

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2353

H.P. 1704

House of Representatives, February 23, 1990

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative ANTHONY of South Portland.

Cosponsored by Senator HOBBS of York and Representative RICHARDS of Hampden.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act Concerning Child Support Guidelines.

(EMERGENCY)



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

Whereas, federal law requires the State to adopt child
support guidelines to avoid losing federal Aid to Families with
Dependent Children funds; and

Whereas, the guidelines adopted by court rule may not
survive constitutional challenges unless codified by the
Legislature; and

Whereas, existing statutory provisions conflict with the
child support guidelines; 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:

PART A

19 MRSA c. 7, sub-c. I-A is enacted to read:

SUBCHAPTER I-A

CHILD SUPPORT GUIDELINES

§311. Definitions

As used in this subchapter, unless the context otherwise
indicates, the following terms have the following meanings.

1. Basic support entitlement. "Basic support entitlement"
means the sum derived from the child support table appropriate to
the age of the child or children and the parties' gross income.

2. Child care costs. "Child care costs" means the actual
child care costs incurred by the party providing primary care
that are related to that party's employment, education or
training and are reasonable or customary in the area in which the
person providing primary care resides.

3. Child support table. "Child support table" means the
schedule that reflects the percentage of combined gross income
parents living in the same household in this State ordinarily
spend on their children that has been adopted by the Department
of Human Services under former section 303-A.

2 4. Extraordinary medical expenses. "Extraordinary medical
4 expenses" means uninsured expenses over \$150 in the aggregate per
6 child or group of children supported for each calendar year and
8 includes, but is not limited to, reasonable and necessary costs
 for orthodontia, dental treatment, asthma treatment, physical
 therapy, chronic health problems and professional counseling or
 psychiatric therapy for diagnosed mental disorders.

10 5. Gross income. "Gross income" means gross income of a
 party as follows.

12 A. Gross income includes income from any ongoing source
14 including, but not limited to, salaries, wages, commissions,
16 royalties, bonuses, dividends, severance pay, pensions,
18 interest, trust funds, annuities, capital gains, social
20 security benefits, disability insurance benefits, prizes,
 workers' compensation benefits, spousal support actually
 received pursuant to a preexisting order, and educational
 grants, fellowships or subsidies that are available for
 personal living expenses.

22 B. Gross income includes expense reimbursements or in-kind
24 payments received by a party in the course of employment or
26 self-employment or operation of a business if the expense
 reimbursements or in-kind payments reduce personal living
 expenses.

28 C. Gross income includes gross receipts minus ordinary and
30 necessary expenses when a party is self-employed or derives
32 income from proprietorship of a business, joint ownership of
34 a partnership or a closely held business operation, and
36 rents minus ordinary and necessary expenses. At the
38 discretion of the court, amounts allowable by the United
40 States Internal Revenue Service for the accelerated
 component of depreciation expenses or investment tax credits
 may or may not be treated as ordinary and necessary
 expenses. The court may also determine that other business
 expenses, including, but not limited to, business losses,
 are inappropriate for determining gross income for purposes
 of calculating child support.

42 D. Gross income may include the difference between the
44 amount a party is earning and that party's earning capacity
46 when the party voluntarily becomes or remains unemployed or
48 underemployed, if sufficient evidence is introduced
50 concerning a party's current earning capacity. In the
52 absence of evidence in the record to the contrary, a party
 that is personally providing primary care for a child under
 the age of 3 years is deemed not available for employment.
 The court shall consider anticipated child care and other
 work-related expenses in determining whether to impute
 income, or how much income to impute, to a party providing

2 primary care to a child between the ages of 3 and 12 years.
3 A party who is incarcerated in a correctional or penal
4 institution is deemed available only for employment that is
5 available through such institutions.

6 E. Gross income does not include the amount of preexisting
7 spousal maintenance or child support obligation actually
8 paid pursuant to court or administrative order, or an
9 appropriate amount of child support being voluntarily paid
10 by a party who has a legal obligation to support that child.

11 F. Gross income does not include the actual incremental
12 cost to a party for the provision of adequate health
13 insurance coverage for the involved children.

14 G. Gross income does not include the amount of money
15 received from means-tested public assistance programs,
16 including, but not limited to, aid to families with
17 dependent children, supplemental security income, food
18 stamps and general assistance.

19 6. Parental support obligation. "Parental support
20 obligation" means the portion of total support obligation a party
21 is ordered to pay in money as child support.

