

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 1499

S.P. 488

In Senate, May 13, 1993

An Act to Expedite the Establishment of Administrative Child Support Orders.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator HANLEY of Oxford. (GOVERNOR'S BILL).
Cosponsored by Senator: CIANCHETTE of Somerset, Representatives: BARTH of Bethel,
DiPIETRO of South Portland.

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

2
4 **Sec. 1. 19 MRSA §320, sub-§§1 to 3**, as enacted by PL 1991, c. 840, §5, are amended to read:

6 **1. Support obligations.** In all cases in which the department is responsible for enforcement of a support obligation assigned to the department under section 512, the department shall review, for compliance with the State's child support guidelines pursuant to this subchapter, child support obligations established by orders issued by the courts of this State or by administrative decisions issued by the department pursuant to ~~section 498~~. Reviews of child support orders in which the current support obligation is assigned to the department must occur no less often than every 3 years, except as provided by rule.

18 **2. Request for support order reviews.** In cases in which the department provides services pursuant to section 448-A and in which a child support obligation was established by an order issued by a court of this State or by an administrative decision issued by the department ~~pursuant to section 498-A~~, an obligor or an obligee may request the department to review the support order for compliance with the State's child support guidelines pursuant to this subchapter. In cases in which a support obligation is not assigned to the department under section 512 and the department does not provide services pursuant to section 448-A, a request to review a support order is made by applying to the department for child support services and indicating on the application for services a desire to have a child support order reviewed.

32 **3. Administrative order modification; support modification.** Following a review of an administrative child support order, the department may take action to modify the administrative order pursuant to section 498 ~~497-A~~ or 498-A ~~497-B~~. Following a review of a court order of child support, the department may file a motion to modify support pursuant to section 319.

40 **Sec. 2. 19 MRSA §492-A, sub-§3**, as enacted by PL 1985, c. 652, §20, is amended to read:

44 **3. Personal service.** Service of any notice sent pursuant to section 498 ~~497-A~~ or 498-A ~~497-B~~ upon any person who is subject to the jurisdiction of this subchapter, as provided in this section, shall must be made by personally serving the notice upon the responsible parent outside this State, with the same force and effect as though it had been served personally within this State. Service of any other notice or lien provided for in

2 this subchapter upon any person who is subject to the
jurisdiction of this subchapter, as provided in this section,
3 shall be is governed by section 494.

4
5 **Sec. 3. 19 MRSA §493, sub-§2-A is enacted to read:**

6
7 **2-A. Custodial parent.** "Custodial parent" means a natural
8 or adoptive parent, caretaker relative or legal custodian of a
9 dependent child who is the child's primary residential care
10 provider.

11
12 **Sec. 4. 19 MRSA §495, sub-§1, ¶A, as amended by PL 1991, c.**
13 **673, §7, is further amended to read:**

14
15 A. When ne a court order of support has not been
16 established, a payment of public assistance for the benefit
17 of the dependent child creates a debt due the department
18 from the responsible parent for past necessary support. The
19 amount of debt due the department is established by
20 application of the most current child support scale to the
21 responsible parent's income for the time period in which the
22 department was entitled to support payments. In the absence
23 of sufficient reliable information to calculate a
24 responsible parent's past income, it is presumed that the
25 responsible parent had an earning capacity equal to the
26 average weekly wage of a worker within this State as
27 determined by the Department of Labor statistics for the
28 applicable years. A different annual income may be used if
29 there is sufficient reliable evidence to conclude reasonably
30 that the responsible parent earned a greater or lesser
31 actual income. A present disability to pay child support,
32 legal or otherwise, does not operate to bar a determination
33 of past debt due the department for any relevant period in
34 which the disability did not exist. When a periodic support
35 payment has been established under section 497-A or former
36 section 498, the debt is limited to the amount stated in the
37 decision.

