to collect the debt by action
36 under any appropriate laws including, but not limited
37 to, remedies established by this subchapter.

38 Sec. 26. 19 MRSA §496, as amended by PL 1981, c.
39 657, §5, is repealed and the following enacted in its
40 place:

41 §496. Limitation of debt

1 The department shall not collect any debt previ-
2 ously incurred under section 495 from any responsible
3 parent while that parent receives Aid to Families
4 with Dependent Children for the benefit of any of his
5 or her natural or adopted children. This prohibition
6 shall not apply to the submission of the responsible
7 parent's name to the State or Federal Income Tax Re-
8 fund Offset Programs nor to the subsequent intercept
9 of any refunds due the responsible parent.

10 Sec. 27. 19 MRSA §498, as amended by PL 1981, c.
11 657, §6, is further amended to read:

12 §498. Determination of amount of support debt in ab-
13 sence of court order

14 If no court order of support exists, the depart-
15 ment may, by hearing and other procedures set forth
16 below, establish a periodic payment to satisfy the
17 responsible parent's support obligation under sec-
18 tions 442 and 443, establish the debt accrued under
19 section 495, ~~and~~ establish a periodic payment to sat-
20 isfy that debt and establish the responsible parent's
21 obligation to maintain medical insurance coverage and
22 to provide payment for other medical expenses in-
23 curring on behalf of his dependent children.

24 1. Notice of hearing. The department shall serve
25 on the responsible parent a notice of hearing not
26 less than 20 days before the date of the hearing.

27 2. Contents of notice. In addition to conforming
28 with the requirements of the Maine Administrative
29 Procedure Act, Title 5, section 9052, subsection 4,
30 the notice shall contain:

31 A. A statement of the debt accrued or accruing
32 under section 495 ~~and periodic support payments~~
33 ~~in the future;~~

34 B. A statement of the periodic public assist-
35 ance;

36 C. A statement of the name of the recipient of
37 the public assistance and the names of dependent
38 children;

1 D. A statement of rights at the hearing;

2 E. A statement that if the responsible parent
3 fails to appear, the stated accrued debt and,
4 periodic support payments in the future, medical
5 insurance coverage and payment of noncovered med-
6 ical expenses shall be assessed and enforced by
7 collection action; and

8 F. A statement that the property of the respon-
9 sible parent may be subject to lien and foreclo-
10 sure, administrative seizure and disposition, or-
11 der to withhold and deliver or other collection
12 actions- and that any debt determined to be owed
13 by the responsible parent may be reported to a
14 consumer reporting agency;

15 G. A statement that the responsible parent may
16 be liable for medical insurance coverage for his
17 dependents, if the hearing officer determines
18 that such coverage is available to the responsi-
19 ble parent through an employer at reasonable cost
20 or if current coverage could be extended to in-
21 clude the dependent children; and

22 H. A statement that the failure of the responsi-
23 ble parent to maintain any required medical in-
24 surance coverage may result in his liability for
25 all medical expenditures made by the department
26 on behalf of the dependent children.

27 3. Action upon failure to appear. If the respon-
28 sible parent fails to appear at the hearing on the
29 date specified by the notice of debt, the hearing of-
30 ficer shall enter a decision pursuant to subsection
31 4, paragraph B. Within ~~15~~ 30 days of service of the
32 decision, the responsible parent may petition the de-
33 partment to vacate the decision if the responsible
34 parent can show any grounds which would permit relief
35 from judgment in a civil action.

36 4. Hearing.

37 A. ~~Procedure-~~ The hearing shall be conducted ac-
38 cording to rules promulgated by the commissioner.
39 The rules shall provide at least the right to
40 confront and cross-examine witnesses, to present

1 witnesses, to be represented by an attorney or
2 other person and to be notified of these rights
3 in writing. The decision shall be limited to evi-
4 dence presented at the hearing.

5 ~~B. Decision:~~ The decision shall include a state-
6 ment of the responsibility of the alleged respon-
7 sible parent, a statement of the periodic support
8 payment, the amount of debt accrued and, the
9 periodic payment against the accrued debt and the
10 liability of the responsible parent to maintain
11 medical insurance coverage and to provide payment
12 for other medical expenses. A copy of the deci-
13 sion shall be served upon the responsible parent.
14 Written notice of the responsible parent's right
15 to review or appeal of the decision within the
16 department or review of the decision by the
17 courts, as the case may be, and of the action re-
18 quired and the time within which the action shall
19 be taken in order to exercise the right of review
20 or appeal shall be given to the responsible par-
21 ent with the decision. A review of the decision
22 within the department, except pursuant to subsec-
23 tion 3, shall be limited to a review of the
24 record generated by the original hearing.

25 ~~C. Criteria of decision:~~ The person conducting
26 the hearing shall consider, when deciding on the
27 amount of periodic payment and the availability
28 of medical insurance coverage, at least the fol-
29 lowing criteria:

- 30 (1) The need of the child;
- 31 (2) The income, real property and personal
32 property of the responsible parent;
- 33 (3) The ability of the responsible parent
34 to borrow;
- 35 (4) The ability of the responsible parent
36 to earn;
- 37 (5) The amount of support debt accrued and
38 accruing;
- 39 (6) The need of the responsible parent;

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

7 (8) The responsibility of the responsible
8 parent for creating his own unstable finan-
9 cial condition by voluntarily incurring sub-
10 sequent obligations. This condition shall
11 not relieve him of his duty to provide sup-
12 port;

13 (9) The availability of employer-based med-
14 ical insurance coverage at a reasonable cost
15 to the responsible parent; and

16 (10) The availability of current medical
17 coverage to the responsible parent which
18 could be extended to include the dependent
19 child.

20 5. Initiation of collection. The decision of the
21 department in the hearing shall establish the debt of
22 the responsible parent. The department may collect
23 the debt after service of the decision in the hear-
24 ing.

25 6. Subsequent court order. An administrative deci-
26 sion under this section shall remain in effect un-
27 til superseded by a subsequent court order, or subse-
28 quent administrative hearing.

29 7. Enforcement under section 448-A. An adminis-
30 trative decision under this section shall be treated
31 as a support obligation for purposes of enforcement
32 under section 448-A.

