

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 774

S.P. 286

In Senate, March 9, 1995

An Act to Make Revisions to the Uniform Interstate Family Support Act.

(EMERGENCY)

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by Senator FAIRCLOTH of Penobscot.

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

4 Whereas, the 116th Legislature enacted the Uniform
6 Interstate Family Support Act in 1994 with the understanding that
additional clarifications would need to be made before the July
8 1, 1995 effective date; and

10 Whereas, in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
12 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
14 safety; now, therefore,

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

18 **Sec. 1. 19 MRSA §423, sub-§3, ¶¶C and D,** as enacted by PL 1993,
c. 690, Pt. A, §2 and affected by §3, are amended to read:

20 C. An individual petitioner in this State or the Department
22 of Human Services, which is the support enforcement agency
of this State, may file a petition with ~~an--initiating~~ a
24 tribunal in another state that has or can obtain personal
jurisdiction over the respondent.

26 D. An individual petitioner in this State may file a
28 petition with the Department of Human Services, which is the
support enforcement agency of this State, ~~--or--with--the--court~~
30 ~~in--this--State.~~ The resulting order may be forwarded to a
responding tribunal in another state.

32 **Sec. 2. 19 MRSA §423, sub-§3, ¶E** is enacted to read:

34 E. The Department of Human Services, which is the support
36 enforcement agency of this State, may file a petition with
the court in this State for forwarding to a tribunal in
38 another state.

40 **Sec. 3. 19 MRSA §423-F, sub-§3,** as enacted by PL 1993, c. 690,
Pt. A, §2 and affected by §3, is amended to read:

42 **3. No attorney or fiduciary relationship.** This Act does
44 not create or negate a relationship of attorney and client or
other fiduciary relationship between a support enforcement agency
46 or the attorney for the agency and the individual being assisted
by the agency.

48 **Sec. 4. 19 MRSA §423-R,** as enacted by PL 1993, c. 690, Pt. A,
50 §2 and affected by §3, is amended to read:

2 **§423-R. Receipt and disbursement of payments**

4 The support enforcement agency ~~or a tribunal~~ of this State
6 shall disburse promptly any amounts received pursuant to a
support order, as directed by the order. The agency ~~or tribunal~~
8 shall furnish to a requesting party or tribunal of another state
a certified statement by the custodian of the record of the
amounts and dates of all payments received.

10

12 **Sec. 5. 19 MRSA §426**, as enacted by PL 1993, c. 690, Pt. A,
§2 and affected by §3, is repealed.

14 **Sec. 6. 19 MRSA §426-A, sub-§1**, as enacted by PL 1993, c. 690,
Pt. A, §2 and affected by §3, is amended to read:

16

18 **1. Required documents and information.** ~~A party residing in~~
The support enforcement agency of this State ~~or the state~~
20 ~~information agency~~ may forward register a support order or an
income-withholding order by forwarding the following documents
and information to the appropriate court in this State for
22 registration in this State for enforcement:

24 A. A letter of transmittal to the tribunal requesting
registration and enforcement;

26

28 B. Two copies, including one certified copy, of all orders
to be registered, including any modification of an order;

30 C. A sworn statement by the party seeking registration or a
certified statement by the custodian of the records showing
32 the amount of any arrearages;

34 D. The name of the obligor and, if known:

36 (1) The obligor's address and social security number;

38 (2) The name and address of the obligor's employer and
any other source of income of the obligor; and

40

42 (3) A description and the location of property of the
obligor in this State not exempt from execution; and

44 E. The name and address of the obligee and, if applicable,
the agency or person to whom support payments are to be
46 remitted.

48 **Sec. 7. 19 MRSA §426-D, sub-§3**, as enacted by PL 1993, c. 690,
Pt. A, §2 and affected by §3, is repealed.

50

2 **Sec. 8. 19 MRSA §426-J, sub-§1, ¶A,** as enacted by PL 1993, c.
690, Pt. A, §2 and affected by §3, is amended to read:

4 A. The following requirements are met:

6 (1) The child, the individual obligee and the obligor
8 do not reside in the issuing state;

10 (2) A petitioner, who is either a resident or a
nonresident of this State, seeks modification; and

12 (3) The respondent is subject to the personal
14 jurisdiction of the tribunal of this State; or

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

18 STATEMENT OF FACT

20
22 This bill makes several changes to the Uniform Interstate
Family Support Act, which in general addresses the problems of
24 securing and enforcing child and spousal support when the parents
do not live in the same state. It provides procedures for
26 enforcement of support orders issued in states other than Maine,
as well as procedures to initiate actions when an obligee lives
28 in Maine and the obligor lives elsewhere.

