

MAINE STATE LEGISLATURE

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L.D. 1516

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DATE: June 22, 1995 (Filing No. S- 317)

JUDICIARY

Reported by: Senator MILLS of Somerset for the Committee.

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**STATE OF MAINE
SENATE
117TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT " A" to S.P. 556, L.D. 1516, Bill, "An Act to Amend the Laws Governing Child Support"

Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

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

Whereas, enactment of this legislation provides the Department of Human Services with more tools to collect child support payments from responsible parents;

Whereas, collecting more child support reduces the Aid to Families with Dependent Children costs to the State; 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:

Sec. 1. 4 MRSA §807, sub-§3, ¶G, as amended by PL 1991, c. 885, Pt. E, §4 and affected by §47, is further amended to read:

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2 G. A person who is not an attorney, but is representing a
4 party in any hearing, action or proceeding before the
Workers' Compensation Board as provided in Title 39-A,
6 section 317; or

8 **Sec. 2. 4 MRSA §807, sub-§3, ¶H,** as repealed and replaced by
PL 1989, c. 858, §1, is amended to read:

10 H. A person who is not an attorney, but has been designated
12 to represent either the Department of Human Services, under
Title 22, section 3473, subsection 3, or the Department of
14 Mental Health and Mental Retardation, under Title 34-B,
section 1204, subsection 7, in Probate Court proceedings; or

16 **Sec. 3. 4 MRSA §807, sub-§3, ¶I** is enacted to read:

18 I. A person who is not an attorney, but is representing the
20 Department of Human Services in a child support enforcement
matter as provided by Title 14, section 3128-A, subsection 7
22 and Title 19, section 504-C, subsection 10. This paragraph
is repealed October 1, 1998.

24 **Sec. 4. 9-B MRSA §161, sub-§2, ¶D,** as amended by PL 1981, c.
26 501, §28, is further amended to read:

28 D. The making of reports or returns required under the
United States Internal Revenue Code, chapter 61, and
30 including the submission of information concerning interest
earned on accounts, investigatory activity authorized by the
32 United States Internal Revenue Code and any use to which the
reports or returns would be subjected once submitted;

34 **Sec. 5. 9-B MRSA §161, sub-§2, ¶I,** as amended by PL 1995, c.
36 86, §1, is further amended to read:

38 I. Any disclosure of records made pursuant to Title 22,
section 16, 17 or 4314;

40 **Sec. 6. 14 MRSA §3121, sub-§3,** as enacted by PL 1971, c. 408,
42 §1, is amended to read:

44 **3. Judgment creditor.** "Judgment creditor" means any person,
corporation, partnership or other entity who or which is the
46 owner of any judgment unsatisfied in whole or in part, and the
Department of Human Services when it is collecting child support.

48 **Sec. 7. 14 MRSA §3121-A, sub-§1,** as amended by PL 1989, c.
50 655, is further amended to read:

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1. Commencement of proceedings. Notwithstanding Title 4, section 155, and any provisions set forth elsewhere, and except as provided in subsection 2 and Title 19, section 504-C, subsection 2, any proceeding under this chapter shall must be commenced in a division of the District Court as follows.

A. Except as provided in paragraph D, if the judgment debtor is an individual who resides within this State, the proceeding shall must be commenced in the division in which the judgment debtor resides.

B. Except as provided in paragraph D, if the judgment debtor is a nonresident individual, the proceeding shall must be commenced in the division in which the debtor is commorant.

C. Except as provided in paragraph D, if the judgment debtor is not an individual, the proceeding shall must be commenced in a division in which the debtor maintains a place of business. If the judgment debtor does not maintain a place of business in this State, the proceeding shall must be commenced in a division in which a civil summons could be served upon the debtor or in any division in which the action resulting in the judgment could have been brought.

D. Any proceeding under this chapter may be commenced in the division where the judgment creditor, if an individual, resides or, if not an individual, has a place of business, except that a consumer debt proceeding must be commenced, at the option of the creditor, in the division where the consumer transaction occurred or where the judgment debtor resides. Consumer debts are limited to debts arising from purchases that are primarily for personal, family or household purposes.

Sec. 8. 14 MRSA §3128-A is enacted to read:

§3128-A. Order to seek employment

1. Order; exceptions. If a child support obligor claims inability to pay in a disclosure proceeding under section 3125 or Title 19, section 504-C, the court may order the obligor to seek employment and make progress reports on that activity to the court or the Department of Human Services unless:

A. The obligor proves by a preponderance of the evidence that the obligor is engaged in diligent, bona fide efforts to seek work; or

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B. The obligor proves by a preponderance of the evidence that the obligor does not have the ability to seek work.

2. Contents. The order must contain, but is not limited to, the following directives:

A. That the obligor seek employment within a specified amount of time;

B. That the obligor file weekly with the court or the Department of Human Services, as applicable, a report on any new employment of the obligor or at least 5 new attempts by the obligor to find employment;

C. That the obligor include in the report filed pursuant to paragraph B the name, address and telephone number of the new employer or the names, addresses and telephone numbers of the employers with whom the obligor attempted to seek employment and the names of the individuals the obligor contacted to inquire about or apply for employment; and

D. That failure to comply with the order is evidence, absent good cause, of willful nonpayment of child support for which the obligor may be held in contempt.

