

# MAINE STATE LEGISLATURE

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L.D. 1321

(Filing No. H-385 )

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

COMMITTEE AMENDMENT "A" to H.P. 953, L.D. 1321, Bill, "An Act to Facilitate the Establishment and Enforcement of Child Support and Health Insurance Obligations and to Clarify the Law Concerning the Modification of Child Support Orders"

Amend the bill by striking section 1 (page 1, lines 3 to 22 in L.D.) and inserting in its place the following:

Sec. 1. 19 MRSA §214, sub-§9, as amended by PL 1989, c. 156, §1, is further amended to read:

9. Support order. The court may order either parent of a minor child to contribute reasonable and just sums as child support payable weekly, monthly or quarterly. Availability of public welfare benefits to the family shall not affect the decision of the court as to the responsibility of a parent to provide child support. The court shall inquire of the parties concerning the existence of a child support order entered pursuant to subchapter V. If such an order exists, the court shall consider its terms in establishing a child support obligation.

After January 1, 1990, the court may order either parent to provide child support beyond the child's 18th birthday if the child is attending secondary school as defined in Title 20-A, section 1, until the child graduates, withdraws or is expelled from secondary school or attains the age of 19, whichever first occurs.

The court's order may include a requirement for the payment of part or all of the medical expenses, hospital expenses and other health care expenses of the child. ~~If medical, hospitalization or dental insurance coverage for his child is available to an obligated parent on a group basis through his employment or other affiliation, the court's order shall include a provision requiring the obligated parent to obtain and maintain that coverage on behalf of his child.~~ The court order shall include a

1 provision requiring the obligated parent to obtain and maintain  
2 health insurance coverage for medical, hospitalization and dental  
3 expenses, if health insurance is available to the obligated  
4 parent at reasonable cost. The court order shall also require  
5 the obligated parent to furnish proof of coverage to the obligee  
6 within 15 days of receipt of a copy of the court order. For the  
7 purposes of this section, health insurance shall be considered  
8 reasonable in cost if it is employment-related or other group  
9 health insurance. If health insurance is not available at  
10 reasonable cost at the time of the hearing, the court order shall  
11 establish the obligation to provide health insurance on the part  
12 of the obligated parent effective immediately upon insurance  
13 being available at reasonable cost. The court may enforce a  
14 support order as provided in chapter 14-A.'

15  
16 Further amend the bill in section 2, in subsection 11 in the  
17 4th to 7th lines (page 1, lines 30 to 33 in L.D.) by striking out  
18 the following: "Child support orders may be modified  
19 retroactively, but only from the date that notice of a petition  
20 for modification has been served, either directly or through the  
21 appropriate agent, to the opposing party." and inserting in its  
22 place the following: 'Child support orders may be modified  
23 retroactively, but only from the date that notice of a petition  
24 for modification has been served upon the opposing party pursuant  
25 to the Maine Rules of Civil Procedure.'

26  
27 Further amend the bill by striking out all of section 3.

28  
29 Further amend the bill in section 4 in that part designated  
30 "§498." in the 2nd paragraph in the last line (page 3, line 2 in  
31 L.D.) by inserting after the following: "section 9057" the  
32 following: 'subsection 5'

33  
34 Further amend the bill in section 4 in that part designated  
35 "§498." in subsection 4 in paragraph B in the 14th and 15th lines  
36 (page 4, lines 40 to 41 in L.D.) by striking out the following:  
37 "A copy of the decision shall be served upon the responsible  
38 parent." and inserting in its place the following: 'A copy of the  
39 decision shall be served upon the responsible parent.'

40  
41 Further amend the bill in section 5 in that part designated  
42 "§498-A." in the first paragraph in the last line (page 6, line  
43 26 in L.D.) by inserting after the following: "section 9057" the  
44 following: 'subsection 5'

45  
46 Further amend the bill in section 5 in that part designated  
47 '§498-A.' in subsection 4 in paragraph B in the 10th line (page  
48 8, line 7 in L.D.) by inserting after the following: "decision."  
49 the following: 'A copy of the decision shall be served upon the  
50 responsible parent.'