38
39 **Sec. 5. 19 MRSA §§497-A and 497-B are enacted to read:**

40
41 **§497-A. Expedited administration; establishment of parental**
42 **support obligation; debt for past necessary support;**
43 **obligation to provide health insurance coverage;**
44 **obligation to pay uninsured medical expenses**

45
46 When a court order of support has not been established, the
47 department, by hearing, may establish the responsible parent's
48 parental support obligation pursuant to subchapter I-A, the debt
49 for past necessary support including medical expenses, the
50 obligation to maintain health insurance coverage for the

2 dependent child or children and the obligation to pay a
3 proportionate share of uninsured medical expenses. The
4 department may proceed on its own behalf or on behalf of another
5 state, another state's instrumentality, an individual or
6 governmental applicant for services under section 448-A or a
7 person entitled by federal law to support enforcement services as
8 a former recipient of public assistance. The department acting
9 on behalf of another state, another state's instrumentality or a
10 person residing in another state constitutes good cause within
11 the meaning of Title 5, section 9057, subsection 5.
12 Notwithstanding any other provision of law, a parental support
13 obligation established under this section continues beyond the
14 child's 18th birthday, if the child is attending secondary school
15 as defined in Title 20-A, section 1, until the child graduates,
16 withdraws, is expelled or attains 19 years of age, whichever
17 occurs first. For purposes of this subchapter, "debt for past
18 necessary support" includes a debt owed to the department under
19 section 495, subsection 1, paragraph A, a debt owed under section
20 448-A and a debt that accrues under sections 273 and 443-A.

21 1. Notice of hearing. The department shall serve the
22 responsible parent with a notice of hearing and a blank income
23 affidavit at least 20 days before the date of the hearing.

24 2. Contents of notice. In addition to conforming with
25 Title 5, section 9052, subsection 4, the notice must state:

26 A. The names of both parents and the names of the dependent
27 child or children;

28 B. The date, time and place of the hearing;

29 C. That the department is authorized or required by law to
30 initiate a proceeding to establish or modify the responsible
31 parent's support obligation;

32 D. The periods for which past necessary support is alleged
33 to be owed;

34 E. The responsible parent's basic hearing rights as
35 provided for in the Maine Administrative Procedure Act;

36 F. That whether or not the responsible parent appears at
37 the hearing, the department may establish a current parental
38 support obligation, a debt for past necessary support
39 including medical expenses, an obligation to provide health
40 insurance coverage if available at reasonable cost and an
41 obligation to pay a proportionate share of uninsured medical
42 expenses;

2 G. That the responsible parent must submit a completed
income affidavit to the department within 20 days;

4 H. That the department calculates a proposed support order
based on the State's child support guidelines using all
6 available information and, if there is a lack of sufficient
reliable information about a parent's actual earnings for a
8 current or past period, the department presumes for the
purpose of establishing a current support obligation or a
10 debt for past necessary support that the responsible parent
has or had an earning capacity equal to the average weekly
12 wage as determined by Department of Labor statistics for the
applicable years;

14 I. That if the department establishes a support obligation,
16 the responsible parent's property may be subject to
immediate income withholding, lien and foreclosure,
18 administrative seizure and disposition, order to withhold
and deliver and other collection actions and that, if a debt
20 for past necessary support is established, the department
may report the responsible parent and the amount of the debt
22 to a consumer credit reporting agency;

24 J. That the department intends to establish an obligation
on the part of the responsible parent to provide health
26 insurance coverage for the dependent child or children and
that the obligation is effective immediately if it is
28 determined that health insurance coverage is available to
the responsible parent at reasonable cost; that health
30 insurance coverage is considered reasonable in cost when it
is employer-related or other group health insurance; that,
32 if it is determined that health insurance coverage is not
available at reasonable cost at the time of hearing, the
34 department intends to establish that obligation on the part
of the responsible parent, effective immediately when health
36 insurance coverage is available at reasonable cost; and that
the department may take whatever legal action is available
38 to enforce an obligation to provide health insurance
coverage; and

40 K. That if the responsible parent does not maintain health
42 insurance coverage when required to do so by the department,
the responsible parent may be held liable for all medical
44 expenditures made by the department or the custodial parent
on behalf of the dependent child or children.