3. Duration. The order continues in effect for 6 months or until the obligor finds work, whichever occurs first.

4. Subsequent orders. The court may issue any order or combination of orders under this chapter to enforce an order under this section.

5. Report. If an obligor is ordered to report to the Department of Human Services pursuant to subsection 2, the Department of Human Services shall monitor compliance with the order and may petition the court to enforce the order.

6. Failure to report. Failure to report or otherwise comply with an order under this section, absent good cause, is evidence of willful nonpayment of child support for which the obligor may be held in contempt under section 3136.

7. Representation of the Department of Human Services; training. The Commissioner of Human Services may designate employees of the department who are not attorneys to represent the department in District Court in a proceeding filed under this section. The Commissioner shall ensure that appropriate training is provided to all employees designated to represent the department under this subsection.

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2 8. Rulemaking. The Department of Human Services shall
adopt rules to implement its responsibilities under this section.

4 9. Repeal. This section is repealed October 1, 1998.

6 **Sec. 9. 14 MRSA §3134, sub-§1**, as amended by PL 1987, c. 708,
§9, is further amended to read:

8 **1. Issuance of civil order of arrest.** If the judgment
10 debtor fails to appear after being duly served with a subpoena
under section 3123 or with an order to appear and disclose under
12 Title 19, section 504-C, and the judgment creditor appears at the
14 time and place named in that subpoena, the creditor may request
the court to issue a civil order of arrest. The court shall
16 issue a civil order of arrest upon the written request of the
creditor stating that he the creditor knows of no infirmity,
18 disability or good cause preventing the appearance of the
debtor. The request must contain the address and telephone
number where the creditor or his the creditor's representative
20 can be reached and the address of the debtor.

22 **Sec. 10. 14 MRSA §3135, last ¶**, as amended by PL 1991, c. 498,
§1, is further amended to read:

24 Unless the judgment debtor shows good cause for failure to
26 appear after being duly served with a disclosure subpoena under
section 3123 or, a contempt subpoena under section 3136 or an
28 order to appear and disclose under Title 19, section 504-C, the
debtor must be ordered to pay the costs of issuing and serving
30 the civil order for arrest. The costs of issuing and serving the
civil order for arrest are \$25 plus mileage at a rate of 22¢ per
32 mile. The fee payable to sheriffs and their deputies for civil
orders for arrest is governed by Title 30-A, section 421,
34 subsection 6.

36 **Sec. 11. 19 MRSA §448-A, sub-§3**, as amended by PL 1993, c.
410, Pt. V, §5, is repealed.

38 **Sec. 12. 19 MRSA §448-A, sub-§4-A**, as enacted by PL 1993, c.
40 410, Pt. V, §7, is repealed.

42 **Sec. 13. 19 MRSA §448-A, sub-§4-B** is enacted to read:

44 4-B. Fees and costs. The Department of Human Services
46 shall charge a \$2 per week fee to all obligors whose child
support payments are made to the department to reduce the
48 department's costs in providing support enforcement services.
The department may collect fees owed by the obligor by using any
remedies available for collection of child support. The
50 department shall retain all fees and apply them toward the Aid to

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2 Families with Dependent Children or the child support enforcement
3 programs. The department shall apply amounts collected toward
4 fees only after the amount owed to the family for the current
5 period is paid. The department shall collect the fee from
6 obligors whose child support is paid to the department under an
7 income withholding order by notifying the payor of income to the
8 obligor to increase withholding by \$2 per week. The department
9 or any other person may not be required to issue a new or amended
10 withholding order to collect the fee, but shall notify the
11 obligor in advance of the increase in withholding.

12 **Sec. 14. 19 MRSA §495, sub-§1, ¶A**, as amended by PL 1993, c.
13 607, §4, is further amended to read:

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

37 **Sec. 15. 19 MRSA §498-B, sub-§1**, as amended by PL 1993, c.
38 607, §8, is further amended to read:

39 1. **Responsible parent's failure to comply.** If a
40 responsible parent fails to ~~acquire~~ obtain health insurance
41 coverage as required ~~under section 497-A or 497-B~~ by an
42 administrative decision, that parent is liable for any expenses
43 incurred for any dependent children that would have been paid by
44 the insurance coverage, regardless of incurred expenses.
45 Incurred liability may be enforced as a child support debt under
46 this subchapter or by judicial action.

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2 **Sec. 16. 19 MRSA §500, sub-§3**, as enacted by PL 1975, c. 532,
§3, is amended to read:

4 3. If the commissioner finds that the collection of any
6 support debt accrued or accruing under section 495 is in
jeopardy, the commissioner may make demand under subsection 1 for
8 immediate payment of the support debt, and upon failure or
refusal immediately to pay, the commissioner may file and serve
10 liens pursuant to section 503 **503-A**. No action under sections
504, 506 and 507 may be taken until the notice requirements of
subsection 1 are met.

12 **Sec. 17. 19 MRSA §503**, as amended by PL 1993, c. 607, §9, is
14 repealed.