22 7. Primary residence. "Primary residence" means the
23 residence of a child where that child receives residential care
24 for more than 50% of the time on an annual basis.

25 8. Primary residential care provider. "Primary residential
26 care provider" means the party who provides residential care for
27 a child for more than 50% of the time on an annual basis.

28 9. Support guidelines. "Support guidelines" means the
29 child support table and the criteria for application of the table
30 set forth in section 316.

31 10. Total support obligation. "Total support obligation"
32 means the sum of money determined by adding the basic support
33 entitlement, child care costs and extraordinary medical expenses.

34 11. Twelve through 17 years; between the ages of 12 and 18
35 years. The age categories "12 through 17 years" and "between the
36 ages of 12 and 18 years" as used in the child support table and
37 elsewhere in the support guidelines are deemed to include
38 children between the ages of 18 and 19 years who are attending a
39 secondary school for whom an obligation of support is established
40 or deemed to remain in force pursuant to Public Law 1989, chapter
41 156.

2 **§312. Application**

4 Notwithstanding any other provisions of law, this subchapter
6 applies to any court action in which a child support order is
8 issued or modified under this Title or Title 22.

10 **§313. Forms**

12 For the purposes of this subchapter, the Supreme Judicial
14 Court is authorized to prescribe or revise forms by
16 administrative order or rule.

18 **§314. Required filing**

20 1. Filing of income affidavits. In any court action to
22 determine or modify support of a minor child or children, the
24 plaintiff and defendant shall exchange, prior to mediation, an
26 affidavit regarding income and assets. These affidavits must
28 conform with the forms provided by the court and must be
30 accompanied by suitable documents of current income, such as pay
32 stubs, tax returns, employer statements, or receipts and expenses
34 if self-employed.

36 2. Child support worksheet. The parties shall exchange
38 prior to the commencement of any mediation a completed child
40 support worksheet. The worksheet must be completed in accordance
42 with the support guidelines.

44 3. Deadline for filing. At least 3 days prior to any court
46 hearing, whether contested or uncontested, the parties shall file
48 with the court and exchange, if they have not already done so,
50 the completed affidavits and child support worksheets.

52 4. Failure to file affidavits or worksheets. Failure to
54 comply with this section may result in the imposition of economic
56 sanctions upon a party and empowers the court to determine a
58 parental support obligation based on available information and
60 reasonable inferences drawn from the failure to comply.

62 **§315. Rebuttable presumption**

64 In any proceeding to establish or modify child support,
66 there is a rebuttable presumption that the parental support
68 obligation derived from the support guidelines is the amount
70 ordered to be paid, unless support is established under section
72 317. The court shall review the adequacy of a child support
74 amount agreed to by the parties with reference to the parental
76 support obligation.

2
3 **§316. Support guidelines**

4 **1. Determination of basic support entitlement.** After the
5 court determines the annual gross income of both parties, the 2
6 incomes must be added together to provide a combined annual gross
7 income and applied to the child support table to determine the
8 basic support entitlement for the child or group of children.

9
10 When there are children within each age category, the court shall
11 refer to the table and locate the figure in the left-hand column
12 that is closest to the parents' combined annual gross income. In
13 each age category the court shall determine the dollar figure for
14 the total number of children for whom support is being
15 determined, multiply the dollar figure in each age category by
16 the number of children in that category and add the 2 products.
17 The resulting dollar amount represents the basic support
18 entitlement.

19
20 **2. Total support obligation.** The total support obligation
21 for each child is determined by adding to the basic support
22 entitlement the child care costs and extraordinary medical
23 expenses as follows.

24 **A.** When the children are under the age of 12 years, the
25 sums actually being expended for child care costs must be
26 added to the basic support entitlement to determine the
27 total support obligation.

28
29 **B.** If a child is incurring extraordinary medical expenses,
30 the future incidence of which is determinable because of the
31 permanent, chronic or recurring nature of the illness or
32 disorder, the sums actually being expended for the medical
33 expenses must be added to the basic support entitlement to
34 determine the total support obligation.

35
36 **3. Computation of parental support obligation.** The total
37 child support obligation must be divided between the parties in
38 proportion to their respective gross incomes. The court shall
39 order the party not providing primary residential care to pay, in
40 money, that party's share of the total support obligation to the
41 party providing primary residential care. The primary
42 residential care provider is presumed to spend the primary care
43 provider's share directly on the child or children.