46 3. Failure to appear. If the responsible parent does not
48 appear at the hearing on the date specified in the notice of
hearing, the department shall enter a decision pursuant to
50 subsection 4, paragraph B. Within one year of service of the

2 decision, the responsible parent may petition the department to
3 vacate the decision for good cause shown.

4 4. Hearing. The department shall conduct the hearing in
5 accordance with rules adopted by the commissioner.

6
7 A. At the hearing, the responsible parent may present
8 testimony, cross-examine witnesses and be represented by an
9 attorney or other person. In rendering a decision, the
10 department may not consider evidence not presented at the
11 hearing.

12
13 B. The decision must state the responsible parent's duty to
14 provide support, the amount of the responsible parent's
15 current parental support obligation, the amount of any debt
16 for past necessary support, the obligation of the
17 responsible parent to maintain health insurance coverage for
18 the dependent child or children, the obligation to provide
19 payment for uninsured medical expenses and that the
20 responsible parent must provide written proof to the
21 department of health insurance coverage that is required
22 within 15 days of the responsible parent's receipt of the
23 decision. The department shall serve a copy of the decision
24 upon the responsible parent and send a copy of the decision
25 to the other parent by regular mail at the other parent's
26 most recent address of record. The decision must inform the
27 responsible parent that the responsible parent may appeal
28 the decision within 30 days of the date of service of the
29 decision by requesting the department to hold an
30 administrative review hearing. An administrative review
31 hearing held by the department, except if held pursuant to
32 subsection 3, is limited to a review of the record of the
33 original hearing.

34
35 C. When deciding the amount of the current parental support
36 obligation, the debt for past necessary support, the
37 availability of health insurance coverage and the
38 responsible parent's obligation to pay a proportionate share
39 of uninsured medical expenses, the official conducting the
40 hearing shall consider at least the following criteria:

41
42 (1) The child's or children's needs;

43
44 (2) The responsible parent's income and real and
45 personal property;

46
47 (3) The responsible parent's ability to borrow;

48
49 (4) The responsible parent's ability to earn;
50

2 (5) The responsible parent's needs;

4 (6) Whether the responsible parent has a duty to
6 support other dependents. In any case, the child or
8 children for whom support is sought must benefit as
10 much as any other dependent from the income and
12 resources of the responsible parent;

14 (7) Whether the responsible parent has voluntarily
16 incurred subsequent obligations that have reduced that
18 parent's ability to pay support. This condition does
20 not relieve the responsible parent of the duty to
22 provide support;

24 (8) Whether employer-related or other group health
26 insurance coverage is available to the responsible
28 parent; and

30 (9) Whether the responsible parent's existing health
32 insurance coverage may be extended to include the
34 dependent child or children.

36 5. Collection action. The department's decision after
38 hearing establishes the responsible parent's debt for past
40 necessary support. The department may collect the debt after
42 service of the decision.

44 6. Subsequent court order. An administrative decision
46 under this section remains in effect until superseded by a
48 subsequent court order or administrative decision.

50 7. Amendment. A responsible parent may request an
52 administrative hearing to amend a decision issued under this
54 section prospectively based on a substantial change of
56 circumstances. The department may seek to amend a decision
58 issued under this section prospectively based on a substantial
60 change of circumstances by using the same process permitted by
62 this section for establishing a support obligation. When
64 proceeding to amend a decision issued under this section, the
66 department shall state in its notice of hearing that the purpose
68 of the proceeding is to amend the responsible parent's support
70 obligation based on a substantial change of circumstances.

72 8. Enforcement. An administrative decision under this
74 section creates a support obligation for purposes of enforcement
76 under section 448-A.

78 9. Effect. This section applies to hearings of which the
80 responsible parent is served notice after the effective date of
82 this section. Prior law applies to hearings of which the

2 responsible parent is served notice before the effective date of
3 this section.

