

MAINE STATE LEGISLATURE

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(New Draft of S.P. 492, L.D. 1329)
SECOND REGULAR SESSION

ONE HUNDRED AND TWELFTH LEGISLATURE

Legislative Document

No. 2246

S.P. 887

In Senate, March 21, 1986

Reported by Senator Carpenter of Aroostook from the Committee on
Judiciary and printed under Joint Rule 2. Original bill sponsored by Senator
Najarian of Cumberland. Cosponsored by Representative Cote of Auburn,
Representative Melendy of Rockland and Representative Rolde of York.

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

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

AN ACT to Facilitate the Collection of Child
Support.

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

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

§1329. Reporting of child support debts

1. Information available on request of consumer
reporting agency. The Department of Human Services,
upon request of a consumer reporting agency, shall
make available information regarding the amount of
overdue child support owed by any parent.

2. Notice of request; contest of accuracy.
Prior to making the information available to a
requesting agency, the department shall provide the
obligor parent with notice of the proposed action.
The parent shall be given 20 days in which to contest
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11 PL 1983, c. 813, §1, is repealed and the following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-§9, as enacted by PL
20 1983, c. 813, §1, is repealed and the following en-
21 acted in its place:

22 9. Support order. The court may order either
23 parent of a minor child to contribute reasonable and
24 just sums as child support payable weekly, monthly or
25 quarterly. Availability of public welfare benefits
26 to the family shall not affect the decision of the
27 court as to the responsibility of a parent to provide
28 child support. The court shall inquire of the par-
29 ties concerning the existence of a child support or-
30 der entered pursuant to subchapter V. If such an or-
31 der exists, the court shall consider its terms in es-
32 tablishing a child support obligation.

33 The court's order may include a requirement for the
34 payment of part or all of the medical expenses, hos-
35 pital expenses and other health care expenses of the
36 child. If medical, hospitalization or dental insur-
37 ance coverage for his child is available to an obli-
38 gated parent on a group basis through his employment
39 or other affiliation, the court's order shall include
40 a provision requiring the obligated parent to obtain
41 and maintain that coverage on behalf of his child.

1 The court may enforce a support order as provided in
2 chapter 14-A.

3 Sec. 4. 19 MRSA §272, as enacted by PL 1967, c.
4 325, §2, is amended to read:

5 §272. Enforcement

6 Paternity may be determined upon the complaint of
7 the mother, child or the public authority chargeable
8 by law with the support of the child. If paternity
9 has been determined or has been acknowledged accord-
10 ing to the laws of this State, the liabilities of the
11 father may be enforced in the same or other proceed-
12 ings by the mother, child or the public authority
13 which has furnished or may furnish the reasonable ex-
14 penses of pregnancy, confinement, education, neces-
15 sary support or funeral expenses, and by other per-
16 sons including private agencies to the extent that
17 they have furnished the reasonable expenses of preg-
18 nancy, confinement, education, necessary support or
19 funeral expenses. Aid to Families with Dependent
20 Children benefits expended, pursuant to Title 22,
21 chapter 1053, on behalf of the mother by the public
22 authority shall be considered necessary support for
23 the child.

24 In execution of the powers given the court under
25 this subchapter, the court may employ any compulsory
26 process which it deems proper, by execution, attach-
27 ment or other effectual form, on which costs shall be
28 taxed as in other actions. The court may enforce any
29 support order established under this subchapter as
30 provided in chapter 14-A.

31 Sec. 5. 19 MRSA §273, as enacted by PL 1967, c.
32 325, §2, is amended by adding at the end a new para-
33 graph to read:

34 All complainants may commence an action at any
35 time prior to the child's 18th birthday.

36 Sec. 6. 19 MRSA §277, as enacted by PL 1967, c.
37 325, §2, is amended to read:

38 §277. Authority for blood or tissue typing tests

1 The court, upon its own initiative or upon sug-
2 gestion made by or on behalf of any person whose
3 blood is involved, or the mother, may order or, upon
4 motion of any party to the action made at a time so
5 as not to delay the proceedings unduly, shall order
6 the mother, child and alleged father to submit to
7 blood or tissue typing tests which may include, but
8 are not limited to, tests of red cell antigens, red
9 cell isoenzymes, human leukocyte antigens and serum
10 proteins. If any party refuses to submit to ~~such~~
11 those tests, the court may resolve the question of
12 paternity against ~~such~~ that party or enforce its or-
13 der if the rights of others and the interests of jus-
14 tice so require.

15 Sec. 7. 19 MRSA §278, as enacted by PL 1967, c.
16 325, §2, is amended to read:

17 §278. Selection of experts

18 The tests shall be made by experts qualified as
19 examiners of blood or tissue types who shall be ap-
20 pointed by the court. The experts ~~shall~~ may be called
21 by the court as witnesses to testify to their find-
22 ings and ~~shall~~ may be subject to cross-examination by
23 the parties. Any party or person at whose suggestion
24 the tests have been ordered may demand that other ex-
25 perts, qualified as examiners of blood or tissue
26 types, perform independent tests under order of
27 court, the results of which may be offered in evi-
28 dence. The number and qualifications of ~~such~~ those
29 experts shall be determined by the court.

30 Sec. 8. 19 MRSA §280, as enacted by PL 1967, c.
31 325, §2, is repealed and the following enacted in its
32 place:

33 §280. Effect of test results

34 1. Effect of results. The results of those
35 tests shall have the following effect.