33 Sec. 28. 19 MRSA §498-A is enacted to read:

34 §498-A. Determination of amount of child support ob-
35 ligation in nonwelfare cases

36 If no court order of support exists, the depart-
37 ment may, by hearing and other procedures set forth
38 in this section, establish a periodic payment to sat-

1 isfy the responsible parent's support obligation un-
2 der sections 442 and 443, on behalf of his dependent
3 children for whom the department has agreed to pro-
4 vide enforcement services pursuant to section 448-A.
5 The department may also establish the responsible
6 parent's obligation to maintain medical insurance
7 coverage and to provide payment for other medical ex-
8 penditures incurred on behalf of his dependent children.

9 1. Notice of hearing. The department shall
10 serve on the responsible parent a notice of hearing
11 not less than 20 days before the date of the hearing.

12 2. Contents of notice. In addition to conform-
13 ing with the requirements of the Maine Administrative
14 Procedure Act, Title 5, section 9052, subsection 4,
15 the notice shall contain:

16 A. A statement that the obligee has contracted
17 with the department pursuant to section 448-A, to
18 establish a child support obligation;

19 B. A statement of the names of the dependent
20 children for whom support is being sought;

21 C. A statement that the responsible parent may
22 be liable for medical insurance coverage for his
23 dependents, if the hearing officer determines
24 that the coverage is available to the responsible
25 parent through an employer at reasonable cost or
26 if current coverage could be extended to include
27 the dependent children;

28 D. A statement that the responsible parent may
29 be ordered to pay for medical, dental, optical
30 and hospital expenses incurred for the benefit of
31 his dependent children, if the hearing officer
32 determines that the responsible parent has suffi-
33 cient assets to cover those expenses;

34 E. A statement that if the responsible parent
35 fails to appear, periodic support payments in the
36 future, medical insurance coverage and payment of
37 noncovered medical expenses shall be assessed and
38 enforced by collection action;

1 F. A statement that the property of the respon-
2 sible parent may be subject to lien and foreclo-
3 sure, administrative seizure and disposition, or-
4 der to withhold and deliver or other collection
5 actions and that any debt determined to be owed
6 by the responsible parent may be reported to a
7 consumer reporting agency; and

8 G. A statement of rights at the hearing.

9 3. Action upon failure to appear. If the re-
10 sponsible parent fails to appear at the hearing on
11 the date specified by the notice of debt, the hearing
12 officer shall enter a decision pursuant to subsection
13 4, paragraph B. Within 30 days of service of the de-
14 cision, the responsible parent may petition the de-
15 partment to vacate the decision if the responsible
16 parent can show any grounds which permits relief from
17 judgment in a civil action.

18 4. Hearing. The hearing shall be conducted as
19 follows.

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

28 B. The decision shall include a statement of the
29 responsibility of the alleged responsible parent
30 and a statement of the periodic support payment,
31 the liability of the responsible parent to main-
32 tain medical insurance coverage and to pay for
33 other medical expenses incurred on behalf of the
34 dependent children. A copy of the decision shall
35 be served upon the responsible parent. Written
36 notice of the responsible parent's right to re-
37 view of the decision within the department or ap-
38 peal of the decision to the courts, as the case
39 may be, and of the action required and the time
40 within which the action shall be taken in order
41 to exercise the right of review or appeal shall
42 be given to the responsible parent with the deci-

1 sion. A review of the decision within the de-
2 partment, except pursuant to subsection 3, shall
3 be limited to a review of the record generated by
4 the original hearing.

5 C. The person conducting the hearing shall con-
6 sider, when deciding on the amount of periodic
7 payment and the availability of medical insurance
8 coverage, at least the following criteria:

9 (1) The need of the child;

10 (2) The income, real property and personal
11 property of the responsible parent;

12 (3) The ability of the responsible parent
13 to borrow;

14 (4) The ability of the responsible parent
15 to earn;

16 (5) The need of the responsible parent;

17 (6) The responsibility of the responsible
18 parent for other dependents; but in any case
19 the child for whom support is sought must
20 benefit as much as any other dependent from
21 the income and resources of the responsible
22 parent;

23 (7) The responsibility of the responsible
24 parent for creating his own unstable finan-
25 cial condition by voluntarily incurring sub-
26 sequent obligations. This condition shall
27 not relieve him of his duty to provide sup-
28 port;

29 (8) The availability of employer-based med-
30 ical insurance coverage at a reasonable cost
31 to the responsible parent; and

32 (9) The availability of current medical
33 coverage to the responsible parent which
34 could be extended to include the dependent
35 child.

1 5. Subsequent court order. An administrative
2 decision under this section shall remain in effect
3 until superseded by a subsequent court order or sub-
4 sequent administrative hearing.

5 Sec. 29. 19 MRSA §499, sub-§1, as amended by PL
6 1981, c. 657, §7, is further amended to read:

7 1. Subrogation of support rights. If a court or-
8 der of support or spousal support order exists, the
9 department shall be subrogated to the right of any
10 dependent child or person having custody of the child
11 named in the court order to pursue any support action
12 or any administrative remedy to secure payment of the
13 debt accrued or accruing under section 495 and to en-
14 force the court order. The department shall not be
15 required to seek an amendment to the court order of
16 support or to the spousal support order in order to
17 subrogate itself to the rights of the payee. The de-
18 partment shall not be required to file a motion to
19 intervene or join in any court proceeding in order to
20 subrogate itself to the rights of the payee and to be
21 treated as a party in any further proceedings regard-
22 ing the support order.

23 Sec. 30. 19 MRSA §500, first ¶, as amended by PL
24 1981, c. 657, §8, is further amended to read:

25 When the department is subrogated to a court or-
26 der of support or spousal support order under section
27 499, the commissioner may issue to the responsible
28 parent a notice of debt accrued or accruing under
29 section 495.

30 Sec. 31. 19 MRSA §500, sub-§1, ¶C, as enacted by
31 PL 1975, c. 532, §3, is amended to read:

32 C. ~~Collection actions.~~ A statement that any
33 property of the debtor is subject to lien and
34 foreclosure, administrative seizure and disposi-
35 tion, order to withhold and deliver or other col-
36 lection actions and that any debt determined to
37 be owed by the responsible parent may be reported
38 to a consumer reporting agency;

39 Sec. 32. 19 MRSA §502, as amended by PL 1983, c.
40 155, §2, is repealed and the following enacted in its
41 place:

1 §502. Exemptions

2 The following exemptions shall apply to weekly
3 earnings. The maximum part of the aggregate dis-
4posable earnings of a responsible parent for any
5workweek which is subject to garnishment, pursuant to
6section 504 or 504-A, to enforce any decision entered
7pursuant to section 498, 498-A, 500 or 515, shall not
8exceed:

9 1. Support spouse or dependent child. When the
10 individual is supporting his spouse or dependent
11 child, other than a spouse or child with respect to
12 whose support that order is used, 50% of that
13 individual's disposable earnings for that week; and

14 2. Not supporting spouse or dependent
15 child. When the individual is not supporting such a
16 spouse or dependent child described in subsection 1,
17 60% of that individual's disposable earnings for that
18 week.