16 **Sec. 18. 19 MRSA §503-A** is enacted to read:

18 **§503-A. Liens**

20 1. **Judgment.** Twenty-one days after receipt by a
22 responsible parent of a notice of debt under section 500 or 30
24 days after the date of mailing to the responsible parent of a
26 decision of the department that requires the responsible parent
28 to pay child support, the amount stated in the notice of debt or
in the decision is a judgment in favor of the department, the
obligee, or both. The judgment is a lien against all property of
the responsible parent. The lien is separate from and in
addition to a lien filed under this section.

30 2. **Filing.** For real property, a lien is perfected when a
32 notice of support lien is filed in the registry of deeds of the
34 county or counties in which the real property is located. For
36 personal property, including motor vehicles or other items for
38 which a certificate of ownership is issued by the Secretary of
40 State, the lien is perfected when a notice of support lien is
42 delivered to the Secretary of State. The Secretary of State
44 shall mark, hold and index the notice of support lien as if it
were a financing statement within the meaning of Title 11,
section 9-402. The notice of support lien must state the name
and address of the responsible parent, the amount of the child
support debt accrued, the date of the decision or notice of debt
by which the debt was assessed and the name and address of the
authorized agent of the department who issued the notice.

46 3. **Effect.** A person who knows of a support lien may not
48 pay over, release, sell, transfer, encumber or convey property
50 that may be subject to the lien, unless:

A. The commissioner waives or releases the lien in writing;
 or

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2 B. A court of competent jurisdiction orders a release.

4 4. Order to seize and sell. A lien under this section may
6 be enforced or collected through an order to seize and sell under
 section 774-B.

8 This subsection is repealed October 1, 1998.

10 Sec. 19. 19 MRSA §504, sub-§1, ¶A, as enacted by PL 1975, c.
12 532, §3, is amended to read:

14 A. A lien has been filed pursuant to former section 503 or
 section 503-A; or

16 Sec. 20. 19 MRSA §504, sub-§1, ¶B, as amended by PL 1993, c.
18 607, §10, is further amended to read:

20 B. Twenty-one days have elapsed from the date of receipt of
 the a notice of debt under section 500 or 30 days after the
22 date of mailing to a responsible parent of a decision has
 been-received-under-section-497-A-or-497-B of the department
24 that requires the responsible parent to pay child support.

26 Sec. 21. 19 MRSA §504, sub-§3, as enacted by PL 1975, c. 532,
 §3, is amended to read:

28 3. Order; contents. The order to withhold and deliver shall
30 must state the amount of the support debt accrued and accruing
 and the terms of ~~sections~~ former section 503 or sections 503-A
32 and 509 and shall demand a listing of property, including wages,
 which that is due or belongs to the responsible parent.

34 Sec. 22. 19 MRSA §504-C is enacted to read:

36 §504-C. Order to appear and disclose

38 1. Order. The commissioner may commence an action under
40 Title 14, chapter 502 by directing a responsible parent to appear
 before the department to disclose under oath information that
42 relates to the responsible parent's ability to pay child
 support. The commissioner may require a responsible parent who
44 is directed to appear to provide documents, papers and other
 evidence about the responsible parent's income and assets for the
46 purpose of enforcing a court or administrative order for child
 support. An order to appear and disclose must be served on the
48 responsible parent as provided by the Maine Rules of Civil
 Procedure, Rule 4.

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2 2. Venue. The Department of Human Services may commence
3 the action by ordering the obligor to appear at an office of the
4 department, provided the distance to be travelled by the obligor
5 is no more than 100 miles from the obligor's place of residence.
6 If the department files the action in court, the department shall
7 file the action in the division of the District Court where the
8 obligor resides or in the division that has ordered the obligor
9 to pay child support, if any.

10 3. Notice to responsible parent. The department shall
11 include a notice to the responsible parent with each order to
12 appear and disclose. The notice must include the following
13 information:

- 14 A. The date, time and place of the disclosure proceeding;
- 15
- 16 B. The amount of child support the responsible parent owes;
- 17
- 18 C. That the department may file a record of the proceeding
19 in court to collect the debt;
- 20
- 21 D. That, if the department files a record of the proceeding
22 in court, the court will notify the responsible parent by
23 regular mail of the date, time and place of the court
24 hearing;
- 25
- 26 E. That, if a record of the proceeding is filed in court,
27 the court may issue any lawful order, including a sale or
28 turnover order, an order to seek employment or a civil order
29 of arrest;
- 30
- 31 F. That, if a record of the proceeding is filed in court
32 and the responsible parent is not making regular child
33 support payments, the burden of proof is on the responsible
34 parent to show why regular payments can not be made; and
- 35
- 36 G. The penalties as provided by this section that could be
37 incurred by the responsible parent for failure to appear,
38 failure to provide documents, papers and other evidence as
39 required or intentionally providing false information.

40 The notice must be accompanied by a copy of the support order
41 under which the responsible parent owes child support.

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43 4. Notice to obligee. The department shall provide notice
44 to the obligee of the time and place of the disclosure proceeding
45 and the nature of the proceeding.

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47 5. Limitation of action. The department may issue an order
48 to appear and disclose only if the responsible parent owes \$500
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2 or more in overdue child support, the amount has been owed for at
3 least 60 days and the responsible parent is not making
4 reasonable, regular payments to reduce the debt.