4 10. Repeal. This section is repealed April 1, 1995.

6 §497-B. Administrative establishment of parental support
7 obligation; debt for past necessary support; obligation
8 to provide health insurance coverage; obligation to pay
9 uninsured medical expenses

10
11 When a court order of support has not been established, the
12 department may establish the responsible parent's current
13 parental support obligation pursuant to subchapter I-A, establish
14 the responsible parent's debt for past necessary support
15 including medical expenses, establish the responsible parent's
16 obligation to maintain health insurance coverage for the
17 dependent child or children and establish the responsible
18 parent's obligation to pay a proportionate share of uninsured
19 medical expenses. The department may proceed on its own behalf
20 or on behalf of another state or another state's instrumentality,
21 an individual or governmental applicant for services under
22 section 448-A or a person entitled by federal law to support
23 enforcement services as a former recipient of public assistance.
24 The department acting on behalf of another state, another state's
25 instrumentality or a person residing in another state constitutes
26 good cause within the meaning of Title 5, section 9057,
27 subsection 5. Notwithstanding any other provision of law, a
28 parental support obligation established under this section
29 continues beyond the child's 18th birthday, if the child is
30 attending secondary school as defined in Title 20-A, section 1,
31 until the child graduates, withdraws, is expelled or attains 19
32 years of age, whichever occurs first. For purposes of this
33 subchapter, "debt for past necessary support" includes a debt
34 owed to the department under section 495, subsection 1, paragraph
35 A, a debt owed under section 448-A and a debt that accrues under
36 sections 273 and 443-A.

37 1. Notice of support order. The department shall serve the
38 responsible parent with a notice that it intends to establish a
39 support order and a blank income affidavit. The notice must
40 state the following:

41
42 A. The names of both parents and the names of the dependent
43 child or children;

44
45 B. The department's intention to establish a support order,
46 which may include a periodic payment for current support, a
47 debt for past necessary support including medical expenses,
48 an obligation to provide health insurance coverage and an
49 obligation to pay for uninsured medical expenses;
50

2 C. That the responsible parent must submit a completed
4 income affidavit to the department within 20 days;

6 D. That the department calculates a proposed support order
8 based on the State's child support guidelines using all
10 available information and, if there is a lack of sufficient
12 reliable information about a parent's actual earnings for a
14 current or past period, the department presumes for the
 purpose of establishing a current support obligation or a
 debt for past necessary support that the responsible parent
 has or had an earning capacity equal to the average weekly
 wage as determined by Department of Labor statistics for the
 applicable years;

16 E. That the department sends to the responsible parent by
18 regular mail a copy of the proposed support order and the
 department's child support worksheets;

20 F. That the responsible parent may request a hearing in
22 writing within 30 days of the date of mailing of the
 proposed support order;

24 G. That if the department does not receive a timely request
26 for hearing, it issues a decision that incorporates the
28 findings of the proposed support order and sends a copy of
 the decision to both parents by regular mail; and

30 H. That after a decision is issued, the department may
32 enforce the decision by any lawful means, including
34 immediate income withholding, lien and foreclosure,
36 administrative seizure and disposition, order to withhold
 and deliver and tax refund intercept. If a debt for past
 necessary support is established, the department may report
 the responsible parent and the amount of the debt to a
 consumer credit reporting agency.

38 2. Proposed support order. After serving notice upon the
40 responsible parent in accordance with subsection 1 and after more
42 than 30 days have elapsed, the department shall calculate the
44 responsible parent's parental support obligation and debt for
46 past necessary support pursuant to subchapter I-A. Based on its
48 calculations under the support guidelines, the department shall
50 issue a proposed support order. The proposed support order must
 include the department's calculations and state the amount of the
 responsible parent's current parental support obligation and debt
 for past necessary support, including medical expenses, and must
 state the responsible parent's obligation to provide health
 insurance coverage for the dependent child or children and to pay
 a proportionate share of uninsured medical expenses. The