19 With respect to the disposable earnings of any indi-
20 vidual for any workweek, the 50% specified in subsec-
21 tion 1, shall be deemed to be 55% and the 60% speci-
22 fied in subsection 2, shall be deemed to be 65% if
23 and to the extent that such earnings are subject to
24 garnishment to enforce a support order with respect
25 to a period which is prior to the 12-week period
26 which ends with the beginning of that workweek. In
27 no event may the amount withheld exceed the limita-
28 tions imposed by the United States Code, Title 15,
29 Section 1673.

30 Sec. 33. 19 MRSA §503, first ¶, as amended by PL
31 1979, c. 259, §8, is further amended to read:

32 Twenty-one days after receipt of the notice of
33 debt under section 500 or upon receipt of the deci-
34 sion under section 498 or section 498-A, the amount
35 stated in the notice of debt or in the decision shall
36 be a lien in favor of the department against all
37 ~~nonexempt~~ property of the responsible parent. This
38 lien shall be separate and apart from and in addition
39 to any other lien created by, or provided for in,
40 this Title.

1 Sec. 34. 19 MRSA §503, sub-§1, as repealed and
2 replaced by PL 1979, c. 65, is amended to read:

3 1. Filing. The lien shall attach to all
4 ~~nonexempt~~ real and personal property of the responsi-
5 ble parent when the department files, in the registry
6 of deeds of any county or with any office appropriate
7 for a notice with respect to personal property, a
8 certificate which states the name of the responsible
9 parent, his address, the amount of the child support
10 debt accrued, the date of the decision or notice of
11 debt by which the debt was assessed and the name and
12 address of the authorized agent of the department who
13 issues the lien.

14 Sec. 35. 19 MRSA §504-A is enacted to read:

15 §504-A. Expedited income withholding

16 1. Order to withhold; commissioner may
17 serve. The commissioner may serve on any person an
18 order to withhold property, including wages, which is
19 due or belonging to the responsible parent when the
20 responsible parent has failed to make payments under
21 a support order and the amount in arrears is at least
22 equal to the support payable for one month.

23 2. Notice of order to withhold. Prior to imple-
24 mentation of the order to withhold, the responsible
25 parent shall be served with a notice of intention to
26 withhold.

27 3. Content of notice. In addition to conforming
28 with the requirements of the Maine Administrative
29 Procedure Act, Title 5, section 9052, subsection 4,
30 the notice of intention to withhold shall include:

31 A. A statement of the amount of the arrearage,
32 and the amount of the current support order;

33 B. A statement of the amount that will be with-
34 held or the formula by which that amount will be
35 determined;

36 C. A statement that the withholding will apply
37 to any current or subsequent period of employ-
38 ment;

1 D. A statement that the responsible parent may
2 contest the withholding by requesting a review
3 pursuant to section 515;

4 E. A statement that the only basis for contest-
5 ing the withholding is a mistake of fact;

6 F. A statement that the request for review must
7 be filed within 20 days of receipt of the notice
8 of intention and that failure to request a review
9 within 20 days will result in the department no-
10 tifying the responsible parent's employer or oth-
11 er person holding property belonging to the re-
12 sponsible parent to begin withholding; and

13 G. A statement that at the review hearing the
14 responsible parent will have an opportunity to
15 present his case; that the hearing officer's de-
16 cision will be based on an evaluation of the
17 facts, including the responsible parent's state-
18 ment of his case; that the responsible parent
19 will be informed of the decision and, if with-
20 holding is to occur, the time within which the
21 withholding will begin and the information to be
22 given to the employer or other payor.

23 4. Implementation of order to withhold. Upon
24 receipt of an order to withhold issued by the depart-
25 ment, the employer or other payor shall immediately
26 begin withholding from the income of the responsible
27 parent the amount specified in the order. Sums with-
28 held shall be remitted monthly or more frequently to
29 the department. Any person who honors an order to
30 withhold issued under this section shall be dis-
31 charged from any liability or obligation to the re-
32 sponsible parent for such property. The department
33 warrants that it will defend and hold harmless any
34 such persons for honoring the order.

35 5. Priority of order. Withholding initiated un-
36 der this section shall have priority over any other
37 legal process under state law against the same wages.

38 6. Termination of withholding. The withholding
39 shall be terminated if:

40 A. The department is unable to forward funds to
41 the obligee for an extended period of time;

1 B. The child or spousal support or alimony obli-
2 gation has been eliminated by a subsequent court
3 order;

4 C. The child has reached majority or has other-
5 wise been emancipated; or

6 D. The child has been adopted.

7 No termination may occur while an arrearage remains,
8 unless other provisions acceptable to the department
9 for its repayment have been made.

10 Sec. 36. 19 MRSA §507, as enacted by PL 1975, c.
11 532, §3, is amended to read:

12 §507. Foreclosure on liens

13 The commissioner shall proceed as follows with
14 respect to foreclosures on filed liens.

15 1. Liens on real property. Actions to foreclose
16 liens on real property filed under section 503 may be
17 brought in the county where the lien is filed pursu-
18 ant to the procedures of ~~Title 10, chapter 603~~ Title
19 14, chapter 403, subchapter II.

20 2. Liens on personal property. Actions to
21 foreclose liens on personal property filed under sec-
22 tion 503 may be brought in the county where the lien
23 is filed pursuant to the procedures of ~~Title 10,~~
24 ~~chapter 631~~ Title 14, chapter 509, subchapter III.

25 Sec. 37. 19 MRSA §509, as enacted by PL 1975, c.
26 532, §3, is repealed and the following enacted in its
27 place:

28 §509. Employer responsibility and liability

29 Any person who fails to honor an order to with-
30 hold and deliver, an order for expedited withholding,
31 or a duly executed assignment of earnings, or fails
32 to surrender property under section 506, shall be li-
33 able to the department in an amount equal to the debt
34 which is the basis of the lien, order to withhold and
35 deliver, order for expedited withholding, demand for
36 surrender or assignment of earnings, together with
37 costs, interest and reasonable attorney fees.