44
45 **4. Special circumstances.** The court shall consider the
46 following special circumstances in determining child support.

47
48 **A.** When the nonprimary residential care provider is legally
49 obligated to support children in that party's household
50 other than the children for whom a support order is being
51 sought, an adjustment must be made to that party's parental
52 support obligation. The adjustment is made by using the

2 nonprimary residential care provider's annual gross income
3 to compute a theoretical support obligation under the
4 support guidelines for the children in that household.
5 Neither the child support received by nor the financial
6 contributions of the other parent of the children in the
7 household are considered in the theoretical support
8 calculation. The obligation is then subtracted from the
9 annual gross income, and the adjusted income is the amount
10 used to calculate support. The adjustment is used in all
11 appropriate cases, except that it is not applied when the
12 result would be a reduction in an award previously
13 established.

14 B. When the combined annual gross income exceeds \$126,600,
15 the child support table is not applicable, except that the
16 basic weekly child support entitlement of a child is
17 presumed to be not less than that set forth in the table for
18 a combined annual gross income of \$126,600.

20 C. The subsistence needs of the nonprimary care provider
21 must be taken into account when establishing the parental
22 support obligation. If the annual gross income of a
23 nonprimary care provider is less than the federal poverty
24 guideline, or if the nonprimary care provider's income is
25 insufficient to meet work-related expenses and other basic
26 necessities as defined in Title 22, section 4301, subsection
27 1, that nonprimary care provider's weekly parental support
28 obligation for all the children for whom a support award is
29 being established or modified may not exceed 10% of that
30 nonprimary care provider's weekly gross income, regardless
31 of the amount of the parties' combined annual income.

32 D. When the parties have equal annual gross incomes and
33 provide residential care equally for all children for whom
34 support is being determined, neither party is required to
35 pay the other a parental support obligation. The parties
36 shall share equally the child care costs, health insurance
37 premiums and uninsured medical expenses.

40 E. When each party is the primary residential care provider
41 for at least one of the children involved, a child support
42 obligation must first be computed separately for each party
43 for the child or children residing primarily with the other
44 party, based on a calculation pursuant to the support
45 guidelines, and using as input in each calculation the
46 number of children in each household, rather than the total
47 number of children. The amounts determined in this manner
48 represent the theoretical support obligation due each party
49 for support of the child or children for whom the party has
50 primary residential responsibility. Each party's
proportionate share of child care costs is added to the

2 amounts calculated, and the party owing the greater amount
3 of child support shall pay the difference between the 2
4 amounts as a parental support obligation.

5 5. Prospective child support award. An order establishing
6 a child support award for any child or children who have attained
7 the age of 10 years must also establish an award for the child or
8 children as if the child or children were 12 years old. The
9 prospective award becomes effective on each child's 12th birthday
10 without further order or decision of the court, and the order
11 establishing or modifying the prospective award must state this
12 fact.

13 6. Requirements of support provisions. To assist in any
14 formal review proceeding, and to enable the parties to reduce the
15 incidence of formal modification procedures, any order
16 establishing parental support obligation must include:

17 A. The names of the children;

18 B. A beginning date for the parental support obligation;

19 C. A breakdown of the parental support obligation,
20 including:

21 (1) The amount for basic support entitlements;

22 (2) The amount for child care costs;

23 (3) The amount for extraordinary medical expenses; and

24 (4) The percentage of the total child care costs and
25 extraordinary medical expenses included in the parental
26 support obligation;

27 D. For any child or children who have attained the age of
28 10 years, a prospective award under subsection 5; and

29 E. If all the children for whom a parental support
30 obligation is being established have attained the age of 12
31 years, a specific sum to be paid depending on the number of
32 minor children remaining with the primary care provider. Because the support guidelines are based on the actual costs
33 of raising a given number of children in a household, the
34 order must provide a specific dollar amount for every
35 combination of minor children. The court may not apportion
36 support between the parents by determining the parental
37 support obligation amount and dividing by the total number
38 of children.

2 **§317. Deviation from child support guidelines**

4 **1. Rebutting presumption.** If the court finds that a child
6 support order based on the support guidelines would be
 inequitable or unjust due to one or more of the considerations
 listed under subsection 3, that finding is sufficient to rebut
 the presumption established in section 315.