2 department shall send a copy of the proposed support order to the
3 responsible parent by regular mail along with a copy of the
4 department's child support worksheet. The proposed order must be
5 accompanied by a notice that states:

6 A. That the responsible parent has the right to request a
7 hearing within 30 days of the date of mailing of the
8 proposed support order and that if a hearing is requested,
9 the department will send the responsible parent a notice of
10 hearing by regular mail at least 20 days before the date of
11 the hearing, along with a statement of the hearing rights
12 described in subsection 3, paragraph A;

13 B. That if the department does not receive a timely request
14 for hearing, the department will issue a decision that
15 incorporates the findings of the proposed support order into
16 the department's decision and send a copy of the decision to
17 both parents by regular mail;

18 C. That if the department issues a decision that
19 establishes a responsible parent's support obligation, the
20 department may enforce the decision by any lawful means,
21 including immediate income withholding, lien and
22 foreclosure, administrative seizure and disposition, order
23 to withhold and deliver and tax refund intercept; and

24 D. That if the department establishes a debt for past
25 necessary support, the department may report the responsible
26 parent and the amount of that debt to a consumer credit
27 reporting agency.

28 3. Hearing. The hearing must be conducted according to
29 rules adopted by the commissioner.

30 A. At the hearing, the responsible parent may present
31 testimony, cross-examine witnesses and be represented by an
32 attorney or other person. In rendering a decision, the
33 department may not consider evidence that was not presented
34 at the hearing.

35 B. When deciding the amount of the current parental support
36 obligation, the debt for past necessary support and the
37 availability of health insurance coverage, the official
38 conducting the hearing shall consider at least the following
39 criteria:

40 (1) The child's or children's needs;

41 (2) The responsible parent's income and real and
42 personal property;

- 2 (3) The responsible parent's ability to borrow;
- 4 (4) The responsible parent's ability to earn;
- 6 (5) The responsible parent's needs;
- 8 (6) Whether the responsible parent has a duty to
10 support other dependents. In any case, the child or
12 children for whom support is sought must benefit as
much as any other dependent from the income and
resources of the responsible parent;
- 14 (7) Whether the responsible parent has voluntarily
16 incurred subsequent obligations that have reduced that
18 parent's ability to pay support. This condition does
not relieve the responsible parent of the duty to
provide support;
- 20 (8) Whether employer-related or other group health
22 insurance coverage is available to the responsible
parent; and
- 24 (9) Whether the responsible parent's existing health
26 insurance coverage may be extended to include the
dependent child or children.

28 4. Failure to appear. When a responsible parent who
30 requests a hearing does not appear at the hearing on the date
32 specified in the notice of hearing and the department has not
34 previously agreed to continue the hearing to a later date, the
36 department shall issue a decision that incorporates the findings
38 made in the proposed support order. The department shall send a
copy of the decision to both parents by regular mail. Within one
year of the mailing of the decision, the responsible parent may
petition the department to vacate the decision if the responsible
parent shows good cause why that parent did not appear at the
hearing and presents a meritorious defense to the decision.

40 5. Decision. If a hearing is held, the department shall
42 render a decision based on the hearing record and applicable
44 state laws and rulemaking. If a request for hearing is not made
46 in a timely manner or if the responsible parent appears at the
48 hearing, the department shall issue a decision that incorporates
the findings of the department's proposed support order. The
department shall send a copy of the decision to both parents by
regular mail. The decision must establish and state:

50 A. The responsible parent's duty to provide support, the
amount of the current parental support obligation, the

2 amount of any debt for past necessary support including
3 medical expenses, the obligation of the responsible parent
4 to maintain health insurance coverage for the dependent
5 child or children and pay a proportionate share of uninsured
6 medical expenses, and that the responsible parent must
7 provide written proof to the department of health insurance
8 coverage that is required by the decision within 15 days of
9 the responsible parent's receipt of the decision;

10 B. If an obligation for current support is established, an
11 order for immediate income withholding is issued and made a
12 part of the decision;