1 When any withholding order or assignment of earn-
2 ings is in effect and the obligor's employment is
3 terminated or the periodic payment terminates, the
4 obligor's employer or other payor of funds shall no-
5 tify the department of the termination within 30 days
6 of the termination date. The notice must include the
7 obligor's home address and the name and address of
8 the obligor's new employer or payor of funds, if
9 known.

10 **Sec. 38.** 19 MRSA §510, as amended by PL 1979, c.
11 309, §10, is further amended by adding at the end a
12 new paragraph to read:

13 Any employer who, in contravention of this sec-
14 tion, discharges from employment, refuses to employ,
15 or takes disciplinary action against any responsible
16 parent because of the existence of any lien, order to
17 withhold and deliver or assignment of earnings and
18 the obligations or additional obligations which it
19 imposes upon the employer shall be subject to a fine
20 in an amount not to exceed \$5,000.

21 **Sec. 39.** 19 MRSA §512-A is enacted to read:

22 §512-A. Employer; payor compensation

23 The commissioner may by rule establish a process-
24 ing fee which an employer or individual possessing
25 property belonging to the responsible parent may
26 charge for implementation of an order to withhold and
27 deliver, assignment of earnings or expedited wage
28 withholding.

29 **Sec. 40.** 19 MRSA §515, first ¶, as amended by PL
30 1975, c. 623, §19-A, is further amended to read:

31 The Within 30 days of receiving notice of any ac-
32 tion under this subchapter, the responsible parent or
33 the department may move for a review of any action
34 under this subchapter by serving a request for re-
35 view, together with an affidavit stating the grounds
36 upon which the request is based, upon the other par-
37 ty. The department may review any action under this
38 subchapter, ~~except the decision under section 498,~~
39 ~~subsection 4,~~ without proceeding under this section.

1 Sec. 41. 19 MRS §515, sub-§2-A, as enacted by
2 PL 1979, c. 259, §10, is repealed and the following
3 enacted in its place:

4 2-A. Hearing. The conduct of the hearing and
5 rendering of any decision shall be as follows.

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

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

17 (1) The simultaneous receipt of Aid to Fam-
18 ilies with Dependent Children and Medicaid
19 by the responsible parent on behalf of his
20 natural or adopted children;

21 (2) Uncredited cash payments;

22 (3) The amount of the debt accrued and ac-
23 cruing;

24 (4) The accuracy of the terms of the court
25 or administrative order as stated in the no-
26 tice of debt; and

27 (5) The maintenance of the required medical
28 insurance coverage.

29 C. The hearing officer shall render a decision
30 within 30 days of the date on which the hearing
31 was held.

32 D. Within 10 days of the decision being ren-
33 dered, a copy of the decision together with a no-
34 tice of his right to a judicial review shall be
35 sent to the responsible parent by ordinary mail.

1 Sec. 42. 19 MRSA §581, sub-§2, ¶B, as enacted by
2 PL 1983, c. 813, §2, is repealed and the following
3 enacted in its place:

4 B. "Child support" means money to be paid di-
5 rectly to a parent or to the Department of Human
6 Services on behalf of any child receiving public
7 assistance and any medical or dental insurance
8 coverage provided to a child pursuant to court
9 order.

10 Sec. 43. 19 MRSA §581, sub-§4, as amended by PL
11 1983, c. 862, §49, is further amended to read:

12 4. Mediation. Prior to a contested hearing under
13 this section where there are minor children of the
14 parties, the court shall refer the parties to media-
15 tion; except that, the court, for good cause shown,
16 may hear contested motions on issues of parental
17 rights and responsibilities, child support or posses-
18 sion of the family residence pending a final order
19 under this section and prior to referring the parties
20 to mediation. Any agreement reached by the parties
21 through mediation on any issues shall be reduced to
22 writing, signed by the parties and presented to the
23 court for approval as a court order. When agreement
24 through mediation is not reached on any issue, the
25 court must determine that the parties made a good
26 faith effort to mediate the issue before proceeding
27 with a hearing. If the court finds that either party
28 failed to make a good faith effort to mediate, the
29 court may refer the parties back to mediation. Medi-
30 ation is not required when the contested issue is one
31 involving the establishment of a child support order,
32 the modification of an existing child support order
33 or the enforcement of a child support order.

34 Sec. 44. 19 MRSA §581, sub-§9, as enacted by PL
35 1983, c. 813, §2, is repealed and the following en-
36 acted in its place:

37 9. Support; prosecution money. The court may
38 order either parent of a minor child to contribute
39 reasonable and just sums as child support payable
40 weekly, monthly or quarterly. An order for child
41 support under this section may include an order for
42 the payment of part or all of the medical expenses,

1 hospital expenses and other health care expenses of
2 the child or an order to provide a policy or contract
3 for coverage of those expenses. If medical, hospi-
4 talization or dental insurance coverage for his child
5 is available to an obligated parent on a group basis
6 through his employer or union, the court's order
7 shall include a provision requiring the obligated
8 parent to obtain and maintain that coverage on behalf
9 of his child. The court shall inquire of the parties
10 concerning the existence of a child support order en-
11 tered pursuant to subchapter V. If such an order ex-
12 ists, the court shall consider its terms in estab-
13 lishing a child support obligation.

14 Sec. 45. 19 MRSA §581, sub-§11, as enacted by PL
15 1983, c. 813, §2, is amended to read:

16 11. Enforcement. The court may enforce obedience
17 to its orders by appropriate process including reme-
18 dies provided in chapter 14-A. Nothing in this sec-
19 tion may preclude the court from incarcerating a
20 spouse for nonpayment of child support, alimony or
21 attorney's fees in violation of a court order to do
22 so.

23 Sec. 46. 19 MRSA §722, sub-§4, as enacted by PL
24 1979, c. 668, §4, is further amended to read:

25 4. Enforcement. The court may enforce an order
26 as provided under chapter 14 14-A.