8 **2. Proposed findings.** A party proposing deviation from the
10 application of the support guidelines shall provide the court
12 with written proposed findings showing that the application of
 the guidelines is inequitable or unjust.

14 **3. Criteria for deviating from support guidelines.**
16 Criteria that may justify deviation from the support guidelines
 are as follows.

18 **A. The nonprimary residential care provider is in fact**
20 providing primary residential care for more than 30% of the
 time on an annual basis;

22 **B. The number of children for whom support is being**
 determined is greater than 6;

24 **C. The interrelation of the total support obligation**
26 established under the support guidelines for child support,
28 the division of property and any award of spousal support
 made in the same proceeding for which a parental support
 obligation is being determined;

30 **D. The financial resources of the child or children;**

32 **E. The financial resources and needs of a party, including**
34 nonrecurring income not included in the definition of gross
 income;

36 **F. The standard of living the child or children would have**
38 enjoyed had the marital relationship continued;

40 **G. The physical and emotional conditions of the child or**
42 children;

44 **H. The educational needs of the child or children;**

46 **I. Inflation with relation to the cost of living;**

48 **J. Available income and financial contributions of the**
 domestic associate or current spouse of each party;

50 **K. The existence of other persons who are actually**
52 financially dependent on either party, including, but not
 limited to, elderly, disabled or infirm relatives, or adult

2 children pursuing post-secondary education. If the primary
3 care provider is legally responsible for other minor
4 children who reside in the household and if the computation
5 of a theoretical support obligation on behalf of the primary
6 care provider would result in a significantly greater
7 parental support obligation on the part of the nonprimary
8 care provider, that factor may be considered;

9
10 L. The tax consequences of a support award, including the
11 substantial monetary benefit that a party may derive from
12 any federal tax credit for child care expenses;

13
14 M. The fact that the incremental cost of health insurance
15 premiums required to be paid by a party, after deduction of
16 these premiums from gross income, exceeds 15% of that
17 party's share of the total support obligation;

18
19 N. The fact that income at a reasonable rate of return may
20 be imputed to nonincome-producing assets with an aggregate
21 fair market value of \$10,000 or more, other than an ordinary
22 residence or other asset from which the children derive a
23 substantial benefit;

24
25 O. The existence of special circumstances regarding a child
26 12 years of age or over that, for the child's best interest,
27 requires that the primary residential care provider continue
28 to provide for employment-related day care;

29
30 P. An obligor party's substantial financial obligation
31 regarding the costs of transportation of the child or
32 children for purposes of parent and child contact. To be
33 considered substantial, the transportation costs must exceed
34 15% of the yearly support obligation; and

35
36 Q. A finding by the court that the application of the
37 support guidelines would be unjust, inappropriate or not in
38 the child's best interest.

39
40 **§318. Stipulation**

41
42 A stipulation of the parties establishing child support must
43 be reviewed by the court to determine if the amount stipulated is
44 in substantial compliance with the presumptive application of the
45 guidelines and, if a deviation is proposed, whether it is
46 justified and appropriate under section 317. The court shall
47 review a proposed order that gives the stipulation effect to
48 determine its compliance with this section.

49
50 **§319. Modification of existing support orders**

51
52 If a child support order, including an order in effect
before the effective date of this section, varies more than 15%

2 from a parental support obligation determined under section 316,
3 the court shall consider the variation a substantial change of
4 circumstances. This section does not apply to an existing order
5 issued under section 317 that deviated from the presumptive
6 amount determined pursuant to section 316.

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PART B

Sec. B-1. 19 MRSA §214, sub-§9, as amended by PL 1989, c. 156,
§1 and c. 337, §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 must 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. A determination or modification of child support
under this section must comply with chapter 7, subchapter I-A.

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

2 Sec. B-2. 19 MRSA §272, 2nd ¶, as amended by PL 1985, c. 652,
§4, is further amended to read:

4 In execution of the powers given the court under this
subchapter, the court may employ any compulsory process which
6 that it deems determines proper, by execution, attachment or
other effectual form, on which costs shall-be are taxed as in
8 other actions. The court may enforce any support order
established under this subchapter as provided in chapter 14-A. A
10 determination or modification of child support under this section
must comply with chapter 7, subchapter I-A.