51

COMMITTEE AMENDMENT "A" to H.P. 953, L.D. 1321

1 Further amend the bill in section 6 in that part designated  
2 "§498-B." in subsection 1 in the 3rd line (page 9, line 12 in  
3 L.D.) by striking out the following: "established" and inserting  
4 in its place the following: 'as required'

5  
6 Further amend the bill in section 7 in the last line (page  
7 10, line 8 in L.D.) by inserting after the following: "section  
8 "9057" the following: ', subsection 5'

9  
10 Further amend the bill by inserting after section 7 the  
11 following:

12  
13 **'Sec. 8. 19 MRSA §581, sub-§9, as amended by PL 1989, c. 156,**  
14 **§6, is repealed and the following enacted in its place:**

15  
16 9. Support order. The court may order either parent of a  
17 minor child to contribute reasonable and just sums as child  
18 support payable weekly, monthly or quarterly. The court shall  
19 inquire of the parties concerning the existence of a child  
20 support order entered pursuant to subchapter V. If such an order  
21 exists, the court shall consider its terms in establishing a  
22 child support obligation.

23  
24 An order for child support under this section may include an  
25 order for the payment of part or all of the medical expenses,  
26 hospital expenses and other health care expenses of the child.  
27 The court order shall include a provision requiring an obligated  
28 parent to obtain and maintain health insurance coverage for  
29 medical, hospitalization and dental expenses, if health insurance  
30 is available to the obligated parent at reasonable cost. The  
31 court order shall also require the obligated parent to furnish  
32 proof of such coverage to the obligee within 15 days of receipt  
33 of a copy of the court order. For the purposes of this section,  
34 health insurance shall be considered reasonable in cost if it is  
35 employment-related or other group health insurance. If health  
36 insurance is not available at reasonable cost at the time of the  
37 hearing, the court order shall establish the obligation to  
38 provide health insurance on the part of the obligated parent  
39 effective immediately upon the insurance being available at  
40 reasonable cost.

41  
42 **Sec. 9. 19 MRSA §752, sub-§10, as amended by PL 1989, c. 156,**  
43 **§7, is further amended to read:**

44  
45 **10. Support order.** An order of the court for child support  
46 may run against the father or the mother in whole or in part or  
47 against both, irrespective of the fault of the father or mother  
48 in the divorce action. For divorces ordered after January 1,  
49 1990, the order for child support may run until the child  
50 graduates, withdraws or is expelled from secondary school as  
51 defined in Title 20-A, section 1, or attains the age of 19 years,  
whichever first occurs after the child attains the age of 18

1 years. When the order is to run against both, the court shall  
2 specify the amount each shall pay. The court shall inquire of  
3 the parties concerning the existence of a child support order  
4 entered pursuant to subchapter V. If such an order exists, the  
5 court shall consider its terms in establishing a child support  
6 obligation.

7  
8 ~~An order for child support may include an order for the payment~~  
9 ~~of part or all of the medical expenses, hospital expenses and~~  
10 ~~other health care expenses of the child or an order to provide a~~  
11 ~~policy or contract for coverage of these expenses. If medical,~~  
12 ~~hospitalization or dental insurance coverage for the child is~~  
13 ~~available to an obligated parent on a group basis through his~~  
14 ~~employer or group affiliation, the court's order shall include a~~  
15 ~~provision requiring the obligated parent to obtain and maintain~~  
16 ~~that coverage on behalf of his child.~~

17  
18 An order for child support under this section may include an  
19 order for the payment of part or all of the medical expenses,  
20 hospital expenses and other health care expenses of the child.  
21 The court order shall include a provision requiring an obligated  
22 parent to obtain and maintain health insurance coverage for  
23 medical, hospitalization and dental expenses, if health insurance  
24 is available to the obligated parent at reasonable cost. The  
25 court order shall also require the obligated parent to furnish  
26 proof of such coverage to the obligee within 15 days of receipt  
27 of a copy of the court order. For the purposes of this section,  
28 health insurance shall be considered reasonable in cost if it is  
29 employment-related or other group health insurance. If health  
30 insurance is not available at reasonable cost at the time of the  
31 hearing, the court order shall establish the obligation to  
32 provide health insurance on the part of the obligated parent  
33 effective immediately upon the insurance being available at  
34 reasonable cost.

35  
36 Availability of public welfare benefits to the family shall not  
37 affect the decision of the court as to the responsibility of a  
38 parent to provide child support.