27 Sec. 47. 19 MRSA §752, sub-§2, ¶B, as enacted by
28 PL 1983, c. 813, §5, is repealed and the following
29 enacted in its place:

30 B. "Child support" means money to be paid di-
31 rectly to a parent, to another person or agency
32 awarded parental rights and responsibilities with
33 respect to a child, or to the Department of Human
34 Services on behalf of any child receiving public
35 assistance and any medical or dental insurance
36 coverage provided to a child pursuant to court
37 order.

38 Sec. 48. 19 MRSA §752, sub-§4, as amended by PL
39 1983, c. 862, §50, is further amended to read:

1 4. Mediation. Prior to a contested hearing under
2 this chapter where there are minor children of the
3 parties, the court shall refer the parties to media-
4 tion; except that, the court, for good cause shown,
5 may hear contested motions on issues of parental
6 rights and responsibilities, child support or posses-
7 sion of the family residence pending a final order
8 under this chapter and prior to referring the parties
9 to mediation. Any agreement reached by the parties
10 through mediation on any issues shall be reduced to
11 writing, signed by the parties and presented to the
12 court for approval as a court order. When agreement
13 through mediation is not reached on any issue, the
14 court must determine that the parties made a good
15 faith effort to mediate the issue before proceeding
16 with a hearing. If the court finds that either party
17 failed to make a good faith effort to mediate, the
18 court may refer the parties back to mediation. Medi-
19 ation is not required when the contested issue is one
20 involving the establishment of a child support order,
21 the modification of an existing child support order
22 or the enforcement of a child support order.

23 Sec. 49. 19 MRSA §752, sub-§10, as enacted by PL
24 1983, c. 813, §5, is amended to read:

25 10. Support order. An order of the court for
26 child support may run against the father or the moth-
27 er in whole or in part or against both, irrespective
28 of the fault of the father or mother in the divorce
29 action. When the order is to run against both, the
30 court shall specify the amount each shall pay. The
31 court shall inquire of the parties concerning the ex-
32 istence of a child support order entered pursuant to
33 subchapter V. If such an order exists, the court
34 shall consider its terms in establishing a child sup-
35 port obligation.

36 An order for child support may include an order for
37 the payment of part or all of the medical expenses,
38 hospital expenses and other health care expenses of
39 the child ~~or an order to provide a policy or contract~~
40 ~~for coverage of these expenses.~~ If medical, hospi-
41 talization or dental insurance coverage for the child
42 is available to an obligated parent on a group basis
43 through his employer or union, the court's order
44 shall include a provision requiring the obligated

1 parent to obtain and maintain that coverage on behalf
2 of his child.

3 Availability of public welfare benefits to the family
4 shall not affect the decision of the court as to the
5 responsibility of a parent to provide child support.

6 The court may enforce a support order as provided in
7 chapter 14-A.

8 Sec. 50. 19 MRSA §774, sub-§§5 and 6, as enacted
9 by PL 1979, c. 668, §6, are amended to read:

10 5. Execution. Execution as provided under Title
11 14, chapter 509; ~~e*~~

12 6. Other methods. Any other method of enforce-
13 ment that may be used in a civil action-; or

14 Sec. 51. 19 MRSA §774, sub-§7 is enacted to
15 read:

16 7. Security. The judgment debtor to give secu-
17 rity, post a bond or give some other guarantee to se-
18 cure payment of the judgment.

19 Sec. 52. 19 MRSA §776, sub-§§2 and 3, as enacted
20 by PL 1979, c. 668, §6, are repealed and the follow-
21 ing enacted in their place:

22 2. Pleading public assistance. In an action to
23 establish a support order, enforce a support order,
24 amend a support order or to collect support arrear-
25 ages, if the child is receiving or has received pub-
26 lic assistance in any relevant time period, the party
27 bringing the action shall affirmatively plead that
28 fact.

29 3. Notice to State. In an action to establish a
30 support order, enforce a support order, amend a sup-
31 port order or to collect support arrearages, if the
32 action relates to a period when the child has re-
33 ceived, is receiving or will receive public assist-
34 ance, a copy of the motion or petition shall be fur-
35 nished by ordinary mail to the department.

36 Sec. 53. 19 MRSA §777 is enacted to read:

1 §777. Income withholding

2 1. Availability and establishment of income
3 withholding. Support and alimony orders issued or
4 modified by the courts in this State must have a pro-
5 vision for withholding of income, in order to ensure
6 that withholding as a means of obtaining support is
7 available if arrearages occur. Income withholding
8 against all support obligations entered by a court
9 within the State shall be implemented as follows.

10 A. Whenever an obligation for support of a de-
11 pendent child or spouse or alimony to a former
12 spouse is determined and ordered by a court of
13 this State pursuant to provisions within this Ti-
14 tle or Title 22, that court shall order the with-
15 holding of the amount of child or spousal support
16 or alimony, as determined by court order, from
17 the income, regardless of source, of the person
18 obligated to pay the support or alimony. When an
19 order for withholding has not previously been se-
20 cured, the obligee may move for an order, and the
21 court shall grant the order.

22 B. Each order for withholding shall provide for
23 a conspicuous notice to the obligor that with-
24 holding may result if the obligor fails to make
25 the support or alimony payments, and that no
26 withholding shall be made until the following
27 conditions are met:

28 (1) The obligee determines the payments
29 which the obligor has failed to make under
30 that support or alimony order are at least
31 equal to the amount payable for one month;
32 or

33 (2) The obligor has requested that income
34 withholding be implemented;

35 (3) The obligee serves written notice of
36 his determination of arrearage upon the ob-
37 ligor at least 20 days before service of the
38 arrearage determination and of a copy of the
39 court's order for withholding upon the payor
40 of funds;

1 (4) Within the 20-day period, the obligor
2 has failed either to pay all arrearages or
3 to file a motion for determination of ar-
4 rearages with respect to the amount of ali-
5 mony or support owed and to simultaneously
6 request an ex parte stay of service on the
7 payor of funds until the motion for determi-
8 nation is heard. Any stay issued by the
9 court under this subsection shall expire in
10 60 days and may be reissued only upon a
11 showing by the obligor that he has made rea-
12 sonable efforts to obtain a hearing on his
13 motion for determination of arrearages dur-
14 ing the effective period of the stay;

15 (5) The obligee shall mail a copy of the
16 determination of arrearage and a copy of the
17 court's withholding order to the payor of
18 funds; and

19 (6) The obligee shall also mail to the De-
20 partment of Human Services, a copy of the
21 determination of arrearage and a copy of the
22 court's withholding order to enable the de-
23 partment to proceed pursuant to subsection
24 2.