36 A. If the court finds that the conclusion of all
37 the experts, as disclosed by the evidence based
38 upon the tests, is that the alleged father is not
39 the parent of the child, the question of paterni-
40 ty shall be resolved accordingly.

1 B. If the experts disagree in their findings or
2 conclusions, the question shall be submitted upon
3 all the evidence.

4 C. If the experts conclude that the blood or
5 tissue tests show that the alleged father is not
6 excluded and that the probability of the alleged
7 father's paternity is less than 97%, this evi-
8 dence must be admitted by the court and shall be
9 weighed with other competent evidence of paterni-
10 ty.

11 D. If the experts conclude that the blood or
12 tissue tests show that the alleged father is not
13 excluded and that the probability of the alleged
14 father's paternity is 97% or higher, the alleged
15 father is presumed to be the father, and this evi-
16 dence must be admitted.

17 2. Chain of custody; evidence. Notarized docu-
18 mentation of the chain of custody of the blood and
19 tissue samples is competent evidence to establish the
20 chain of custody.

21 3. Notarized reports; challenges. A notarized
22 report of the blood and tissue tests, prepared by the
23 appointed experts, shall be admitted at trial, unless
24 a written challenge to the testing procedure or the
25 results of the blood and tissue tests have been filed
26 with the court and delivered to opposing counsel at
27 least 30 days before any hearing set to determine the
28 issue of paternity. Failure to make that timely
29 challenge constitutes a waiver of the right to have
30 the experts appear in person and is not grounds for a
31 continuance of the hearing to determine paternity.

32 Sec. 9. 19 MRSA §§280-A and 280-B are enacted to
33 read:

34 §280-A. Rebuttal of presumption

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

38 §280-B. Admissible evidence

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

4 A. An expert's opinion concerning the time of
5 conception;

6 B. Evidence of sexual intercourse between the
7 mother and alleged father at any possible time of
8 conception;

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

12 D. The statistical probability of the alleged
13 father's paternity based upon the blood or tissue
14 tests.

15 2. Evidence inadmissible. Testimony relating to
16 sexual relations or possible sexual relations of the
17 mother at any time other than the probable time of
18 conception of the child is inadmissible in evidence,
19 unless offered by the mother.

20 Sec. 10. 19 MRSA §301, sub-§5, as enacted by PL
21 1979, c. 668, §3, is amended to read:

22 5. Enforcement. The court may enforce an order
23 as provided under chapter ~~14~~ 14-A.

24 Sec. 11. 19 MRSA §302, as amended by PL 1979, c.
25 733, §6, is further amended to read:

26 §302. Support of child committed to custodial agency

27 Whenever a child under the age of 17 years is
28 committed by the District Court, or the District
29 Court acting as a juvenile court, to custody other
30 than that of its parent, such commitment shall be
31 subject to Title 22, sections 4038, 4061 and 4063.
32 The court may, after giving a parent a reasonable op-
33 portunity to be heard, adjudge that such parent shall
34 pay in such manner as the court may direct such sum
35 as will cover in whole or in part the support of such
36 child, and if such parent shall ~~willfully~~ fail ~~or~~
37 ~~refuse~~ to pay such sum, he may be proceeded against

1 as provided by law for cases of desertion or failure
2 to provide subsistence in chapter 14-A.

3 Sec. 12. 19 MRSA §303-A, 2nd ¶, as enacted by PL
4 1975, c. 532, §1, is amended to read:

5 No court, officer, political subdivision or agen-
6 cy of the State ~~shall~~ may be required to use the
7 scale, except the Department of Human Services may
8 require the use of the scale in proceedings initiated
9 pursuant to subchapter V.

10 Sec. 13. 19 MRSA §400, sub-§1, ¶C, as repealed
11 and replaced by PL 1971, c. 393, §10, is repealed and
12 the following enacted in its place:

13 C. Receive all petitions from initiating states
14 and forward them to the IV-D agency for enforce-
15 ment under subchapter V, unless the department
16 has determined that appropriate remedies under
17 this subchapter are not available with respect to
18 the obligor. In that instance, the petition
19 shall be forwarded to the appropriate court with-
20 in the responding state.

21 Sec. 14. 19 MRSA §400, sub-§1, ¶D is enacted to
22 read:

23 D. Forward to the court in this State which has
24 jurisdiction over the obligor or his property pe-
25 titions, certificates and copies of the Act it
26 receives from courts or information agencies of
27 other states, provided that the department has
28 not acted pursuant to paragraph C.

29 Sec. 15. 19 MRSA §405, sub-§3, as amended by PL
30 1971, c. 393, §14, is amended to read:

31 3. Violations. To punish under the power of con-
32 tempt the obligor who violates any order of the
33 court, or to issue ~~executions as in actions of debt~~
34 any order pursuant to chapter 14-A. When the obligor
35 is committed to jail for contempt ~~or on execution~~
36 issued, as provided, the county having jurisdiction
37 of the process shall bear the expense of his support
38 and commitment and he may be discharged in the same
39 manner as provided by section 722.

