

MAINE STATE LEGISLATURE

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R. of S.

L.D. 1485

(Filing No. H-531)

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1098, L.D. 1485, Bill, "An Act to Require Immediate Income Withholding for All Child Support Orders"

Amend the bill by inserting before section 1 the following:

'Sec. 1. 19 MRSA §214, sub-§9, as amended by PL 1989, c. 834, Pt. B, §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 ~~must~~ may 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 chapter 7, 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 must include a provision requiring the obligated parent to obtain and maintain

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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 must also require the
5 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 is 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 must
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 When the Department of Human Services provides support
16 enforcement services, the support order must include a provision
17 that requires the responsible parent to keep the department
18 informed of any changes in that parent's current address, the
19 name and address of that parent's current employer and whether
20 the responsible parent has access to health insurance coverage at
21 reasonable cost and, if so, the health insurance policy
22 information and any subsequent changes.

23 **Sec. 2. 19 MRSA §581, sub-§9, as amended by PL 1989, c. 834,**
24 **Pt. B, §9, is further amended to read:**

25 **9. Support order.** The court may order either parent of a
26 minor child to contribute reasonable and just sums as child
27 support payable weekly, monthly or quarterly. The court shall
28 inquire of the parties concerning the existence of a child
29 support order entered pursuant to chapter 7, subchapter V. If
30 such an order exists, the court shall consider its terms in
31 establishing a child support obligation. A determination or
32 modification of child support under this section must comply with
33 chapter 7, subchapter I-A.

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

When the Department of Human Services provides support enforcement services, the support order must include a provision that requires the responsible parent to keep the department informed of any changes in that parent's current address, the name and address of that parent's current employer and whether the responsible parent has access to health insurance coverage at reasonable cost and, if so, the health insurance policy information and any subsequent changes.'

Further amend the bill in section 4 in that part designated "§777-C." in the first paragraph in the 5th and 6th lines (page 2, lines 19 and 20 in L.D.) by striking out the following: "which the court may impose a fine not to exceed \$200" and inserting in its place the following: 'which a forfeiture not to exceed \$200 may be adjudged'

Further amend the bill in section 5 in that part designated "§780-A." in subsection 5 in the 2nd and 3rd lines (page 3, lines 39 and 40 in L.D.) by striking out the following: "section 502 or by"

Further amend the bill in section 5 by striking out all of that part designated "§780-K." and inserting in its place the following:

'§780-K. Payor liability

Upon service of an immediate income withholding order, a payor is liable for any income that the payor knowingly fails to withhold and send to the Department of Human Services within 10 days of the day that the obligor is usually paid. The department, or obligee if the obligee implemented the withholding order as a private action, may maintain a civil action against the payor for the income the payor does not withhold and send to the department as required by the withholding order and for the imposition of any of the civil penalties provided for in this section, plus attorney's fees and court costs.

1. Failure to withhold. A payor who knowingly fails to withhold income when income is usually paid to the obligor commits a civil violation for which a forfeiture not to exceed \$100 for each failure to withhold may be adjudged.

2. Failure to send income withheld. A payor who knowingly fails to send income withheld to the Department of Human Services within 10 days of its withholding commits a civil violation for

which a forfeiture not to exceed \$100 for each failure to timely send income withheld from an obligor may be adjudged.

3. Failure to notify. A payor who knowingly fails to send the notification required by section 780-J commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged.

4. Discrimination against obligors. A payor who discharges from employment or refuses to employ an obligor or who takes disciplinary action against an obligor employed by the payor or who otherwise discriminates against the obligor because of the existence of an income withholding order or the obligations imposed upon the payor by the order is subject to a civil penalty not to exceed \$5,000, payable to the State, to be recovered in a civil action. The payor is also subject to an action by the obligor for compensatory and punitive damages for those actions, plus attorney's fees and court costs.

Further amend the bill in section 5 in that part designated "§780-R." in the first paragraph in the first line (page 9, line 22 in L.D.) by striking out the following: "rulemaking" and inserting in its place the following: 'rules'

Further amend the bill by inserting after section 5 the following:

'Sec. 6. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1993-94	1994-95
HUMAN SERVICES, DEPARTMENT OF		
Administration -		
Income Maintenance		
Positions	(2.0)	(2.0)
Personal Services	\$26,226	\$56,648
All Other	3,100	6,200
Capital Expenditures	6,000	0

Provides funds to process immediate income withholding orders within the Division of Support Enforcement and Recovery including 2 Human

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2 Services Aid III positions
and related expenses.

4	DEPARTMENT OF HUMAN SERVICES		
6	TOTAL	<u>\$35,326</u>	<u>\$62,848</u>

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

10 Further amend the bill by inserting at the end before the
statement of fact the following:

14 **FISCAL NOTE**

16		1993-94	1994-95
18	APPROPRIATIONS/ALLOCATIONS		
20	General Fund	\$35,326.	\$62,848

24 The Department of Human Services will require additional
26 General Fund appropriations \$35,326 in fiscal year 1993-94 and
\$62,848 in fiscal year 1994-95 to support 2 Human Services Aid
28 III positions to receive, document and distribute all child
support payments collected through an immediate income
30 withholding order.

32 Other Special Revenue generated by child support collections
will increase due to the establishment of an immediate income
34 withholding order. To the extent these collections may be
AFDC-related, there may be some General Fund savings. The
36 amounts can not be estimated at this time.

38 The Department of Human Services will also experience an
increase in Other Special Revenue resulting from fees received
40 for providing support enforcement services when an immediate
income withholding order exists.

42 The additional workload and administrative costs associated
44 with the minimal number of new cases filed in the court system
can be absorbed within the budgeted resources of the Judicial
46 Department. The collection of additional fines may increase
General Fund revenues by a minor amount.
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COMMITTEE AMENDMENT

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STATEMENT OF FACT

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This amendment makes all 3 sections on child support court orders in the Maine Revised Statutes, Title 19, the same regarding responsible parents providing the Department of Human Services with specific information if the department collects child support for the custodial parent.

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This amendment corrects language concerning civil violations and the appropriate forfeiture to be adjudged.

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This amendment deletes a reference to the state limit on withholding income as applied to child support orders covered by the bill. The federal limit on withholding applies.

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This amendment makes a technical change in the wording regarding rulemaking and adds a fiscal note to the bill.

Reported by the Committee on Judiciary

Reproduced and distributed under the direction of the Clerk of the House

6/2/93

(Filing No. H-531)