25 C. An order modifying the amount of alimony or
26 support, issued after the hearing on the motion
27 to modify, may provide that payments be made out-
28 right by withholding. The provisions of subsec-
29 tion 1, paragraph B, do not apply.

30 D. Notwithstanding any law to the contrary, the
31 order is binding on the employer, trustee or oth-
32 er payor of the funds once service has been made
33 upon him. The payor shall be liable for any
34 amounts he fails to withhold after receiving no-
35 tice. The payor shall withhold from the income
36 payable to the obligor the amount specified in
37 the order and shall monthly or more frequently
38 remit the amounts withheld to the department.
39 For implementing the order to withhold, the payor
40 shall be entitled to charge one dollar per each
41 check issued and forwarded to the department.
42 This charge shall be deducted from the amount
43 withheld prior to its remittance to the depart-

1 ment. The amount specified in the order shall
2 not exceed the limitations imposed by the United
3 States Code, Title 15, Section 1673. Any employ-
4 er who, in contravention of this section, dis-
5 charges from employment, refuses to employ or
6 takes disciplinary action against any obligor be-
7 cause of the existence of such an order and the
8 obligations or additional obligations which it
9 imposes upon the employer shall be subject to a
10 fine in an amount not to exceed \$5,000.

11 E. An order for withholding under this section
12 shall have priority over any other attachment,
13 execution, garnishment or wage assignment unless
14 otherwise ordered by the court, except such an
15 order shall not have priority over a previously
16 implemented garnishment upon a judgment for sup-
17 port or alimony arrearages or any previously im-
18 plemented assignment of wages or withholding made
19 pursuant to subchapter V.

20 F. When a withholding order is in effect and the
21 obligor's employment is terminated or the
22 periodic payment terminates, the obligor's em-
23 ployer or other payor of funds shall notify the
24 department of the termination within 30 days of
25 the termination date. The notice shall include
26 the obligor's home address and the name and ad-
27 dress of the obligor's new employer or payor of
28 funds, if known.

29 G. The order of withholding shall be terminated
30 if:

31 (1) The department is unable to forward
32 funds to the obligee for an extended period
33 of time;

34 (2) The child or spousal support or alimony
35 obligation has been eliminated by a subse-
36 quent court order;

37 (3) The child has reached majority or has
38 otherwise been emancipated; or

39 (4) The child has been adopted.

1 No termination may occur while an arrearage re-
2 remains, unless other provisions for its repayment
3 have been made.

4 2. Department designated as administering agen-
5 cy. The department is designated as the agency re-
6 sponsible for adopting and administering procedures
7 to receive, document, track and monitor all support
8 payments collected pursuant to this section. The de-
9 partment may promulgate a fee for use of these ser-
10 VICES.

11 Sec. 54. 24-A MRSA §2809, sub-§1-A is enacted to
12 read:

13 1-A. Any such policy of group health insurance
14 which provides coverage for family members or depen-
15 dents of individuals in the insured group may not de-
16 fine the terms "family" or "dependent" to exclude
17 from coverage those minor children of any covered in-
18 dividual who do not reside with that individual.

19 Sec. 55. 24-A MRSA §2833, as amended by PL 1979,
20 c. 633, §147, is further amended to read:

21 §2833. Optional coverage of children required

22 All group or blanket health insurance plans is-
23 sued in accordance with the requirements of section
24 2832 shall provide unmarried women certificate hold-
25 ers with the option of coverage, from the date of
26 birth, of their children. A certificate holder who,
27 pursuant to the laws of the State or any other state,
28 has been adjudicated or has acknowledged himself to
29 be the father of an illegitimate child shall be given
30 the option of coverage for that child from the date
31 of his adjudication or acknowledgment of paternity.
32 This optional coverage shall be the same as provided
33 the children of a married certificate holder with
34 family or dependent coverage.

35 Sec. 56. 36 MRSA §5276-A, sub-§1, as enacted by
36 PL 1981, c. 504, §4, is amended to read:

37 1. Generally. Any agency of the State, including
38 the University of Maine, which is authorized to col-
39 lect from any individual or corporation a liquidated

1 debt greater than \$25 shall notify in writing the
2 State Tax Assessor and supply information necessary
3 to identify the debtor whose refund is sought to be
4 set off. The State Tax Assessor, upon any such noti-
5 fication, shall assist the requesting agency by set-
6 ting off that debt, pursuant to rules promulgated by
7 the State Tax Assessor, against any refund to which
8 that individual or corporation is entitled under this
9 Part. Liquidated child support debts that the De-
10 partment of Human Services has contracted to collect,
11 pursuant to Title 19, section 448-A or 495, subsec-
12 tion 2, shall be eligible, under the provisions of
13 this section, for setoff against any refund due the
14 obligated individual.

15 Sec. 57. 39 MRSA §67, as amended by PL 1975, c.
16 59, §3, is further amended to read:

17 §67. Invalidity of waiver of rights; claims not as-
18 signable

19 No agreement by an employee unless approved by
20 the commission or by the Director of the Bureau of
21 Labor, to waive his rights to compensation under this
22 Act ~~shall~~ may be valid. No claims for compensation
23 under this Act ~~shall~~ may be assignable or subject to
24 attachment or liable in any way for debt, except for
25 the enforcement of a current support obligation or
26 support arrears pursuant to Title 19, chapter 7, sub-
27 chapter V or Title 19, chapter 14-A.

28 STATEMENT OF FACT

29 Certain provisions of this bill are required to
30 bring the Department of Human Services into compli-
31 ance with the Federal Child Support Enforcement
32 Amendments of 1984, which were unanimously enacted by
33 both Houses of Congress, Public Law 98-378. Other
34 provisions will facilitate the department's ability
35 to carry out its child support enforcement responsi-
36 bilities.

37 Section 1 will enact the Maine Revised Statutes,
38 Title 10, section 1329, to implement a federal man-
39 date which requires child support enforcement agen-
40 cies to make child support arrearage information
41 available to consumer credit reporting agencies.

1 Sections 2, 42 and 47 amend existing statutory
2 language to clarify and redefine the term child sup-
3 port to include medical and dental insurance cover-
4 age. This will enable the Department of Human Ser-
5 vices to comply with federal law which requires the
6 state to actively seek reimbursement of medical ex-
7 penditures through utilization of health insurance
8 coverage.