1 Sec. 16. 19 MRSA §448 is amended to read:

2 §448. Enforcement of rights

3 The obligee may enforce his right of support
4 against the obligor, pursuant to chapter 14-A, and
5 the State or any political subdivision thereof may
6 proceed on behalf of the obligee to enforce his right
7 of support against the obligor. Whenever the State or
8 a political subdivision thereof furnishes support to
9 an obligee, it has the same right as the obligee to
10 whom the support was furnished, for the purpose of
11 securing reimbursement and of obtaining continuing
12 support.

13 Sec. 17. 19 MRSA §448-A, sub-§1, as enacted by
14 PL 1981, c. 657, §2, is amended to read:

15 1. Enforcement of support obligation. Upon ap-
16 plication, the The Department of Human Services may,
17 for a fee, locate absent parents, defend against sup-
18 port reductions, establish support obligations, seek
19 motions to increase support obligations, enforce sup-
20 port obligations and determine paternity on behalf of
21 applicants who are not recipients of public assist-
22 ance, by actions under any appropriate statute, in-
23 cluding, but not limited to, remedies established in
24 subchapter V, to establish and enforce the support
25 obligations. The department and the applicant shall
26 sign an agreement in duplicate describing the fee.
27 ~~On a showing of necessity, the~~ The department may de-
28 fer or waive that fee.

29 Sec. 18. 19 MRSA §448-A, sub-§2, as enacted by
30 PL 1981, c. 657, §2, is repealed.

31 Sec. 19. 19 MRSA §491, as enacted by PL 1975, c.
32 532, §3, is amended to read:

33 §491. Purpose

34 With this subchapter the Legislature intends to
35 provide additional remedies for the enforcement of
36 support for dependent children and spouses and former
37 spouses caring for dependent children by establishing
38 an alternative method directed to the real and per-
39 sonal property of the responsible parents. These rem-

1 edies are in addition to, not in lieu of, existing
2 law.

3 Sec. 20. 19 MRSA §492-A is enacted to read:

4 §492-A. Persons subject to jurisdiction

5 1. Declaration of purpose. It is declared, as a
6 matter of legislative determination, that the public
7 interest demands that the State provide its citizens
8 with an effective means of redress against nonresi-
9 dent persons who, through certain significant minimal
10 contacts with this State, incur obligations to citi-
11 zens entitled to the State's protection.

12 This section, to insure maximum protection to citi-
13 zens of this State, shall be applied so as to assert
14 jurisdiction over nonresident responsible parents to
15 the fullest extent permitted by the due process
16 clause of the United States Constitution, Amendment
17 XIV.

18 2. Causes of action. Any person, whether or not
19 a citizen or resident of this State, who does any of
20 the acts enumerated in this section, thereby submits
21 such person to the jurisdiction of the Department of
22 Human Services for the purpose of enforcing this sub-
23 chapter as to any cause of action arising from the
24 doing of any such acts:

25 A. Maintaining a domicile in this State while
26 subject to a marital or family relationship out
27 of which arises a claim for child support,
28 spousal support, alimony or the commission in
29 this State of any act giving rise to such a
30 claim; or

31 B. Conception resulting in paternity within the
32 meaning of chapter 5, subchapter III.

33 3. Personal service. Service of any notice sent
34 pursuant to section 498 or 498-A upon any person who
35 is subject to the jurisdiction of this subchapter, as
36 provided in this section, shall be made by personally
37 serving the notice upon the responsible parent out-
38 side this State, with the same force and effect as
39 though it had been served personally within this

1 State. Service of any other notice or lien provided
2 for in this subchapter upon any person who is subject
3 to the jurisdiction of this subchapter, as provided
4 in this section, shall be governed by section 494.

5 Sec. 21. 19 MRSA §493, sub-§2, as enacted by PL
6 1975, c. 532, §3, is amended to read:

7 2. "Court order of support" means any judgment
8 or order for the support of dependent children issued
9 by any court of the State of Maine or another state,
10 including an order in a final decree of divorce or
11 any judgment or order issued in accordance with an
12 administrative procedure, which is established by
13 state law, which affords substantial due process and
14 which is subject to judicial review.

15 Sec. 22. 19 MRSA §493, sub-§6, as amended by PL
16 1981, c. 657, §3, is further amended to read:

17 6. "Earnings" means compensation paid or payable
18 for personal services, whether denominated as wages,
19 salary, commission, bonus or otherwise, and specifi-
20 cally includes periodic payments pursuant to pension
21 or retirement programs, or insurance policies of any
22 type, and all gain derived from capital, from labor
23 or from both combined, including profit gained
24 through sale or conversion of capital assets, and un-
25 employment compensation benefits, ~~but does not in-~~
26 ~~clude payments by any department or division of the~~
27 ~~State or Federal Government based upon inability to~~
28 ~~work and workers compensation benefits.~~

29 Sec. 23. 19 MRSA §493, sub-§10 is enacted to
30 read:

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

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

1 1-A. Failure to pay child or spousal support.
2 For actions initiated pursuant to section 448-A,
3 failure to pay support obligations under a court or
4 administrative order of support shall create a debt
5 due the applicant. Upon assignment of the debt to
6 the Department of Human Services by the applicant ex-
7 ecution of a contract between the department and the
8 applicant, the department may take action to estab-
9 lish, enforce or collect the debt under any appropri-
10 ate statute including, but not limited to, remedies
11 contained in this subchapter.