6 6. Continuance. The department may grant a continuance of
7 the proceeding for good cause.

8 7. Transcribable record. The department shall prepare an
9 official, transcribable record of all proceedings held under this
10 section.

12 8. Failure to appear. If the responsible parent fails to
13 appear after being served with an order to appear and disclose,
14 the department may request a civil order of arrest pursuant to
15 Title 14, sections 3134 and 3135 for violating the order to
16 appear and disclose by filing a copy of the order to appear and
17 disclose, proof of service of the order and an affidavit
18 attesting that the responsible parent failed to appear for the
19 administrative disclosure proceeding.

20 9. Court action. The commissioner may file the record of a
21 proceeding in the District Court to ask the court for any
22 appropriate relief under Title 14, chapter 502, including an
23 order requiring the responsible parent to seek employment and
24 report that activity to the department. The record must be
25 accompanied by a motion. The department shall notify the
26 responsible parent by regular mail upon filing the record in
27 court. The notice to the responsible parent must include a copy
28 of the department's motion. The filing of the record, along with
29 proof of service of the order to appear and disclose, constitutes
30 a filing under the Maine Rules of Civil Procedure, Rule 3(1) and
31 further service is not required.

32 10. Representation of the Department of Human Services. The
33 commissioner may designate employees of the department who are
34 not attorneys to represent the department in District Court in a
35 proceeding filed under this section. A designated employee may
36 prepare and sign the motion as required under subsection 9. The
37 Commissioner shall ensure that appropriate training is provided
38 to all employees designated to represent the department under
39 this subsection.

40 11. Employee protection. An employer who discharges,
41 refuses to employ or takes disciplinary action against a
42 responsible parent, or who otherwise discriminates against the
43 parent because the parent must appear before the department
44 pursuant to this section is liable in an action by the
45 responsible parent for compensatory and punitive damages, plus
46 attorney's fees and court costs.

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2 12. Penalties. Failure to appear before the department,
absent good cause, is a civil violation for which a forfeiture
not to exceed \$1,000 may be adjudged. Failure to provide
4 documents, papers and other evidence as required, absent good
cause, is a civil violation for which a forfeiture not to exceed
6 \$1,000 may be adjudged. Intentionally providing false
information is a civil violation for which a forfeiture not to
8 exceed \$1,000 may be adjudged for each violation.

10 13. Repeal. This section is repealed October 1, 1998.

12 **Sec. 23. 19 MRSA §506, sub-§1,** as enacted by PL 1975, c. 532,
§3, is amended to read:

14 1. **Seizure and surrender.** Whenever a lien has been filed
pursuant to former section 503 or section 503-A, the commissioner
16 may collect the debt stated in the lien by seizing, if this can
be done without breach of the peace, or demanding surrender of,
18 any property subject to the lien and disposing of it.

20 **Sec. 24. 19 MRSA §507, sub-§§1 and 2,** as amended by PL 1985, c.
22 652, §35, are further amended to read:

24 1. **Liens on real property.** Actions to foreclose liens on
real property filed under former section 503 or section 503-A may
26 be brought in the county where the lien is filed pursuant to the
procedures of Title 14, chapter 403, subchapter II.

28 2. **Liens on personal property.** Actions to foreclose liens
on personal property filed under former section 503 or section
30 503-A may be brought in the county where the lien is filed
pursuant to the procedures of Title 14, chapter 509, subchapter
32 III.

34 **Sec. 25. 19 MRSA §774-B** is enacted to read:

36 §774-B. Order to seize and sell

38 1. **Execution of support liens.** The Department of Human
40 Services may issue an order to seize and sell to execute a
support lien established under former section 503 or section
42 503-A or to enforce and collect any money judgment assessed under
this chapter, chapter 5 or chapter 7. An order to seize and sell
44 has the same effect as a writ of execution issued by the District
Court or the Superior Court.

46 2. **Issuance of order.** An order to seize and sell is an
48 order, under official seal of the Department of Human Services,
directed to a county sheriff or a levying officer authorized by
50 law to enforce a District Court or Superior Court judgment. The

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2 order must command the recipient of the order to seize and sell
3 specific nonexempt real and personal property of an obligor to
4 satisfy the support lien upon which the order is based. The
5 department must know or have reason to believe the obligor has a
6 substantial ownership interest in the property identified in the
7 order. Before issuing the order, the department must search the
8 records of the applicable registry of deeds for real property and
9 the records of the Secretary of State for personal property to
10 determine if there are other persons who have an ownership
11 interest in the property.

12 3. Content of order. An order to seize and sell must be
13 signed by the Commissioner of Human Services or the
14 commissioner's designee. The order must be for the amount of the
15 support lien or the amount of any other money obligation
16 determined under this chapter, plus fees and costs, if any. The
17 order must identify the specific property that is the subject of
18 the order. The order must include notice that tells the obligor
19 and other persons who are known to have an ownership interest in
20 the property how to contest the seizure and sale of the property,
21 including notice of the right to an administrative hearing within
22 5 business days. The order must list the type and value of
23 property that is exempt as provided in subsection 15.

24 4. Order limited. The county sheriff or levying officer
25 may not seize property not specifically identified in the order.