9 Sections 3, 43 and 48 amend existing laws to
10 eliminate required mediation in establishing, amend-
11 ing or enforcing child support obligations. This
12 will remove a present barrier to the prompt adjudica-
13 tion of a child support obligation. The mediators
14 are not readily available and there are often long
15 waiting times to obtain an appointment. Requiring
16 mediation in support matters imposes a hardship where
17 a child's needs are concerned.

18 Sections 4, 44 and 49 amend existing laws to ar-
19 ticulate the principle the availability of public as-
20 sistance benefits shall not affect the court's deci-
21 sion in respect to a parent's responsibility to pro-
22 vide child support. This bill also requires the
23 court to consider existing child support obligations
24 which had previously been established through the De-
25 partment of Human Services administrative process
26 when issuing a child support order. Additionally,
27 this provision provides that the court may include a
28 requirement for the payment of medical and health
29 care expenses of a child and requires the court to
30 order maintenance of health insurance for the child
31 if such coverage is available to the responsible par-
32 ent through his employer or union. This insures com-
33 pliance with the federal mandate on the insurance is-
34 sue. Reference is also made to the remedies present
35 in the Maine Revised Statutes, Title 19, chapter
36 14-A, including mandatory wage withholding.

37 Section 5 amends Title 19, section 272, to clari-
38 fy that Aid to Families with Dependent Children bene-
39 fits expended on behalf of a mother receiving bene-
40 fits for the child shall be considered an essential
41 part of the child's needs, when the public agency at-
42 tempts to recoup its expenses from an alleged father.
43 The change also incorporates enforcement procedures
44 available in Title 19, chapter 14-A.

1 Section 6 amends Title 19, section 273, to clarify
2 Maine's compliance with the federal requirement
3 for the expansion of laws of limitation with respect
4 to establishment of paternity. This provision permits
5 custodians or other interested parties to initiate
6 action to establish paternity at any time prior
7 to the child's 18th birthday. It gives the child an
8 additional 6 years from the end of minority to commence
9 an action.

10 Sections 7, 8 and 10 amend the Uniform Paternity
11 Act to recognize the availability of more extensive
12 and sophisticated paternity testing techniques than
13 where contemplated when this Act was adopted by the
14 State in 1967.

15 Sections 9 and 10 amend the Uniform Paternity Act
16 to reflect the effectiveness of the sophisticated paternity
17 tests which are now available. Colorado has
18 enacted a 97% presumption of paternity law and has
19 found it to be an excellent tool in expeditiously
20 prosecuting paternity cases.

21 The allowance of notarized documentation of the
22 chain of custody and the test results will remove unwarranted
23 expenses in the prosecution of these actions.
24

25 Sections 11 and 46 are intended to clarify a legislative
26 oversight which resulted in 2 chapter 14's
27 being enacted in 1979.

28 Sections 12, 16, 17 and 45, are intended to allow
29 for the use of the more effective enforcement remedies
30 available under chapter 14-A.

31 Section 13 allows the Department of Human Services
32 to mandate use of a support scale in conducting
33 administrative proceedings to establish child support
34 obligations.

35 Sections 14 and 15 amend Title 19, section 400 to
36 clarify the role of the Department of Human Services
37 in administering the Uniform Reciprocal Enforcement
38 of Support Act and providing interstate cooperation
39 with respect to enforcement of child support obligations
40 from other states and countries.

1 Sections 18 and 19 amend Title 19, section 448-A
2 to clarify the existing law with respect to estab-
3 lishment of child support obligations for individuals
4 who do not receive public assistance. Title 19, sec-
5 tion 448-A, is further amended by repealing subsec-
6 tion 2, to place the overall law in compliance with
7 federal law which requires the State to provide ser-
8 vices to individuals who do not receive public as-
9 sistance, regardless of whether or not arrearages ex-
10 ist.

11 Section 20 amends Title 19, section 491 to in-
12 clude provision for enforcement and collection of
13 past-due spousal support, including alimony, in ac-
14 cordance with federal mandate.

15 Section 21 creates a new law, Title 19, section
16 492-A, which provides a long-arm aspect to the
17 State's ability to establish and collect child sup-
18 port obligations with respect to responsible parents
19 located outside of the State. The enactment of this
20 proposal will eliminate any question with respect to
21 the garnishment of federal-military payrolls to re-
22 coup delinquent child support payments and provide
23 the department with additional flexibility in estab-
24 lishing child support obligations against individuals
25 who leave the State.

26 Section 22 amends Title 19, section 493, to in-
27 clude a definition for spousal support. This is es-
28 sential since collection of spousal support is now
29 required by federal legislation if a spousal support
30 order is issued in conjunction with a child support
31 obligation.

32 Section 23 amends Title 19, section 495, subsec-
33 tion 1, to provide that Aid to Families with Depen-
34 dent Children payments made to an adult custodian in
35 behalf of minor children shall be considered to be an
36 essential part of the need of the child. This will
37 make it clear that any Aid to Families with Dependent
38 Children benefits paid in connection with an adult
39 custodian is considered to be a necessity for the
40 well-being of the child on the assistance grant.
41 This will ensure that the department will obtain full
42 reimbursement from an obligated person for amounts
43 expended on behalf of his dependent child.

1 Section 24 amends Title 19, section 495, subsection
2 1-A, by clarifying the department's role in handling
3 nonwelfare cases which is required pursuant to
4 federal law.