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

15 2. Interstate cooperation. A payment of public
16 assistance by another state for the benefit of a de-
17 pendent child located within that state creates a
18 debt due that state from a responsible parent in the
19 amount of the public assistance paid. With the exe-
20 cution of an application for nonwelfare services be-
21 tween a state and a resident of that state, the state
22 may request the department to enforce or collect any
23 unpaid support debt belonging to the applicant. Upon
24 written request by a state to the department, the de-
25 partment may attempt to collect either the welfare or
26 nonwelfare debt by action under any appropriate laws,
27 including, but not limited to, remedies established
28 by this subchapter.

29 Sec. 26. 19 MRSA §498, as amended by PL 1981, c.
30 657, §6, is further amended to read:

31 §498. Determination of amount of support debt in ab-
32 sence of court order

33 If no court order of support exists, the depart-
34 ment may, by hearing and other procedures set forth
35 below, establish a periodic payment to satisfy the
36 responsible parent's support obligation under sec-
37 tions 442 and 443, establish the debt accrued under
38 section 495, and establish a periodic payment to sat-
39 isfy that debt and establish the responsible parent's
40 obligation to maintain medical insurance coverage and
41 to provide payment for other medical expenses in-
42 curring on behalf of his dependent children.

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

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

8 A. A statement of the debt accrued or accruing
9 under section 495 ~~and periodic support payments~~
10 ~~in the future;~~

11 B. A statement of the periodic public assist-
12 ance;

13 C. A statement of the name of the recipient of
14 the public assistance and the names of dependent
15 children;

16 D. A statement of rights at the hearing;

17 E. A statement that if the responsible parent
18 fails to appear, the stated accrued debt ~~and,~~
19 periodic support payments in the future, medical
20 insurance coverage and payment of noncovered med-
21 ical expenses shall be assessed and enforced by
22 collection action; and

23 F. A statement that the property of the respon-
24 sible parent may be subject to lien and foreclo-
25 sure, administrative seizure and disposition, or-
26 der to withhold and deliver or other collection
27 actions- and that any debt determined to be owed
28 by the responsible parent may be reported to a
29 consumer reporting agency;

30 G. A statement that the responsible parent may
31 be liable for medical insurance coverage for his
32 dependents, if the hearing officer determines
33 that such coverage is available to the responsi-
34 ble parent through an employer or other group af-
35 filiation at reasonable cost or if current cover-
36 age could be extended to include the dependent
37 children; and

1 H. A statement that the failure of the responsi-
2 ble parent to maintain any required medical in-
3 surance coverage may result in the responsible
4 parent's liability for all medical expenditures
5 made by the department on behalf of the dependent
6 children.

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

16 4. Hearing.

17 A. ~~Procedure.~~ The hearing shall be conducted ac-
18 cording to rules promulgated by the commissioner.
19 The rules shall provide at least the right to
20 confront and cross-examine witnesses, to present
21 witnesses, to be represented by an attorney or
22 other person and to be notified of these rights
23 in writing. The decision shall be limited to evi-
24 dence presented at the hearing.

25 B. ~~Decision.~~ The decision shall include a state-
26 ment of the responsibility of the alleged respon-
27 sible parent, a statement of the periodic support
28 payment, the amount of debt accrued ~~and~~, the
29 periodic payment against the accrued debt ~~and the~~
30 liability of the responsible parent to maintain
31 medical insurance coverage and to provide payment
32 for other medical expenses. A copy of the deci-
33 sion shall be served upon the responsible parent.
34 Written notice of the responsible parent's right
35 to review or appeal of the decision within the
36 department or review of the decision by the
37 courts, as the case may be, and of the action re-
38 quired and the time within which the action shall
39 be taken in order to exercise the right of review
40 or appeal shall be given to the responsible par-
41 ent with the decision. A review of the decision
42 within the department, except pursuant to subsec-
43 tion 3, shall be limited to a review of the
44 record generated by the original hearing.

1 C. ~~Criteria of decision~~ The person conducting
2 the hearing shall consider, when deciding on the
3 amount of periodic payment and the availability
4 of medical insurance coverage, at least the fol-
5 lowing criteria:

6 (1) The need of the child;

7 (2) The income, real property and personal
8 property of the responsible parent;

9 (3) The ability of the responsible parent
10 to borrow;

11 (4) The ability of the responsible parent
12 to earn;

13 (5) The amount of support debt accrued and
14 accruing;

15 (6) The need of the responsible parent;

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

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

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

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

35 5. Initiation of collection. The decision of the
36 department in the hearing shall establish the debt of

1 the responsible parent. The department may collect
2 the debt after service of the decision in the hear-
3 ing.

4 6. Subsequent court order. An administrative de-
5 cision under this section shall remain in effect un-
6 til superseded by a subsequent court order, or subse-
7 quent administrative hearing.

8 7. Enforcement under section 448-A. An adminis-
9 trative decision under this section shall be treated
10 as a support obligation for purposes of enforcement
11 under section 448-A.

12 Sec. 27. 19 MRSA §498-A is enacted to read:

13 §498-A. Determination of amount of child support ob-
14 ligation in nonwelfare cases

15 If no court order of support exists, the depart-
16 ment may, by hearing and other procedures set forth
17 in this section, establish a periodic payment to sat-
18 isfy the responsible parent's support obligation un-
19 der sections 442 and 443, on behalf of his dependent
20 children for whom the department has agreed to pro-
21 vide enforcement services pursuant to section 448-A.
22 The department may also establish the responsible
23 parent's obligation to maintain medical insurance
24 coverage and to provide payment for other medical ex-
25 penditures incurred on behalf of his dependent children.

