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JUDICIARY

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

18 COMMITTEE AMENDMENT "H" to H.P. 1279, L.D. 1727, Bill, "An 20 Act to Affect the Credit of People Who Are in Default of Child Support Payments"

Amend the bill by striking out the title and substituting 24 the following:

26 'An Act Concerning Rights of People Who Are in Default of Child Support Payment'

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 19 MRSA §305, sub-§2, ¶¶E and F, as enacted by PL 34 1993, c. 410, Pt. V, §4, are amended to read:

E. If the department certifies the obligor to a board for noncompliance with a court order of support, the board must revoke the obligor's license and refuse to issue or reissue a license until the obligor provides the board with a release from the department that states the obligor is in compliance with the obligor's support order. A revocation by an agency or a refusal by an agency to reissue, renew or otherwise extend the license or certificate of authority is deemed a final determination within the meaning of Title 5, section 10002; and

F. If the obligor files a motion to modify support with the court or requests the department to amend a support obligation established by an administrative decision, the department shall stay action to certify the obligor to any board for noncompliance with a court order of support.; and

Page 1-LR2841(2)

COMMITTEE AMENDMENT

COMMITTEE AMENDMENT "H" to H.P. 1279, L.D. 1727

Sec. 2. 19 MRSA §305, sub-§2, ¶G is enacted to read:

<u>G.</u> The obligor can come into compliance with a court order of support by:

(1) Paying current support;

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R.d.S.

(2) Paying all past-due support or, if unable to pay all past-due support and a periodic payment for past-due support has not been ordered by the court, by making periodic payments in accordance with a written payment agreement with the department; and

(3) Meeting the obligor's health insurance obligation.

Sec. 3. 19 MRSA §305, sub-§3, as enacted by PL 1993, c. 410, Pt. V, §4, is amended to read:

Administrative hearing. 3. An obligor may request an administrative hearing upon service of the notice described in 20 subsection 2. The request for hearing must be made in writing 22 and must be received by the department within 20 days of service. The department shall conduct hearings under this subsection in accordance with the requirements of Title 5, 24 chapter 375, subchapter IV. The issues that may be eensidered 26 determined at hearing are limited to whether the obligor is required to pay child support under a court or administrative order and whether the obligor is in compliance with a court order 28 of support, although the obligor may raise additional issues, including the reasonableness of a payment agreement in light of 30 the obligor's current circumstances, to be preserved for appeal.

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Sec. 4. 19 MRSA §305, sub-§4-A is enacted to read:

4-A. Appeal to Superior Court. If the obligor appeals the department's decision under subsection 3, the Superior Court may hear and determine any issues raised at the hearing, including the reasonableness of a payment agreement in light of the obligor's current circumstances.

Sec. 5. 19 MRSA §305, sub-§6, ¶B, as enacted by PL 1993, c. 42 410, Pt. V, §4, is amended to read:

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B. The department issues a decision after hearing that finds the obligor is not in compliance with a court order of support and <u>the obligor has not appealed the decision within</u> the 30-day appeal period provided in subsection 4; or

Sec. 6. 19 MRSA §306, sub-§3, ¶¶F and G, as enacted by PL 1993, 50 .c. 410, Pt. V, §4, are amended to read:

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F. If the obligor requests a hearing, the obligor shall

Page 2-LR2841(2)

COMMITTEE AMENDMENT "/ " to H.P. 1279, L.D. 1727

direct the request to the department's support enforcement office that is responsible for handling the obligor's case; and

G. If the obligor files a motion to modify support with the court or requests the department to amend a support obligation established by an administrative decision, the department shall stay action to certify the obligor to the Secretary of State for noncompliance with a court order of support.; and

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Sec. 7. 19 MRSA §306, sub-§3, ¶H is enacted to read:

(1) Paying current support;

<u>H. The obligor can come into compliance with a court order of support by:</u>

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(2) Paying all past-due support or, in unable to pay all past-due support and a periodic payment for past-due support has not been ordered by the court, by making periodic payments in accordance with a written payment agreement with the department; and

(3) Meeting the obligor's health insurance obligation.

Sec. 8. 19 MRSA §306, sub-§4, as enacted by PL 1993, c. 410, Pt. V, §4, is amended to read:

Administrative hearing. 30 4. An obligor may request an administrative hearing within 20 days of service of the notice 32 described in subsection 3. The request for hearing must be in writing and must be received by the department within 20 days. 34 The department shall conduct the hearing in accordance with the requirements of Title 5, chapter 375, subchapter IV. The issues 36 that may be eensidered determined at hearing are limited to whether the obligor is required to pay child support under a court order of support and whether the obligor is in compliance 38 with a court order of support, although the obligor may raise additional issues, including the reasonableness of a payment 40 agreement in light of the obligor's current circumstances, to be 42 preserved for appeal.

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Sec. 9. 19 MRSA §306, sub-§5-A is enacted to read:

 46 <u>5-A. Appeal to Superior Court.</u> If the obligor appeals the department's decision under subsection 4, the Superior Court may
 48 <u>hear and determine any issues raised at the hearing, including</u> the reasonableness of a payment agreement in light of the
 50 <u>obligor's current circumstances.</u>

Page 3-LR2841(2)

COMMITTEE AMENDMENT

COMMITTEE AMENDMENT " to H.P. 1279, L.D. 1727

Sec. 10. 19 MRSA 306, sub-6, as enacted by PL 1993, c. 410, Pt. V, 4, is amended to read:

6. Stay. If an obligor timely requests a hearing to contest the issue of compliance, the department may not certify the name of the obligor to a-beard the Secretary of State for noncompliance with a court order of support until the department issues a decision after hearing that finds the obligor is not in compliance with a court order of support.

Sec. 11. 19 MRSA §306, sub-§7, ¶B, as enacted by PL 1993, c. 410, Pt. V, §4, is amended to read:

B. The department issues a decision after hearing that finds the obligor is not in compliance with a court order of support and <u>the obligor has not appealed the decision within</u> <u>the 30-day appeal period provided in subsection 5</u>; or'

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

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'FISCAL NOTE

24 The additional costs to revise the notice sent to certain support obligors who are not in compliance with a court order of 26 support can be absorbed by the Department of Human Services utilizing existing budgeted resources.'

STATEMENT OF FACT

This amendment replaces the bill and amends the title to

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This amendment amends the 2 sections of law governing the 36 procedures the Department of Human Services must follow to revoke professional and driver's licenses due to continuous default in 38 payment of child support obligations.

more accurately reflect the effect of the bill as amended.

40 This amendment requires that the notice sent to delinquent child support obligors include a statement that the obligor can
42 come into compliance with the child support order by making the appropriate payments.

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This amendment clarifies that although the law does not direct the hearing officer to determine issues other than those stated in the law, the obligor may raise any other issues, including the reasonableness of a payment agreement given the obligor's current circumstances. Raising other issues preserves them for appeal. New provisions are added to specifically state

Page 4-LR2841(2)

COMMITTEE AMENDMENT "//" to H.P. 1279, L.D. 1727

that if the department's decision after the hearing is appealed, the Superior Court may hear and determine any issues, not just those mentioned for determination in the hearing.

This amendment clarifies that after the department issues a decision after a hearing, it must wait at least 30 days before certifying to a licensing authority that the obligor is not in compliance with a child support order. This allows the obligor the opportunity to appeal the department's decision during the established appeal period.

12 This amendment corrects an error concerning certification to the Secretary of State.

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This amendment also adds a fiscal note to the bill.

Page 5-LR2841(2)

COMMITTEE AMENDMENT