26 5. Sheriff or levying officer. An order to seize and sell
27 may be sent by the Department of Human Services to a county
28 sheriff or levying officer. When the order is issued, the
29 department shall serve a copy of the order on all persons other
30 than the obligor who the department knows have an ownership
31 interest in the property identified in the order. If personal
32 service is unsuccessful, the department shall mail the order to
33 the person's last known address by regular mail. Upon receipt of
34 the order, the sheriff or levying officer shall proceed to
35 execute the order in the same manner as prescribed for execution
36 of a judgment. A sheriff or levying officer shall return the
37 order, along with any funds collected, to the department within
38 90 days of the receipt of the order. Funds resulting from
39 execution of the order must first be applied to the sheriff's or
40 levying officer's costs, then to any superior liens and then to
41 the support lien or other money obligation and any inferior liens
42 of which the department has notice. Any amounts in excess of
43 this distribution must be paid to the obligor. If the order is
44 returned not fully satisfied, the department has the same
45 remedies to collect the deficiency as are available for any civil
46 judgment.
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2 6. Right to hearing. Before the sale, the obligor and any
 4 other persons who claim an ownership interest in the property
 6 seized under an order to seize and sell have a right to an
 8 administrative hearing to contest the seizure and sale of the
 10 property and to establish the value of their relative interest in
 12 the property. A request for a hearing must be in writing and
 must be received by the Department of Human Services within 10
 calendar days of the seizure. Upon receiving a request for a
 hearing, the department shall notify all persons who the
 department has reason to believe have an ownership interest in
 the property of the time, place and nature of the hearing.

14 A. Anyone requesting a hearing has the right to a
 16 preliminary hearing within 5 business days of the hearing
 18 request. At the preliminary hearing, if the hearing officer
 20 determines there is reasonable ground to believe that the
 22 seizure was lawful and that the obligor owes a support debt
 24 that could be satisfied in whole or in part by nonexempt
 26 property that has been seized, the hearing officer shall
 28 require the seizure to remain in force and shall schedule a
final hearing, allowing all parties reasonable time to
collect evidence and prepare for the final hearing. If the
hearing officer determines that the seizure was not lawful
or that the obligor does not owe a support debt that could
be satisfied in whole or in part by nonexempt property that
has been seized, the hearing officer shall declare the order
to seize and sell void.

30 B. The Department of Human Services shall notify any person
 32 who the department has reason to believe has an ownership
 34 interest in the seized property of the time and place of the
final hearing. At the final hearing, the hearing officer
shall determine:

- 36 (1) Whether the obligor owes a support debt;
- 38 (2) Whether the support debt could be satisfied in
whole or in part by the property seized; and
- 40 (3) The value of the interests of all persons with an
ownership interest in the property.

42 7. Commercially reasonable sale. The sheriff or levying
 44 officer may sell the property seized as a unit or in parcels and
 46 at any time and place and on any terms not otherwise prohibited
 48 by this section, but every aspect of the disposition including
 50 the method, manner, time, place and terms must be commercially
 reasonable. The property may not be sold for less than the
 debtor's interest in the property that is exempt. The property
 may not be sold for less than the full value of the interest in
 the

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2 property owned by the nonobligor parties with an interest
3 superior to that of the Department of Human Services. The
4 property may not be sold for less than the debtor's interest in
5 the property that is exempt. The Department of Human Services
6 reserves the right to reject any and all bids.

8 8. Notice of sale. Within 30 days of receiving notice of a
9 sale from the county sheriff or levying officer, the Department
10 of Human Services shall send by regular mail an accounting and
11 proposed distribution of the net proceeds of the sale to the
12 obligor, all joint owners of the property sold and any known
13 lienholders with an interest in the property. The accounting and
14 proposed distribution must include notice of the right to
15 challenge the proposed distribution at an administrative hearing
16 within 30 days. The department may not distribute the proceeds
17 of the sale until the appeal period has run and all appeals have
18 been decided.

20 9. Release. Upon receiving payment in full of the order
21 amount plus fees and costs, if any, the Department of Human
22 Services shall release the order to seize and sell. Upon
23 receiving partial payment of the order amount or if the
24 department determines that a release or partial release of the
25 order will facilitate the collection of the unpaid amount, fees
26 and costs, the department may release or may partially release
27 the order to seize and sell. The department shall release the
28 order if it determines the order is unenforceable.

30 10. Right to redeem. An obligor or other person or entity
31 having an interest in real or personal property seized under an
32 order to seize and sell at any time prior to sale of the property
33 may pay the amount of the support lien or other money obligation
34 and any costs incurred by the county sheriff or levying officer
35 -serving the order. Upon payment in full, the property must be
36 restored to the obligor or other person or entity having an
37 interest in that property and all proceedings on the order must
38 cease.

40 11. Right to redeem after sale. An obligor or other person
41 or entity having an interest in real property seized and sold by
42 a county sheriff or levying officer pursuant to an order to seize
43 and sell may, within 240 days after sale of the property, redeem
44 the property by making payment to the purchaser in the amount
45 paid by the purchaser plus interest at the statutory interest
46 rate payable on judgments recovered in the District Court and the
47 Superior Court.