14 C. After the decision is issued, the department may enforce
15 the decision by any lawful means, including immediate income
16 withholding, lien and foreclosure, administrative seizure
17 and disposition, order to withhold and deliver and tax
18 refund intercept. If a debt for past necessary support is
19 established, the department may report the responsible
20 parent and the amount of the debt to a consumer credit
21 reporting agency;

22 D. That if the responsible parent does not maintain health
23 insurance coverage when required to do so by the department,
24 the responsible parent may be held liable for all medical
25 expenditures made by the department or the custodial parent
26 on behalf of the dependent child or children; and

27 E. The decision must inform the responsible parent that
28 that parent may appeal the decision within 30 days of the
29 date of mailing of the decision by requesting the department
30 to hold an administrative review hearing.

31 6. Collection action. The department may initiate
32 collection action 21 days after the date of mailing of a
33 decision. If a decision includes an immediate income withholding
34 order, the department may implement the withholding order to
35 collect current support immediately after the decision is issued.

36 7. Subsequent court order. A decision under this section
37 remains in effect until superseded by a subsequent court order or
38 administrative decision.

39 8. Amendment. A responsible parent may request an
40 administrative hearing to amend a decision issued under this
41 section prospectively based on a substantial change of
42 circumstances. The department may seek to amend a decision
43 issued under this section prospectively based on a substantial
44 change of circumstances by using the same process permitted by
45 this section for establishing a support obligation. When
46 this section for establishing a support obligation. When
47 this section for establishing a support obligation. When
48 this section for establishing a support obligation. When
49 this section for establishing a support obligation. When
50 this section for establishing a support obligation. When

2 proceeding to amend a decision issued under this section, the
3 department shall state in its notice of hearing that the purpose
4 of the proceeding is to amend the responsible parent's support
5 obligation based on a substantial change of circumstances.

6 **9. Enforcement.** A decision under this section establishes
7 a support obligation for purposes of enforcement under section
8 448-A.

10 **10. Provisions supplemental.** The provisions of this
11 chapter are in addition to other laws and rules that enable the
12 department to establish child support obligations. The
13 provisions in section 497-A that enable the department to
14 establish child support obligations remain in effect until April
15 1, 1995 and may be used as an alternative to the provisions of
16 this section.

18 **Sec. 6. 19 MRSA §498,** as amended by PL 1991, c. 673, §9, is
19 repealed.

20 **Sec. 7. 19 MRSA §498-A,** as amended by PL 1991, c. 673, §§10
21 and 11, is repealed.

22 **Sec. 8. 19 MRSA §498-B, sub-§1,** as enacted by PL 1989, c. 337,
23 §5, is amended to read:

24 **1. Responsible parent's failure to comply.** If a
25 responsible parent fails to acquire the health insurance coverage
26 as required under section 498 ~~497-A~~ or section ~~498-A~~ ~~497-B~~, that
27 parent shall ~~be~~ is liable for any expenses incurred for any
28 dependent children that would have been paid by the insurance
29 coverage, regardless of incurred expenses. Incurred liability
30 may be enforced as a child support debt under this subchapter or
31 by judicial action.

32 **Sec. 9. 19 MRSA §502, first ¶,** as repealed and replaced by PL
33 1985, c. 652, §32, is amended to read:

34 The following exemptions shall apply to weekly earnings. An
35 amount equal to 30 times the federal minimum wage, as prescribed
36 by the 29 United States Code, Title-29, Section 206(a)(1), shall
37 be is exempt from an order to withhold and deliver, garnishment,
38 automatic withholding or any other proceeding under this chapter
39 regarding weekly earnings. Except as otherwise provided in this
40 section, any property otherwise exempt from trustee process,
41 attachment and execution shall ~~be~~ is exempt from an order to
42 withhold and deliver, administrative seizure and disposition, and
43 lien and foreclosure under this subchapter. The maximum part of
44 the aggregate disposable earnings of a responsible parent for any
45 workweek which that is subject to garnishment, pursuant to
46
47
48
49
50