39  
40 The court may enforce a support order as provided in chapter  
41 14-A.'

42  
43 Further amend the bill in section 8 in subsection 12 in the  
44 7th to 10th lines (page 10, lines 19 to 22 in L.D.) by striking  
45 out the following: "Child support orders may be modified  
46 retroactively, but only from the date that notice of a petition  
47 for modification has been served, either directly or through the  
48 appropriate agent to the opposing party." and inserting in its  
49 place the following: 'Child support orders may be modified  
50 retroactively, but only from the date that notice of a petition  
51 for modification has been served upon the opposing party pursuant  
to the Maine Rules of Civil Procedure.'

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Further amend the bill in section 10 in that part designated "§778." in the 4th to 6th lines (page 11, lines 1 to 4 in L.D.) by striking out the following: "Child support orders may be modified retroactively, but only from the date that notice of a petition for modification has been served, either directly or through the appropriate agent to the opposing party." and inserting in its place the following: 'Child support orders may be modified retroactively, but only from the date that notice of a petition for modification has been served upon the opposing party pursuant to the Maine Rules of Civil Procedure.'

Further amend the bill by inserting after section 10 the following:

'Sec. 11. 19 MRSA §779 is enacted to read:

'§779. Effect and implementation of health insurance obligations; failure of responsible party to comply

1. Failure to obtain insurance. If an obligated parent fails to acquire health insurance coverage as required under section 214, subsection 9; section 581, subsection 9; or section 752, subsection 10, that parent shall be liable for any expenses incurred for that parent's dependent children that would have been paid by the insurance coverage, regardless of who has incurred the expenses. Incurred liability may be enforced as a child support debt under chapter 7, subchapter V, or by judicial action.

2. Direct payment; parental authorization. Upon receipt of a written authorization from an obligated parent to an insurer to make health insurance payments for that parent's dependent children to the obligee, the insurer shall make all payments directly to the obligee until the authorization is withdrawn. Upon receipt of such authorization from the obligated parent, the obligee shall be deemed subrogated to the rights of the obligated parent under the insurance policy for the children.

3. Direct payment; court order. Upon receipt of a copy of the court order establishing the obligation of an obligated parent to provide health insurance coverage for that parent's dependent children, and of a demand in writing for the health insurance coverage from the obligee, the insurer shall make all health insurance payments for the children directly to the obligee until otherwise notified by the obligee. In all such cases, the obligee shall be deemed subrogated to the rights of the obligated parent under the insurance policy for the children.'

Further amend the bill by renumbering the sections to read consecutively.

1 Further amend the bill by inserting before the statement of  
fact the following:

3  
5 **FISCAL NOTE**

7 Enactment of this legislation will result in conformance  
with federal requirements pertaining to establishment of child  
9 support orders and health insurance obligations, as well as  
bringing the State into compliance with federal requirements  
concerning retroactive modifications of child support orders.  
11 Failure to comply with federal requirements on these issues would  
result in the imposition of financial penalties against the Aid  
13 to Families with Dependent Children program. Enactment of this  
legislation diminishes the likelihood of the Federal Government  
15 assessing a penalty, resulting in potential unanticipated,  
unbudgeted costs.'

17  
19 **STATEMENT OF FACT**

21 This amendment makes technical corrections to the bill to  
properly carry out its purposes.

23 Section 1 of the bill is amended to properly indicate that  
25 only the 3rd paragraph of the Maine Revised Statutes, Title 19,  
section 214, subsection 9 is being amended.

27 Sections 2, 8 and 10 of the bill are amended to properly  
29 reference the Maine Rules of Civil Procedure as they pertain to  
serving notice on parties to a proceeding.

31 Section 3 of the bill is deleted, and the subject matter  
33 covered in Title 19, section 779. The difference between section  
3 and the new section 779 is that section 779 includes references  
35 to all sections under which child support orders concerning  
medical expenses may be entered by the court.

37 Changes in sections 4, 5 and 7 correct a reference to Title  
39 5, section 9057, by adding subsection 5.

41 A change in section 4 reinserts a sentence that was deleted,  
and section 5 inserts the same sentence as new.

43  
Reported by the Committee on Judiciary  
Reproduced and distributed under the direction of the Clerk of the  
House  
6/2/89 (Filing No. H-385)