5 Section 25 amends Title 19, section 495, subsection
6 2, by eliminating cumbersome and needless procedures
7 currently required for the State to assist other states
8 in the establishment and collection of child support
9 obligations against responsible parents, who reside in
10 Maine and who have minor children in other states.
11

12 Section 26 amends Title 19, section 496, to clarify
13 and enact more realistic exemptions from the collection
14 of child support when a responsible parent receives Aid
15 to Families with Dependent Children. Responsible parents
16 have been exempt from both incurrence and collection of
17 a child support debt when receiving public assistance. The
18 exemption from incurrence of a child support debt does a
19 disservice to children especially children of nonwelfare
20 clients whose child support obligations may be uncollectable
21 if the noncustodial parent receives such benefits as
22 Aid to Families with Dependent Children, Medicaid, general
23 assistance or Social Security Income. This bill exempts
24 an individual from collection action only while receiving
25 Aid to Families with Dependent Children. It would not
26 prohibit the state from offsetting any tax refunds which
27 might otherwise be due the individual nor would it provide
28 an exemption against incurrence of a child support debt
29 during an Aid to Families with Dependent Children period.
30
31

32 Section 27 provides for the amendment of Title
33 19, section 498, to permit departmental hearing officers
34 to require responsible parents to provide and obtain and
35 maintain health insurance coverage on behalf of their
36 minor children if that coverage is available to the
37 responsible parent through an employer at reasonable cost
38 or if current coverage could be extended to include the
39 dependent children. Since a large percentage of employers
40 do provide health care benefits for employees and their
41 dependents this would be a meaningful benefit to children
42 without becoming an undue financial burden on the responsible
43 parent. Other provisions within section 27
44

1 extend the time period in which a responsible parent
2 who failed to appear at a hearing may request a new
3 hearing, as well as establishing the extent of the
4 review available to a decision.

5 Section 28 enacts Title 19, section 498-A, to
6 provide for determination of child support obliga-
7 tions in noncourt ordered nonwelfare cases. It also
8 enables the department to require the obligated par-
9 ent to provide medical insurance coverage or other
10 medical benefits for the child. The adoption of this
11 law will place the department in conformance with new
12 federal requirements.

13 Section 29 amends Title 19, section 499, subsec-
14 tion 1, to clarify the Department of Human Services'
15 rights and role with respect to enforcement of sup-
16 port obligations under Title 19, section 495.

17 Section 30 amends Title 19, section 500, first
18 paragraph, to make it clear that the department shall
19 be subrogated to spousal and alimony orders which are
20 not complied with. This conforms to the federal man-
21 date.

22 Section 31 amends Title 19, section 500, subsec-
23 tion 1, paragraph C, to require the department to in-
24 form the responsible parent that information concern-
25 ing his support indebtedness may be reported to a
26 consumer reporting agency.

27 Section 32 amends Title 19, section 502, to make
28 the exemptions applicable to garnishment of earnings
29 consistent with the federal garnishment exemptions
30 contained in the Consumer Credit Protection Act,
31 United States Code, Title 15, Section 1673, as re-
32 quired by 45 Code of Federal Regulations, Section
33 303.100. Retention of the previous exemptions would
34 be inconsistent with the obligee's right to obtain
35 the maximum amount of current support and arrears
36 past due from the obligor.

37 The elimination of the exemptions presently found
38 in Title 19, section 502, subsection 1, is appropri-
39 ate, as the collection of past-due child support
40 enjoys a unique status among debts to be repaid. The
41 change is consistent with the well-established prin-

1 ciple that a child has the right to benefit from all
2 his parent's assets and should not be reduced to an
3 inferior life style because of the divorce or separa-
4 tion of his parents.

5 Sections 33 and 34 amends Title 19, section 503,
6 to clarify that the department can assert liens
7 against any real or personal property belonging to a
8 responsible parent. This parallels the right which
9 judgment creditors now possess under Title 14, sec-
10 tion 4651. This fulfills the lien requirement of 45
11 Code of Federal Regulations, Section 303.103. The
12 change is consistent with the well-established prin-
13 ciple that a child has the right to benefit from all
14 his parent's assets and should not be reduced to an
15 inferior life style because of the divorce or separa-
16 tion of his parents.

17 Section 35 enacts a new section, Title 19, sec-
18 tion 504-A, which establishes federally mandated
19 expedited wage withholding within the alternative
20 method of support enforcement.

21 Section 36 amends Title 19, section 507, to cor-
22 rect 2 erroneous citations which have existed since
23 the enactment of the section.

24 Section 37 repeals Title 19, section 509, and es-
25 tablishes more comprehensive duties upon an employer
26 or other person holding property who has been di-
27 rected to forward sums to the department from the in-
28 come of a responsible parent. The requirement that
29 the employer-payor notify the department when the ob-
30 ligor terminates his job or ceases receiving income
31 and provide new employment information, if known,
32 will assist the department to continue collecting
33 from a parent with an outstanding support obligation.

34 Section 38 amends Title 19, section 510, to es-
35 tablish a penalty for any employer who discharges or
36 discriminates against an employee or prospective em-
37 ployee because of support enforcement action. Such a
38 penalty provision is federally mandated.

39 Section 39 establishes a new section Title 19,
40 section 512-A, to provide that the commissioner may
41 establish a fee which employers or payors may charge

1 a responsible parent for implimenting income with-
2 holding or an assignment of earnings. Such a provi-
3 sion is provided for in federal law.

4 Section 40 amends Title 19, section 515, to clar-
5 ify the time period in which a responsible parent can
6 request a review of any agency action.

7 Section 41 amends Title 19, section 515, to clar-
8 ify the issues which may be subject to review, addi-
9 tionally the time period within which both the hear-
10 ing officer and the department must act are specifi-
11 cally stated.

12 Section 51 amends Title 19, section 774, to allow
13 the court to require the posting of a bond or other
14 security to ensure payment of a support judgment.
15 Such a provision is required by federal law.

16 Section 52 amends Title 19, section 776, to clar-
17 ify that both the court and the department are enti-
18 tled to notice in any situation involving child sup-
19 port, if the child has been, is or will be receiving
20 public assistance.

21 Section 53 provides that all support orders en-
22 tered by a Maine court shall include mandatory income
23 withholding; however such withholding cannot be im-
24 plemented until the obligor accrues a debt equal to
25 one month's child support. Such a provision is re-
26 quired by federal law.

27 Sections 54 and 55 amend existing laws to prevent
28 health insurance companies from discriminating
29 against illegitimate children or children of divorce
30 in issuing group health insurance coverage.

31 Section 56 amends Title 36, section 5276-A, to
32 allow the department to place in offset the names of
33 individuals with liquidated child support debts owing
34 to obligees who are not receiving Aid to Families
35 with Dependent Children or to states who are enforc-
36 ing a support obligation on its behalf, or on behalf
37 of a resident of that state.

38 Section 57 clarifies that during the course of
39 enforcing child support obligations, the department

1 has determined that there are some cases in which an
2 individual is receiving an amount of workers' compen-
3 sation sufficient to take care of his needs as well
4 as his dependent childrens' needs. Unfortunately, if
5 the parent refuses to voluntarily pay support, there
6 is no remedy available to compel compliance with the
7 support obligation.

8

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