48 12. Release not a bar to other action. At any time after
49 seizure and sale of property under an order to seize and sell,
50 the Department of Human Services may release all or part of the
51 seized property without liability if payment of the support lien

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COMMITTEE AMENDMENT "A" to S.P. 556, L.D. 1516

2 or other money obligation is ensured or if the release will
3 facilitate collection of the support lien or money obligation.
4 The release or return of the property does not prevent future
5 action to collect the order amount from that property or other
6 property.

8 13. Statute of limitations. The Department of Human
9 Services may issue an order to seize and sell to collect a
10 support lien or other money obligation under this chapter,
11 chapter 5 or chapter 7 at any time within the statutory
12 limitation period for enforcing and collecting child support
13 amounts.

14 14. Additional remedies. The use of an order to seize and
15 sell is not exclusive and the Department of Human Services may
16 use any other remedy provided by law for the collection of child
17 support.

18 15. Exempt property. The following property is exempt from
19 seizure and sale, except to the extent that it has been
20 fraudulently conveyed by the obligor:

21
22 A. The obligor's aggregate interest, not to exceed \$12,500
23 in value, in real or personal property that the obligor uses
24 as a residence;

25
26 B. The obligor's interest, not to exceed \$2,500 in value,
27 in one motor vehicle;

28
29 C. The obligor's interest, not to exceed \$200 in value in
30 any particular item, in household furnishings, household
31 goods, wearing apparel, appliances, books, animals, crops or
32 musical instruments that are held primarily for the
33 personal, family or household use of the obligor or a
34 dependent of the obligor;

35
36 D. The obligor's aggregate interest, not to exceed \$5,000
37 in value, in any implements, professional books or tools of
38 the trade of the obligor or the trade of a dependent of the
39 obligor, including, but not limited to, power tools,
40 materials and stock designed and procured by the obligor and
41 necessary for carrying on the obligor's trade or business
42 and intended to be used or wrought in that trade or business;

43
44 E. The obligor's interest in the following items held
45 primarily for the personal, family or household use of the
46 obligor or a dependent of the obligor:

47
48 (1) One cooking stove;

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(2) All furnaces or stoves used for heating; and

(3) All cooking and heating fuel not to exceed 10 cords of wood, 5 tons of coal or 1,000 gallons of petroleum products or the equivalent amount of another type of fuel;

F. The obligor's interest in the following items held primarily for the personal, family or household use of the obligor or a dependent of the obligor:

(1) All food provisions, whether raised or purchased, reasonably necessary for 6 months;

(2) All seeds, fertilizers, feed and other material reasonably necessary to raise and harvest food through one growing season; and

(3) All tools and equipment reasonably necessary for raising and harvesting food;

G. The obligor's interest in one of every type of farm implement reasonably necessary for the obligor to raise and harvest agricultural products commercially, including any personal property incidental to the maintenance and operation of the farm implements;

H. The obligor's interest in one boat, not exceeding 5 tons burden, used by the debtor primarily for commercial fishing; and

I. Professionally prescribed health aids for the obligor or a dependent of the obligor.

16. Repeal. This section is repealed October 1, 1998.

Sec. 26. 19 MRSA §777-E is enacted to read:

§777-E. Annual statement

The Department of Human Services shall send an annual statement of arrearages to all obligors who owe past-due child support that the department is authorized to collect. The statement must include notice to the obligor that the department may collect the amount owed by issuing an order to seize and sell property. The statement may include such other notices that the department considers appropriate. The department shall send the statement to the obligor by regular mail to the obligor's last known address. If the obligor disagrees with the department's

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2 statement of arrearages, the obligor must immediately notify the
department.

4 **Sec. 27. 19 MRSA §780-A, sub-§6** is enacted to read:

6 6. Fees. A notice to the obligor and payor of income that
8 the payor of income must withhold and send to the Department of
Human Services a fee of \$2 per week in addition to the amount
10 withheld for child support.

12 **Sec. 28. 22 MRSA §17** is enacted to read:

14 **§17. Access to financial records of deposit accounts of**
individuals who owe overdue child support

16 1. Definitions. For the purposes of this section, unless
18 the context otherwise indicates, the following terms have the
following meanings.

20 A. "Depositor" has the same meaning as used in Title 9-B,
and includes "share account holders" of credit unions.

22 B. "Financial institution" means a trust company, savings
24 bank, industrial bank, commercial bank, savings and loan
association or credit union organized under the laws of this
26 State or otherwise authorized to do business in this State.

28 C. "Match" means an automated comparison by name and social
security number of a list of obligors provided to a
30 financial institution by the department and a list of
depositors of any financial institution.

32 D. "Obligor" means a person who owes overdue support.

34 E. "Overdue support" means a debt of \$500 or more for
36 maintenance and support of a child or children that has been
owed for a least 60 days, if the obligor had prior notice of
38 the debt and a prior opportunity to contest the amount
owed. "Overdue support" includes spousal support or alimony
40 being collected in conjunction with child support.