12 Sec. B-3. 19 MRSA §301, sub-§3, as enacted by PL 1979, c. 668,
14 §3, is amended to read:

16 3. Court action. If the court finds that the nonsupporting
parent or spouse is of sufficient ability or is able to labor and
18 provide for his-spouse that parent's or spouse's children or the
other spouse, and that he the parent or spouse has willfully and
20 without reasonable cause, refused or neglected to so provide,
then it may order him the parent or spouse to contribute to the
22 support of his that parent's or spouse's children or the other
spouse or--child in regular amounts that it deems determines
24 reasonable and just. ~~The--court--shall--consider--the--relative~~
~~financial--resources--and--abilities--of--both--parents--or--spouses--in~~
26 ~~determining--the--amount--of--the--contribution.~~ Child support must
be determined or modified in accordance with subchapter I-A.

28 Sec. B-4. 19 MRSA §302, as amended by PL 1985, c. 652, §11,
30 is further amended to read:

32 **§302. Support of child committed to custodial agency**

34 Whenever a child under the age of 17 years is committed by
the District Court, or the District Court acting as a juvenile
36 court Juvenile Court, to custody other than that of its the
child's parent, such that commitment shall-be is subject to Title
38 22, sections 4038, 4061 and 4063. The court may, after giving a
parent a reasonable opportunity to be heard, adjudge that such
40 the parent shall pay, in such manner as the court may direct
such, a sum as--will--cover that covers in whole or in part the
42 support of such that child, and if such that parent shall--fail
fails to pay such that sum, he that parent may be proceeded
44 against as provided in chapter 14-A. A determination or
modification of child support under this section must comply with
46 subchapter I-A.

48 Sec. B-5. 19 MRSA §303, sub-§1, as enacted by PL 1989, c. 156,
50 §2, is repealed.

2 Sec. B-6. 19 MRSA §303, sub-§3 is enacted to read:

3 3. Automatic adjustments. Notwithstanding subsection 2,
4 the decree of the court may include automatic adjustments to the
5 amount of money paid for the support of a child when the child
6 attains the age of 12 or 18 years; or when the child graduates,
7 withdraws or is expelled from secondary school or attains the age
8 of 19, whichever first occurs.

10 Sec. B-7. 19 MRSA §303-A, as repealed and replaced by PL
11 1989, c. 365, §1, is repealed.

12 Sec. B-8. 19 MRSA §481, first ¶, as amended by PL 1975, c. 740,
13 §125, is further amended to read:

14 ~~Whoever,~~ being Any person who is able by means of his-~~or-her~~
15 property or capacity for labor to provide for the necessary
16 support and maintenance of his-~~or-her~~ that person's minor child
17 or children under the age of 18 years and who, without lawful
18 excuse, willfully neglects or refuses to provide such that
19 support and maintenance, and such the neglect or refusal results
20 in such the child or children being in destitute or necessitous
21 circumstances, ~~or-whomever~~ is guilty of failure to support minor
22 children. Any person who, without lawful excuse, being is able
23 by means of his-~~or-her~~ property or capacity for labor to provide
24 for the necessary support and maintenance of that person's minor
25 child or children under the age of 18 years, and who willfully
26 neglects or refuses to comply with any existing order made by any
27 court in this or another state pertaining to the support of a
28 minor child or children, which order is in full force and effect,
29 and such the neglect or refusal results in said the child or
30 children being in destitute or necessitous circumstances, is
31 guilty of failure to support minor children. Any person
32 convicted of this offense, when it is not of a high and
33 aggravated nature, shall must be punished by a fine of not more
34 than \$300 or by imprisonment for not more than 11 months, or by
35 both. When the offense is of a high and aggravated nature, the
36 person convicted of such an offense shall must be punished by a
37 fine of not more than \$500 or by imprisonment for not more than 2
38 years, or by both. After conviction, if the court in its
39 discretion either continues the case for sentencing or imposes
40 punishment as provided and suspends its execution, the court may
41 place the defendant on probation to the Department of Human
42 Services for a specified period of time but in no case ~~to~~ may
43 that period extend beyond the time ~~that~~ when the youngest child
44 shall-~~attain~~ attains the age of 18 years. As a condition of the
45 defendant's probation, the court may make an order which-~~shall~~
46 be, subject to change by the court from time to time as
47 circumstances may require, directing the defendant to pay to the
48 Department of Human Services for the use of such the child or
49 children a certain sum of money weekly. A determination or
50 modification of child support under this section must comply with
51 the provisions of this section.