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

29 2. Contents of notice. In addition to conform-
30 ing with the requirements of the Maine Administrative
31 Procedure Act, Title 5, section 9052, subsection 4,
32 the notice shall contain:

33 A. A statement that the obligee has contracted
34 with the department pursuant to section 448-A, to
35 establish a child support obligation;

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

1 C. A statement that the responsible parent may
2 be liable for medical insurance coverage for his
3 dependents, if the hearing officer determines
4 that the coverage is available to the responsible
5 parent through an employer or other group affili-
6 ation at reasonable cost or if current coverage
7 could be extended to include the dependent chil-
8 dren;

9 D. A statement that the responsible parent may
10 be ordered to pay for medical, dental, optical
11 and hospital expenses incurred for the benefit of
12 his dependent children, if the hearing officer
13 determines that the responsible parent has suffi-
14 cient assets to cover those expenses;

15 E. A statement that if the responsible parent
16 fails to appear, periodic support payments in the
17 future, medical insurance coverage and payment of
18 noncovered medical expenses shall be assessed and
19 enforced by collection action;

20 F. A statement that the property of the respon-
21 sible parent may be subject to lien and foreclo-
22 sure, administrative seizure and disposition, or-
23 der to withhold and deliver or other collection
24 actions and that any debt determined to be owed
25 by the responsible parent may be reported to a
26 consumer reporting agency;

27 G. A statement of rights at the hearing; and

28 H. A statement that the failure of the responsi-
29 ble parent to maintain any required medical in-
30 surance coverage may result in his liability for
31 all medical expenditures made by the department
32 on behalf of the dependent children.

33 3. Action upon failure to appear. If the re-
34 sponsible parent fails to appear at the hearing on
35 the date specified by the notice of debt, the hearing
36 officer shall enter a decision pursuant to subsection
37 4, paragraph B. Within 30 days of service of the de-
38 cision, the responsible parent may petition the de-
39 partment to vacate the decision if the responsible
40 parent can show any grounds which permits relief from
41 judgment in a civil action.

1 4. Hearing. The hearing shall be conducted as
2 follows.

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

11 B. The decision shall include a statement of the
12 responsibility of the alleged responsible parent
13 and a statement of the periodic support payment,
14 the liability of the responsible parent to main-
15 tain medical insurance coverage and to pay for
16 other medical expenses incurred on behalf of the
17 dependent children. A copy of the decision shall
18 be served upon the responsible parent. Written
19 notice of the responsible parent's right to re-
20 view of the decision within the department or ap-
21 peal of the decision to the courts, as the case
22 may be, and of the action required and the time
23 within which the action shall be taken in order
24 to exercise the right of review or appeal shall
25 be given to the responsible parent with the deci-
26 sion. A review of the decision within the de-
27 partment, except pursuant to subsection 3, shall
28 be limited to a review of the record generated by
29 the original hearing.

30 C. The person conducting the hearing shall con-
31 sider, when deciding on the amount of periodic
32 payment and the availability of medical insurance
33 coverage, at least the following criteria:

34 (1) The need of the child;

35 (2) The income, real property and personal
36 property of the responsible parent;

37 (3) The ability of the responsible parent
38 to borrow;

39 (4) The ability of the responsible parent
40 to earn;

1 (5) The need of the responsible parent;

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

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

14 (8) The availability of employer-based, or
15 other group affiliation, medical insurance
16 coverage at a reasonable cost to the respon-
17 sible parent; and

18 (9) The availability of current medical
19 coverage to the responsible parent which
20 could be extended to include the dependent
21 child.

22 5. Subsequent court order. An administrative
23 decision under this section shall remain in effect
24 until superseded by a subsequent court order or sub-
25 sequent administrative hearing.

26 Sec. 28. 19 MRSA §499, sub-§1, as amended by PL
27 1981, c. 657, §7, is further amended to read:

28 1. Subrogation of support rights. If a court or-
29 der of support or spousal support order exists, the
30 department shall be subrogated to the right of any
31 dependent child or person having custody of the child
32 named in the court order to pursue any support action
33 or any administrative remedy to secure payment of the
34 debt accrued or accruing under section 495 and to en-
35 force the court order. The department shall not be
36 required to seek an amendment to the court order of
37 support or to the spousal support order in order to
38 subrogate itself to the rights of the payee. The de-
39 partment shall not be required to file a motion to
40 intervene or join in any court proceeding in order to

1 subrogate itself to the rights of the payee and to be
2 treated as a party in any further proceedings regard-
3 ing the support order.

4 Sec. 29. 19 MRSA §500, first ¶, as amended by PL
5 1981, c. 657, §8, is further amended to read:

6 When the department is subrogated to a court or-
7 der of support or spousal support order under section
8 499, the commissioner may issue to the responsible
9 parent a notice of debt accrued or accruing under
10 section 495.

