

MAINE STATE LEGISLATURE

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 706, L.D. 967, Bill, "An Act to Establish State Guidelines for Child Support Awards"

Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

'Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the United States Family Support Act of 1988 mandates that every state must have child support guidelines and procedures consistent with federal law in place by October 12, 1989; and

Whereas, current Maine law does not include the requisite elements of the federal law concerning child support; and

Whereas, states not in compliance with the federal law by October 12, 1989 are subject to losing indispensable federal funds for supporting children; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 19 MRSA §303-A, as amended by PL 1985, c. 652, §12, is repealed and the following enacted in its place:

1
3 §303-A. Guidelines for child support awards

5 1. Definitions. As used in this chapter, unless the
context indicates otherwise, the following terms have the
following meanings.

7
9 A. "Child support table" means a schedule which reflects
the percentage of combined gross income which parents living
in the same household in Maine ordinarily spend on their
11 children.

13 B. "Criteria for application of the child support table"
means the standards adopted to apply the child support table
15 to the facts of particular proceedings.

17 C. "Support guidelines" means the child support table and
19 the criteria for application of the table.

21 2. Child support table established. The Department of
Human Services shall adopt rules in accordance with Title 5,
chapter 375, establishing a child support table by October 12,
23 1989.

25 3. Criteria for application of table. The Supreme Judicial
Court shall adopt rules establishing criteria for application of
27 the child support table for use in judicial proceedings to
establish child support by October 12, 1989. The Department of
29 Human Services shall adopt rules in accordance with Title 5,
chapter 375, establishing criteria for application of the child
31 support table for use in administrative proceedings to establish
child support by October 12, 1989. The criteria for application
33 of the child support table must provide that the total child
support obligation shall be divided between the parents in
35 proportion to their respective gross incomes.

37 4. Support guidelines. The support guidelines must be
based on the concept that children should receive the same
39 proportion of parental income after separation or divorce of
their parents as they would receive if their parents were living
41 in one household. Except in cases of default or when good cause
is shown, the support guidelines shall not result in a total
43 support obligation that would reduce a responsible parent's
income to below the income level protected by section 502.

45
47 5. Presumption. There shall be a rebuttable presumption in
any judicial or administrative proceeding in which child support
49 may be established or modified, in which a hearing is held, on or
after October 12, 1989, that the amount of the award which would
result from the application of the support guidelines is the
51 correct amount of child support to be awarded. A written finding

1 or specific finding on the record that the application of the
2 support guidelines would be unjust or inappropriate in a
3 particular case shall be sufficient to rebut the presumption in
4 that case if the finding is made under criteria established under
5 this section.

7 6. Sunset. This section is repealed June 30, 1991.

9 **Sec. 2. Review and report.** The Supreme Judicial Court and the
10 Department of Human Services shall meet with representatives of
11 the Family Law Section of the Maine State Bar Association and
12 Pine Tree Legal Assistance, Inc. to discuss the development of
13 criteria common to the judiciary and the department.

15 The Supreme Judicial Court and the Department of Human
16 Services shall report their findings and recommendations,
17 including any legislative recommendations, to the Legislature by
18 January 1, 1991.

19 **Emergency clause.** In view of the emergency cited in the
20 preamble, this Act shall take effect when approved.'

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25

STATEMENT OF FACT

27

28 This amendment retains the purpose of the original bill but
29 revises the provisions to provide more detail and guidance to the
30 judiciary and the Department of Human Services in adopting rules
31 establishing a child support table, criteria for application of
32 the table and support guidelines.

33

34 This amendment provides that the support guidelines cannot
35 require that the support obligation be so great that the
36 obligated parent's disposable income would be less than that
37 protected from garnishment under current law, except in cases in
38 which there is good cause shown or when the obligated parent
39 fails to appear and a default is entered. "Good cause"
40 encompasses several situations, including the situation in which
41 an obligated parent does not deal with the court or department in
42 good faith concerning the support obligation.

43

44 This amendment sunsets the law enacted by this legislation
45 on June 30, 1991. This provides sufficient time for the
46 judiciary and the Department of Human Services to collaborate on
47 developing a permanent table, criteria and guidelines. This
48 automatic repealer does not indicate lack of commitment on the
49 part of the Legislature to put these requirements into effect
50 permanently; the Legislature wants to ensure that fair and
51 efficient standards are developed before enacting them into law.

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3 The judiciary and the Department of Human Services are
5 required to meet with Pine Tree Legal Assistance, Inc. and the
7 Family Law Section of the Maine State Bar Association to ensure
9 proper consideration of all aspects of child support
11 requirements. The judiciary and the department will report back
to the Legislature no later than January 1, 1991, with their
findings and recommendations resulting from the meetings. This
will provide the Legislature with sufficient time to consider the
recommendations and enact necessary legislation before the
interim requirements, enacted by this Act, are repealed.

Reported by the Committee on Judiciary
Reproduced and distributed under the direction of the Clerk of the
House
5/31/89 (Filing No. H-349)