2 subchapter I-A. Such an order issued as a condition of probation
3 shall does not supersede any previous order of support issued in
4 a divorce or separate maintenance action, but the amounts for a
5 particular period paid pursuant to either order shall must be
6 credited against amounts accruing or accrued for the same period
7 under both. Violation of such probation shall must be dealt with
8 in the same manner as provided in Title 17-A, sections 1205 and
9 1206, and discharge from probation may be obtained in the same
10 manner as provided in Title 17-A, section 1202. When the
11 defendant is released from custody on probation, the court in its
12 discretion may order said the defendant to enter into
13 recognizance with sureties in such sum as the court may direct.
14 The condition of the recognizance shall must be such that if the
15 defendant shall ~~make his or her~~ makes a personal appearance in
16 court whenever ordered to do so within said the appropriate
17 period, and shall further ~~comply~~ complies with the terms of the
18 order and of any subsequent modification ~~thereof~~ of the order,
19 then the recognizance shall ~~be~~ is void, otherwise the
20 recognizance is in full force and effect.

21 **Sec. B-9. 19 MRSA §502, first ¶,** as repealed and replaced by PL
22 1985, c. 652, §32, is amended to read:

23 The Only for the purposes of enforcing court-ordered support
24 or collecting arrearages, the following exemptions shall apply to
25 weekly earnings. An amount equal to 30 times the federal minimum
26 wage, as prescribed by the 29 United States Code, Title--29,
27 Section 206(a)(1), shall-be is exempt from an order to withhold
28 and deliver, garnishment, automatic withholding or any other
29 proceeding under this chapter regarding weekly earnings. Except
30 as otherwise provided in this section, any property otherwise
31 exempt from trustee process, attachment and execution shall-be is
32 exempt from an order to withhold and deliver, administrative
33 seizure and disposition, and lien and foreclosure under this
34 subchapter. The maximum part of the aggregate disposable
35 earnings of a responsible parent for any workweek which that is
36 subject to garnishment, pursuant to section 504 or 504-A, to
37 enforce any decision entered pursuant to section 498, 498-A, 500
38 or 515, shall may not exceed:

39 **Sec. B-10. 19 MRSA §581, sub-§9,** as amended by PL 1989, c.
40 156, §6, and as repealed and replaced by PL 1989, c. 337, §7, is
41 amended to read:

42 **9. Support order.** The court may order either parent of a
43 minor child to contribute reasonable and just sums as child
44 support payable weekly, monthly or quarterly. The court shall
45 inquire of the parties concerning the existence of a child
46 support order entered pursuant to subchapter V. If such an order
47 exists, the court shall consider its terms in establishing a
48 child support obligation. A determination or modification of
49
50

2 child support under this section must comply with chapter 7,
3 subchapter I-A.

4 An order for child support under this section may include an
5 order for the payment of part or all of the medical expenses,
6 hospital expenses and other health care expenses of the child.
7 The court order shall must include a provision requiring an
8 obligated parent to obtain and maintain health insurance coverage
9 for medical, hospitalization and dental expenses, if health
10 insurance is available to the obligated parent at reasonable
11 cost. The court order shall must also require the obligated
12 parent to furnish proof of such coverage to the obligee within 15
13 days of receipt of a copy of the court order. For the purposes
14 of this section, health insurance shall--be is considered
15 reasonable in cost if it is employment-related or other group
16 health insurance. If health insurance is not available at
17 reasonable cost at the time of the hearing, the court order shall
18 must establish the obligation to provide health insurance on the
19 part of the obligated parent effective immediately upon the
20 insurance being available at reasonable cost.

22 **Sec. B-11. 19 MRSA §693**, as amended by PL 1985, c. 53, §3, is
23 further amended to read:

24 **§693. Expenses pending divorce**

25
26 In accordance with section 752, subsection 4, pending a
27 divorce action, the court may order either spouse to pay to the
28 other spouse, or to the attorney for the other spouse, sufficient
29 money for the defense or prosecution thereof; may make reasonable
30 provision for either spouse's separate support, on a motion for
31 which costs and counsel fees may be ordered; enter such a decree
32 for the care, custody and support of the minor children as--the
33 court--deems--proper in accordance with chapter 7, subchapter I-A;
34 and in all cases enforce obedience by appropriate processes on
35 which costs and counsel fees shall--be are taxed as in other
36 actions. An order for child support under this section may
37 include an order for the payment of part or all of the medical
38 expenses, hospital expenses and other health care expenses of the
39 children or an order to provide a policy or contract for coverage
40 of such those expenses. Availability of public welfare benefits
41 to the family shall must not affect the decision of the court as
42 to the responsibility of a parent to provide child support.