42 2. Computer match. Upon written request from the
44 commissioner to a financial institution in this State with the
technological capacity to perform a match, the financial
46 institution shall perform a match using the list of obligors'
social security numbers provided by the department. The
48 department is responsible for making its computer data compatible
with the data of the financial institution with which a match is
sought. The department's data, at a minimum, must include the
50 full name and social security number of and the amount of overdue

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2 support owed by each obligor. The department may not request a
3 financial institution to perform a match under this section more
4 often than once every calendar year.

6 3. **Compilation of match list.** After completing a match
7 requested by the department under subsection 2, a financial
8 institution shall compile for the department a list of those
9 depositors whose social security numbers match the list of social
10 security numbers of obligors provided by the department. The
11 list must contain the following information, if available to the
12 financial institution through its matching procedure, for each
13 account identified:

14 A. The obligor's full name;

16 B. The obligor's social security number;

18 C. The financial institution account number; and

20 D. The amount of deposits contained in the account, if
21 available.

22
23 4. **Notice to department.** A financial institution that has
24 compiled a match list under subsection 3 shall send the list to
25 the department at the address designated by the department.

26
27 5. **Notice to customer.** The financial institution may not
28 provide notice in any form to a depositor contained in a match
29 list submitted to the department under subsection 4. Failure to
30 provide notice to a depositor does not constitute a violation of
31 the financial institution's duty of good faith to its customers.

32
33 6. **Reasonable fee.** To cover the costs of carrying out the
34 requirements of this section, a financial institution may assess
35 a reasonable fee to the department not to exceed the actual costs
36 incurred by the financial institution.

37
38 7. **Confidentiality.** The list of obligors, with their
39 social security numbers and the amount of the overdue support
40 provided by the department to a financial institution is
41 confidential. The information may be used only for the purpose
42 of carrying out the requirements of this section. Knowing or
43 intentional use of the information, without authorization from
44 the department, is a civil violation for which a forfeiture not
45 to exceed \$1,000 may be adjudged.

46
47 8. **Immunity from liability; hold harmless.** A financial
48 institution is immune from any liability for its good faith
49 actions to comply with this section. The department shall defend
50 and hold harmless, including compensation for attorney's fees, a

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COMMITTEE AMENDMENT "A" to S.P. 556, L.D. 1516

financial institution that acts in good faith to carry out the requirements of this section.

9. Rulemaking. The department shall adopt rules to carry out this section.

10. Repeal. This section is repealed October 1, 1998.

Sec. 29. 22 MRSA §2761-B is enacted to read:

§2761-B. Hospital-based paternity acknowledgement

1. Birthing center. As used in this section, "birthing center" means a hospital or other facility that provides childbirth services.

2. Procedure. A birthing center shall provide an opportunity for all unmarried parents to complete a voluntary acknowledgement of paternity. A birthing center shall provide to each unmarried mother and alleged father, if present, written information about paternity establishment provided by the department, forms needed to voluntarily acknowledge paternity and the opportunity to speak with a person who is trained to clarify information and answer questions about paternity establishment. The birthing center shall forward all completed acknowledgement forms to the department.

3. Written information. The department shall develop an acknowledgement form and written information for use by birthing centers in carrying out the requirements of this section. The information must include a description of the benefits and responsibilities of paternity establishment. The information must include instructions on completing the acknowledgement form.

4. Technical assistance. The department shall provide birthing centers with training and technical assistance as needed to carry out the requirements of this section.

5. Reimbursement. The department may establish by rule a fee to reimburse birthing centers for each voluntary acknowledgement of paternity form completed.

6. Rulemaking. The department shall adopt rules to implement this section that comply with all applicable federal regulations.

Sec. 30. 36 MRSA §191, sub-§2, ¶P, as amended by PL 1995, c. 178, §2, is amended to read:

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2 P. The public disclosure by the State Tax Assessor of the
3 name, last known business address and title of the
4 professional license or certificate of any person whose
5 license or certificate of authority to conduct a profession,
6 trade or business in this State has not been renewed,
7 reissued or otherwise extended by order of the assessor
8 pursuant to section 175. This disclosure may be made only
9 after no further administrative or judicial review of the
10 order is available under section 151 or the Maine
Administrative Procedure Act; and

12 **Sec. 31. 36 MRSA §191, sub-§2, ¶Q**, as enacted by PL 1995, c.
13 178, §3, is amended to read:

14 Q. The listing of special fuel suppliers possessing
15 certificates under section 3204.; and

18 **Sec. 32. 36 MRSA §191, sub-§2, ¶R** is enacted to read:

20 R. The disclosure to an authorized representative of the
21 Department of Human Services of information in the
22 possession of the bureau identifying the location of an
23 interest-bearing account in the name and social security
24 number of a delinquent payor of child support as requested
25 by the Department of Human Services.

26 **Sec. 33. 36 MRSA §191, sub-§3**, as enacted by PL 1977, c. 668,
27 §2, is amended to read:

30 **3. Additional restrictions for information provided by**
31 **Internal Revenue Service.** Federal returns and federal return
32 information provided to the State by the Internal Revenue Service
33 shall may not be disclosed to other states, districts and
34 territories of the United States or provinces of Canada, to
35 legislative committees or the agents of the committees, to any
36 person retained on an independent contract basis or the employee
37 of that person, or to the Attorney General for the purpose of
38 criminal investigations and prosecutions unrelated to this Title.
39 These restrictions are in addition to those imposed by subsection
40 1. Upon request by the Department of Human Services under Title
41 22, section 3755-A, information provided by the Internal Revenue
42 Service concerning the location of interest-bearing accounts in
43 the names and social security numbers of delinquent payors of
44 child support may be disclosed to an authorized representative of
45 the Department of Human Services in the form of a list or
46 automated computer match list.