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

13 C. ~~Collection actions~~. A statement that any
14 property of the debtor is subject to lien and
15 foreclosure, administrative seizure and disposi-
16 tion, order to withhold and deliver or other col-
17 lection actions and that any debt determined to
18 be owed by the responsible parent may be reported
19 to a consumer reporting agency;

20 Sec. 31. 19 MRSA §500, sub-§1, ¶G, as enacted by
21 PL 1979, c. 663, §127, is repealed and the following
22 enacted in its place:

23 G. A statement that at the administrative hear-
24 ing only the following issues shall be consid-
25 ered:

26 (1) The receipt of public assistance by the
27 responsible parent;

28 (2) Uncredited cash payments;

29 (3) The amount of the debt accrued and ac-
30 curring;

31 (4) The accuracy of the terms of the court
32 or administrative order as stated in the no-
33 tice of debt; and

34 (5) The maintenance of any required medical
35 or dental insurance coverage; and

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

4 §502. Exemptions

5 The following exemptions shall apply to weekly
6 earnings. An amount equal to 30 times the federal
7 minimum wage, as prescribed by the United States
8 Code, Title 29, Section 206(a)(1), shall be exempt
9 from an order to withhold and deliver, garnishment,
10 automatic withholding or any other proceeding under
11 this chapter regarding weekly earnings. Except as
12 otherwise provided in this section, any property oth-
13 erwise exempt from trustee process, attachment and
14 execution shall be exempt from an order to withhold
15 and deliver, administrative seizure and disposition,
16 and lien and foreclosure under this subchapter. The
17 maximum part of the aggregate disposable earnings of
18 a responsible parent for any workweek which is sub-
19 ject to garnishment, pursuant to section 504 or
20 504-A, to enforce any decision entered pursuant to
21 section 498, 498-A, 500 or 515, shall not exceed:

22 1. Support spouse or dependent child. When the
23 individual is supporting his spouse or dependent
24 child, other than a spouse or child with respect to
25 whose support that order is used, 50% of that
26 individual's disposable earnings for that week; and

27 2. Not supporting spouse or dependent
28 child. When the individual is not supporting such a
29 spouse or dependent child described in subsection 1,
30 60% of that individual's disposable earnings for that
31 week.

32 With respect to the disposable earnings of any indi-
33 vidual for any workweek, the 50% specified in subsec-
34 tion 1, shall be deemed to be 55% and the 60% speci-
35 fied in subsection 2, shall be deemed to be 65% if
36 and to the extent that such earnings are subject to
37 garnishment to enforce a support order with respect
38 to a period which is prior to the 12-week period
39 which ends with the beginning of that workweek. In
40 no event may the amount withheld exceed the limita-
41 tions imposed by the United States Code, Title 15,
42 Section 1673.

1 Sec. 33. 19 MRSA §503, first ¶, as amended by PL
2 1979, c. 259, §8, is further amended to read:

3 Twenty-one days after receipt of the notice of
4 debt under section 500 or upon receipt of the deci-
5 sion under section 498 or section 498-A, the amount
6 stated in the notice of debt or in the decision shall
7 be a lien in favor of the department against all non-
8 exempt property of the responsible parent. This lien
9 shall be separate and apart from and in addition to
10 any other lien created by, or provided for in, this
11 Title.

12 Sec. 34. 19 MRSA §504-A is enacted to read:

13 §504-A. Expedited income withholding

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

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 to the department within 10
29 days of the date the responsible parent is paid. Any
30 person who honors an order to withhold issued under
31 this section shall be discharged from any liability
32 or obligation to the responsible parent for such
33 property. The department warrants that it will de-
34 fend and hold harmless any such persons for honoring
35 the order.

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

39 6. Termination of withholding. The withholding
40 shall be terminated with regard to a current support
41 obligation if:

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

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

6 C. The child has reached majority or has other-
7 wise been emancipated; or

8 D. The child has been adopted.

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

12 No withholding with regard to a support arrearage may
13 be terminated unless the department is unable to for-
14 ward funds to the obligee for 3 months. Funds not
15 forwarded shall be returned to the obligor and notice
16 shall be given to the obligor's employer or other
17 payor to cease withholding.

18 Sec. 35. 19 MRSA §507, as enacted by PL 1975, c.
19 532, §3, is amended to read:

20 §507. Foreclosure on liens

21 The commissioner shall proceed as follows with
22 respect to foreclosures on filed liens.

23 1. Liens on real property. Actions to foreclose
24 liens on real property filed under section 503 may be
25 brought in the county where the lien is filed pursu-
26 ant to the procedures of ~~Title 10, chapter 603~~ Title
27 14, chapter 403, subchapter II.

28 2. Liens on personal property. Actions to
29 foreclose liens on personal property filed under sec-
30 tion 503 may be brought in the county where the lien
31 is filed pursuant to the procedures of ~~Title 10,~~
32 ~~chapter 631~~ Title 14, chapter 509, subchapter III.

33 Sec. 36. 19 MRSA §509, as enacted by PL 1975, c.
34 532, §3, is repealed and the following enacted in its
35 place:

1 §509. Employer responsibility and liability

2 Any person who fails to honor an order to with-
3 hold and deliver, an order for expedited withholding,
4 or a duly executed assignment of earnings, or fails
5 to surrender property under section 506, shall be li-
6 able to the department in an amount equal to the debt
7 which is the basis of the lien, order to withhold and
8 deliver, order for expedited withholding, demand for
9 surrender or assignment of earnings, together with
10 costs, interest and reasonable attorney fees.