43
44 **Sec. B-12. 19 MRSA §752, sub-§10**, as amended by PL 1989, c.
45 156, §7 and c. 337, §8, is further amended to read:

46
47 **10. Support order.** An order of the court for child support
48 may run against the father or the mother in whole or in part or
49 against both, irrespective of the fault of the father or mother
50 in the divorce action. For divorces ordered after January 1,
51 1990, the order for child support may run until the child
52

2 graduates, withdraws or is expelled from secondary school as
4 defined in Title 20-A, section 1, or attains the age of 19 years,
6 whichever first occurs after the child attains the age of 18
8 years. When the order is to run against both, the court shall
10 specify the amount each shall pay. 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. A determination or modification of child support
under this section must comply with chapter 7, subchapter I-A.

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

30 Availability of public welfare benefits to the family shall must
32 not affect the decision of the court as to the responsibility of
a parent to provide child support.

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

36 **Sec. B-13. 19 MRSA §766, sub-§1, ¶G,** as enacted by PL 1979, c.
578, §§5 and 7, is amended to read:

38 G. Ordering the payment of temporary support for the
40 dependent party, or any child in his the dependent party's
42 custody in accordance with chapter 7, subchapter I-A, or
both, when there is a legal obligation to support that
44 person, that child, or both;

46 **Sec. B-14. 19 MRSA §778,** as enacted by PL 1989, c. 337, §11,
is amended to read:

48 **§778. Modification of support order**

50 Any order for support with respect to a minor child may be
52 modified or terminated in accordance with chapter 7, subchapter
I-A as circumstances require upon the petition or motion of a

2 party. Child support orders may be modified retroactively, but
3 only from the date that notice of a petition for modification has
4 been was served upon the opposing party pursuant to the Maine
Rules of Civil Procedure.

6 **Sec. B-15. 22 MRSA §3754, 2nd ¶**, as amended by PL 1977, c.
7 118, §5, is further amended to read:

8
9 The department may bring proceedings in the District Court
10 or Superior Court in the county where the child resides or in the
11 county where the parent may be found to compel any person liable
12 under this section to contribute to the support of any child
13 receiving such aid, if after reasonable efforts on the part of
14 the department, voluntary contributions have not been made. The
15 department shall bring the action shall-be-brought as a petition
16 for support upon not less than 7 days' notice. The court may
17 order either ~~the father or the mother~~ one or both parents of such
18 the child to contribute to the support of such the child such
19 sums payable weekly or monthly as ~~are deemed reasonable and just~~
20 determined in accordance with Title 19, chapter 7, subchapter
21 I-A, and may enforce obedience by appropriate decrees, execution
22 issuing for said sums when payable. An order for child support
23 under this section may include an order for the payment of part
24 or all of the medical expenses, hospital expenses and other
25 health care expenses of the children or an order to provide a
26 policy or contract for coverage of such those expenses. When the
27 defendant is committed to jail on execution under this section,
28 the county having jurisdiction of the process shall bear the
29 expense of ~~his~~ the defendant's commitment and support. He The
30 defendant may petition the court issuing such execution for
31 relief, whereupon the judge of such the court, after due notice
32 to the department, and hearing ~~thereon~~ on the petition, may order
33 ~~his~~ the defendant's discharge from imprisonment on such terms and
34 conditions as justice ~~may require~~ requires.

36 **Sec. B-16. 22 MRSA §4036, sub-§1, ¶G**, as amended by PL 1985,
37 c. 739, §8, is further amended to read:

38
39 G. Payment by the parents of a reasonable amount of support
40 for the child as determined or modified according to Title
41 19, chapter 7, subchapter I-A;

42
43 **Emergency clause.** In view of the emergency cited in the
44 preamble, this Act takes effect when approved.

46
47
48 **STATEMENT OF FACT**

49
50 In its last session, the Legislature requested the court to
51 establish child support guidelines. The purpose of this bill is
52 to address constitutional concerns regarding promulgation of the

2 guidelines by rule. This bill establishes the guidelines in
3 statute. The bill also amends current law to mandate the usage
4 of the child support guidelines in any action under the Maine
5 Revised Statutes, Title 19 and Title 22, to determine or modify
6 child support.