30 This bill amends the section of the Uniform Interstate
Family Support Act that describes the ways an interstate support
32 action can be initiated under the Act. The Maine Revised
Statutes, Title 19, section 423, subsection 3, paragraphs C and D
34 currently cover individual petitioners who now live in this State
and who have existing support orders issued by other states.
36 Title 19, section 423, subsection 3, paragraph C allows both the
Department of Human Services, acting as the support enforcement
38 agency, and individual petitioners living in Maine to file a
petition with a tribunal in another state. The term "initiating"
40 is removed to clarify that if a support order or
income-withholding order already exists, the tribunal in the
42 other state is not technically an "initiating" tribunal. Also,
if the department is the entity filing the petition, then the
44 department is the "initiating" tribunal and the tribunal in the
other state is not. Title 19, section 423, subsection 3,
46 paragraph D currently allows an individual petitioner living in
this State to file a petition with the department or a court in
48 Maine. The bill deletes the avenue of filing in a Maine court
for an individual who has an order issued by another state. The
50 individual can file a petition with the department for the

2 department to help enforce the out-of-state order. If the order
3 needs to be registered with the court, the department will do
4 so. Otherwise, the Uniform Interstate Family Support Act need
5 not provide a remedy for a person who now lives in Maine and who
6 has an out-of-state order to file directly with the court.
7 Existing law otherwise allows a person with a judgment from an
8 out-of-state court to enforce that judgment in Maine courts; that
9 avenue is not affected by the Uniform Interstate Family Support
10 Act or this bill.

11
12 The bill specifically allows the Department of Human
13 Services to file a petition with a court in this State to
14 initiate an action. The court will open the case, then forward
15 the case to a court or agency in the appropriate state having
16 jurisdiction over the other person. This language is added to
17 provide an avenue for cases involving states that have not
18 adopted the Uniform Interstate Family Support Act or that do not
19 otherwise recognize the authority of the department as an
20 initiating tribunal.

21
22 The bill corrects the headnote to a subsection to accurately
23 reflect the content of the subsection.

24
25 The bill amends the section of the Uniform Interstate Family
26 Support Act addressing the receipt and disbursement of payments
27 made to comply with support orders and income-withholding
28 orders. References to a tribunal in this State other than the
29 Department of Human Services are deleted because courts in Maine,
30 the only other tribunals in the State, do not receive payments
31 from obligors; the department is the only entity that receives
32 payments for forwarding to the rightful recipient.

33
34 The bill eliminates a redundancy and clarifies procedures.
35 It repeals the section of the Uniform Interstate Family Support
36 Act stating that support orders and income-withholding orders may
37 be sent to the support enforcement agency for registration. In
38 Maine, only the court registers orders. A person seeking
39 assistance in enforcing an order must first send the order to the
40 state information agency, which is the Department of Human
41 Services. The department is the central repository for all
42 orders from out of State. The department will try to enforce the
43 order. If that can not be done, then the department can forward
44 the order to the court for registration.

45
46 The bill amends the section of the Uniform Interstate Family
47 Support Act concerning required notice after an order is
48 registered. The bill repeals Title 19, section 426-D, subsection
49 3, which requires the registering tribunal to notify the
50 obligor's employer after registering an income-withholding
order. In Maine, the Department of Human Services forwards the

2 income-withholding order to the obligor's employer. If the
3 department is registering the income-withholding order with the
4 court it is because the department is unable to enforce the
5 order, which usually means the department can not find the
6 employer. If that is the case, the registering court will not be
7 able to find the employer, either. Title 19, section 426-D,
8 subsection 3 is deleted because it is not needed.

9
10 The bill amends the Uniform Interstate Family Support Act to
11 conform to the federal Full Faith and Credit for Child Support
12 Orders Act of 1994, which does not require that a petitioner be a
13 nonresident of the forum state when the state that issued the
14 child support order has lost continuing, exclusive jurisdiction.