11 When any withholding order or assignment of earn-
12 ings is in effect and the obligor's employment is
13 terminated or the periodic payment terminates, the
14 obligor's employer or other payor of funds shall no-
15 tify the department of the termination within 30 days
16 of the termination date. The notice must include the
17 obligor's home address and the name and address of
18 the obligor's new employer or payor of funds, if
19 known.

20 Sec. 37. 19 MRSA §510, as amended by PL 1979, c.
21 309, §10, is further amended by adding at the end a
22 new paragraph to read:

23 Any employer who, in contravention of this sec-
24 tion, discharges from employment, refuses to employ,
25 or takes disciplinary action against any responsible
26 parent because of the existence of any lien, order to
27 withhold and deliver or assignment of earnings and
28 the obligations or additional obligations which it
29 imposes upon the employer shall be subject to a fine
30 in an amount not to exceed \$5,000.

31 Sec. 38. 19 MRSA §512-A is enacted to read:

32 §512-A. Employer; payor compensation

33 The commissioner may by rule establish a process-
34 ing fee which an employer or individual possessing
35 property belonging to the responsible parent may
36 charge for implementation of an order to withhold and
37 deliver, assignment of earnings or expedited wage
38 withholding.

39 Sec. 39. 19 MRSA §515, first ¶, as amended by PL
40 1975, c. 623, §19-A, is further amended to read:

1 The Within 30 days of receiving notice of any ac-
2 tion under this subchapter, the responsible parent or
3 the department may move for a review of any action
4 under this subchapter by serving a request for re-
5 view, together with an affidavit stating the grounds
6 upon which the request is based, upon the other par-
7 ty. The department may review any action under this
8 subchapter, except the decision under section 498,
9 subsection 4, without proceeding under this section.

10 Sec. 40. 19 MRSA §515, sub-§2-A, as enacted by
11 PL 1979, c. 259, §10, is repealed and the following
12 enacted in its place:

13 2-A. Hearing. The conduct of the hearing and
14 rendering of any decision shall be as follows.

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

23 B. If the hearing is on a notice of debt issued
24 under section 500, only the following issues
25 shall be considered:

26 (1) The receipt of public assistance by the
27 responsible parent;

28 (2) Uncredited cash payments;

29 (3) The amount of the debt accrued and ac-
30 cruing;

31 (4) The accuracy of the terms of the court
32 or administrative order as stated in the no-
33 tice of debt; and

34 (5) The maintenance of any required medical
35 or dental insurance coverage.

36 C. The hearing officer shall render a decision
37 within 30 days of the date on which the hearing
38 was held.

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

5 Sec. 41. 19 MRSA §581, sub-§2, ¶B, as enacted by
6 PL 1983, c. 813, §2, is repealed and the following
7 enacted in its place:

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

14 Sec. 42. 19 MRSA §581, sub-§9, as enacted by PL
15 1983, c. 813, §2, is repealed and the following en-
16 acted in its place:

17 9. Support; prosecution money. The court may
18 order either parent of a minor child to contribute
19 reasonable and just sums as child support payable
20 weekly, monthly or quarterly. An order for child
21 support under this section may include an order for
22 the payment of part or all of the medical expenses,
23 hospital expenses and other health care expenses of
24 the child or an order to provide a policy or contract
25 for coverage of those expenses. If medical, hospi-
26 talization or dental insurance coverage for his child
27 is available to an obligated parent on a group basis
28 through his employer or group affiliation, the
29 court's order shall include a provision requiring the
30 obligated parent to obtain and maintain that coverage
31 on behalf of his child. The court shall inquire of
32 the parties concerning the existence of a child sup-
33 port order entered pursuant to subchapter V. If such
34 an order exists, the court shall consider its terms
35 in establishing a child support obligation.

36 Sec. 43. 19 MRSA §581, sub-§11, as enacted by PL
37 1983, c. 813, §2, is amended to read:

38 11. Enforcement. The court may enforce obedience
39 to its orders by appropriate process including reme-
40 dies provided in chapter 14-A. Nothing in this sec-
41 tion may preclude the court from incarcerating a

1 spouse for nonpayment of child support, alimony or
2 attorney's fees in violation of a court order to do
3 so.

4 Sec. 44. 19 MRSA §722, sub-§4, as enacted by PL
5 1979, c. 668, §4, is further amended to read:

6 4. Enforcement. The court may enforce an order
7 as provided under chapter ~~14~~ 14-A.

8 Sec. 45. 19 MRSA §752, sub-§2, ¶B, as enacted by
9 PL 1983, c. 813, §5, is repealed and the following
10 enacted in its place:

11 B. "Child support" means money to be paid di-
12 rectly to a parent, to another person or agency
13 awarded parental rights and responsibilities with
14 respect to a child, or to the Department of Human
15 Services on behalf of any child receiving public
16 assistance and any medical or dental insurance
17 coverage provided to a child pursuant to court
18 order.