2 section 504 or 504-A, to enforce any decision entered pursuant to
3 section 498 ~~497-A~~, 498-A ~~497-B~~, 500 or 515, shall ~~may~~ not exceed:

4 **Sec. 10. 19 MRSA §503, first ¶**, as amended by PL 1985, c. 652,
5 §33, is further amended to read:

6
7 Twenty-one days after receipt of the notice of debt under
8 section 500 or upon receipt of the decision under section 498
9 ~~497-A~~ or ~~section 498-A~~ ~~497-B~~, the amount stated in the notice of
10 debt or in the decision shall must be a lien in favor of the
11 department against all nonexempt property of the responsible
12 parent. This lien shall must be separate and apart from and in
13 addition to any other lien created by, or provided ~~for~~ in, this
14 Title.

15 **Sec. 11. 19 MRSA §504, sub-§1, ¶B**, as amended by PL 1977, c.
16 694, §300, is further amended to read:

17
18 B. Twenty-one days have elapsed from the date of receipt of
19 the notice of debt under section 500 or a decision has been
20 received under section 498 ~~497-A~~ or ~~497-B~~.

24 STATEMENT OF FACT

25
26 The purpose of this bill is to enable the Department of
27 Human Services to establish child support obligations more
28 efficiently. The bill makes significant improvements to the
29 existing hearings statutes while retaining the critical elements
30 of fundamental fairness now present. Enactment of the Maine
31 Revised Statutes, Title 19, section 497-A in this bill combines
32 existing section 498, aid to families with dependent children,
33 and section 498-A, persons who are not under the aid to families
34 with dependent children system, to create a unified process for
35 establishing child support obligations at administrative hearings
36 and thus simplifies the establishment of debts when debts are
37 owed to both the Department of Human Services and a custodial
38 parent. This change allows the Department of Human Services to
39 obligate a responsible parent for all periods of unpaid support
40 at a single hearing based on the issuance of a single notice,
41 regardless of whether the support obligation is assigned to the
42 Department of Human Services or is owed to the custodial parent.
43 The ability to establish a responsible parent's entire debt for
44 past necessary support at a single hearing protects the rights of
45 the department and custodial parents to collect unpaid support
46 owed by responsible parents and eliminates the need for multiple
47 hearings.
48

2 The bill also provides that a responsible parent or the
department may request a hearing to amend an administrative
4 decision based on a substantial change of circumstances.

6 Enactment of Title 19, section 497-B in the bill creates an
alternative process for establishing support obligation
8 administratively. Under the process created in the bill, the
department does not automatically schedule a hearing in every
10 case but notifies the responsible parent of that parent's right
to request a hearing in an initial notice served by the
12 department informing that parent of the department's intention to
establish a support obligation. This process would expedite the
14 administrative establishment of support obligation, reduce the
department's administrative costs, enable the department to
16 establish and enforce support obligation in a more timely manner
and at the same time preserve essential due process protections.

18 The bill further amends existing law to authorize the
department to issue an initial notice informing the responsible
20 parent of the intention to establish a support obligation and the
right to request a hearing. The notice informs the responsible
22 parent that the department will issue a proposed support order
based on the support guidelines and the department's child
24 support worksheet. Once completed, the department sends the
proposed order to the responsible parent by regular mail and
26 includes a notice informing that parent of that parent's right to
request a hearing within 30 days to contest the proposed order.
28 If the responsible parent requests a hearing within 30 days, the
department issues a decision incorporating the findings of the
30 proposed support order and sends a copy of that decision to both
parents by regular mail. The decision is enforceable 10 days
32 from the date of mailing if the responsible parent does not
request a hearing. If the responsible parent requests a hearing,
34 the department schedules a hearing and notifies the responsible
parent of the date, time and place of that hearing and holds a
36 hearing and renders a decision as under current law.

38 The bill also clarifies that a debt due the department under
Title 19, section 495 for public assistance paid out is a debt
40 for past necessary support.