19 Sec. 46. 19 MRSA §752, sub-§10, as enacted by PL
20 1983, c. 813, §5, is amended to read:

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

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

1 obligated parent to obtain and maintain that coverage
2 on behalf 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. 47. 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; ~~or~~

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

14 Sec. 48. 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. 49. 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. 50. 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) That:

29 (a) The obligee determines the pay-
30 ments which the obligor has failed to
31 make under that support or alimony or-
32 der are at least equal to the amount
33 payable for one month; or

34 (b) The obligor has requested that in-
35 come withholding be implemented;

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

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

15 (4) 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 (5) 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 a processing fee as
41 promulgated by the commissioner under section
42 512-A. This charge shall be deducted from the
43 amount withheld prior to its remittance to the

1 department. The amount specified in the order
2 shall not exceed the limitations imposed by sec-
3 tion 502 or by the United States Code, Title 15,
4 Section 1673. Any employer who, in contravention
5 of this section, discharges from employment, re-
6 fuses to employ or takes disciplinary action
7 against any obligor because of the existence of
8 such an order and the obligations or additional
9 obligations which it imposes upon the employer
10 shall be subject to a fine in an amount not to
11 exceed \$5,000.

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

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

30 G. The order of withholding with regard to a
31 current support obligation shall be terminated
32 if:

33 (1) The department is unable to forward
34 funds to the obligee for 3 months;

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

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

40 (4) The child has been adopted.

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

4 No withholding with regard to a support arrearage may
5 be terminated unless the department is unable to for-
6 ward funds to the obligee for 3 months. Funds not
7 forwarded shall be returned to the obligor and notice
8 shall be given to the obligor's employer or other
9 payor to cease withholding.

10 2. Department designated as administering agen-
11 cy. The department is designated as the agency re-
12 sponsible for adopting and administering procedures
13 to receive, document, track and monitor all support
14 payments collected pursuant to this section. The de-
15 partment may promulgate a fee for use of these ser-
16 vices.

17 Sec. 51. 24-A MRSA §2809, sub-§1-A is enacted to
18 read:

19 1-A. Any such policy of group health insurance
20 which provides coverage for family members or depen-
21 dents of individuals in the insured group may not de-
22 fine the terms "family" or "dependent" to exclude
23 from coverage those minor children of any covered in-
24 dividual who do not reside with that individual.

25 Sec. 52. 24-A MRSA §2833, as amended by PL 1979,
26 c. 633, §147, is further amended to read:

27 §2833. Optional coverage of children required

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

Sec. 53. 36 MRSA §5276-A, sub-§1, as enacted by
PL 1981, c. 504, §4, is amended to read:

1. Generally. Any agency of the State, including the University of Maine, which is authorized to collect from any individual or corporation a liquidated debt greater than \$25 shall notify in writing the State Tax Assessor and supply information necessary to identify the debtor whose refund is sought to be set off. The State Tax Assessor, upon any such notification, shall assist the requesting agency by setting off that debt, pursuant to rules promulgated by the State Tax Assessor, against any refund to which that individual or corporation is entitled under this Part. Liquidated child support debts that the Department of Human Services has contracted to collect, pursuant to Title 19, section 448-A or 495, subsection 2, shall be eligible, under the provisions of this section, for setoff against any refund due the obligated individual. The State Tax Assessor shall provide the creditor agency with the name, address and social security number of each debtor whose refund will be subject to offset.

Sec. 54. 39 MRSA §67, as amended by PL 1975, c. 59, §3, is further amended to read:

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

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

STATEMENT OF FACT

The primary purpose of this new draft is to delete provisions of the bill proposing changes in Maine's child support laws that are not mandated by the Federal Child Support Enforcement Amendments of 1984.

1 The major proposed changes to Maine child support
2 laws eliminated from the bill by this new draft in-
3 clude the following provisions.

4 1. The bill proposes to permit a child to bring
5 an action for past education and necessary support
6 under the Maine Revised Statutes, Title 19, chapter
7 5, subchapter III, within 6 years of the child's 18th
8 birthday. This is not mandated by the federal law
9 and is eliminated by this new draft. Such an action
10 under Title 19, chapter 5, subchapter III, may only
11 be brought, then, before the child's 18th birthday.

12 2. The new draft makes it clear that enforcement
13 of spousal support by the Department of Human Ser-
14 vices may only occur if the spousal support is for a
15 spouse caring for dependent children. Spousal sup-
16 port not tied to the needs of children may not be en-
17 forced by the department.

18 3. The new draft retains the floor in current
19 Maine law on the amount of a person's weekly earnings
20 that may be subject to withholding for child support
21 payment. The bill proposed to eliminate this floor,
22 but such an elimination is not mandated by federal
23 law. The floor below which weekly earnings may not
24 be withheld remains 30 times the
25 federally-established minimum wage.

26 4. The new draft makes it clear that the floor
27 described in the preceding paragraph also applies to
28 withholding for child support payment from workers'
29 compensation benefits.

30 5. The bill proposes to eliminate exemptions of
31 certain property from actions to attach or otherwise
32 apply that property to child support payment. The
33 elimination of these exemptions is not federally
34 mandated, and the new draft retains the existing ex-
35 emptions.

36 6. The new draft clarifies when the Department
37 of Human Services must return collected child support
38 to the parent who paid the child support when the de-
39 partment cannot forward the child support to the par-
40 ent to whom it is owed. Under the new draft, if the
41 department is unable to forward the child support for

1 3 months, the department must return the payments to
2 the parent who made the payments, and must inform any
3 employer or other person withholding money from that
4 parent for child support payments to cease withhold-
5 ing.

6 7. The new draft proposes to eliminate child
7 support from the mandatory mediation requirements of
8 Maine's divorce laws. This restriction of mediation
9 issues is not mandated by federal law and the new
10 draft deletes this restriction from the bill.

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