48 **Sec. 34. Appropriation.** The following funds are appropriated
from the General Fund to carry out the purposes of this Act.

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2		1995-96	1996-97
4	HUMAN SERVICES, DEPARTMENT OF		
6	Administration - Income Maintenance		
8	Positions - Legislative Count	(18.0)	(18.0)
	Personal Services	\$469,152	\$492,610
10	All Other	663,848	707,390
	Capital Expenditures	67,000	
12		<hr/>	<hr/>
14	TOTAL	\$1,200,000	\$1,200,000
16	Provides funds to increase		
18	child support enforcement		
20	staff by one Counsel		
22	position, one Support		
24	Enforcement Field Supervisor		
26	position, one Clerk Typist		
28	III position, 3 Clerk Typist		
	II positions, 9 Human		
	Services Aide II positions		
	and 3 Human Services		
	Enforcement Agent positions		
	to upgrade effectiveness and		
	increase revenues.		
30	Aid to Families with Dependent Children		
32	All Other	(\$1,250,000)	(\$1,250,000)
34	Deappropriates funds due to		
36	an anticipated increase in		
38	revenue from fees charged for		
	child support enforcement		
	services.		
40	Aid to Families with Dependent Children		
42	All Other	(\$1,200,000)	(\$2,000,000)
44	Deappropriates funds due to		
46	an increase in child support		
48	staff. Expectations are that		
50	the increase in staff will		
	upgrade effectiveness and		
	increase revenues.		

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2 **Aid to Families with Dependent**
 4 **Children**

6 All Other (\$1,000,000)

8 Deappropriates funds due to
 10 expanded child support
 enforcement authority.

12 **Aid to Families with Dependent**
 14 **Children - Foster Care**

16 All Other (\$100,000) (\$100,000)

18 Deappropriates funds due to
 an anticipated increase in
 20 child support revenue from
 parents with financial
 22 resources, whose children are
 in the custody of the
 Department of Human Services.

24 **DEPARTMENT OF HUMAN SERVICES**

26 **TOTAL** (\$1,350,000) (\$3,150,000)

28 **Sec. 35. Allocation.** The following funds are allocated from
 30 the Federal Expenditure Fund to carry out the purposes of this
 Act.

	1995-96	1996-97
32		
34 HUMAN SERVICES, DEPARTMENT OF		
36 Administration - Income Maintenance		
38 Positions - Other Count	(31.0)	(31.0)
Personal Services	\$795,210	\$834,971
40 All Other	1,293,110	1,300,210
Capital Expenditures	119,000	
42		
TOTAL	\$2,207,320	\$2,135,181
44		

46 Allocated federal matching
 funds for 2 Support
 48 Enforcement District
 Supervisor positions, 2 Clerk
 50 Typist III positions, 4 Clerk

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2 Typist II positions, 16 Human
Services Aide III positions,
4 6 Human Services Enforcement
Agent positions and one
6 Paralegal position in the
Division of Support
Enforcement and Recovery.

8
10 **Aid to Families with Dependent
Children**

12 All Other (\$2,069,754) (\$3,449,590)

14 Deallocates funds due to an
16 anticipated increase in
revenues due to additional
18 child support enforcement
staff.

20 **Aid to Families with Dependent
Children**

22 All Other (\$1,724,759)

24 Deallocates funds due to an
26 anticipated expanded child
support enforcement authority.

28
30 **DEPARTMENT OF HUMAN SERVICES**
TOTAL \$137,566 (\$3,039,168)

32 **Sec. 36. Allocation.** The following funds are allocated from
34 Other Special Revenue to carry out the purposes of this Act.

36 1995-96 1996-97

38 **HUMAN SERVICES, DEPARTMENT OF**

40 **Aid to Families with Dependent
Children**

42 All Other \$1,250,000 \$1,250,000

44 Allocates funds due to an
46 anticipated increase in
revenue from fees charged for
48 child support enforcement
services.

50 **Aid to Families with Dependent**

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COMMITTEE AMENDMENT "A" to S.P. 556, L.D. 1516

Children

2 All Other \$2,724,759

4

6 Allocates funds due to an

8 anticipated increase in child

10 support revenue due to

12 expanded child support

14 enforcement authority.

Aid to Families with Dependent Children

14 All Other \$100,000 \$100,000

16

18 Allocates funds due to an

20 anticipated increase in child

22 support revenue from parents

with financial resources,

whose children are in the

custody of the Department of

Human Services.

Aid to Families with Dependent Children

26 All Other \$3,269,754 \$5,449,590

28

30 Allocates funds due to an

32 anticipated increase in child

34 support revenue due to

additional child support

enforcement staff.

DEPARTMENT OF HUMAN SERVICES

36 **TOTAL** \$4,619,754 \$9,524,349

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

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

FISCAL NOTE

1995-96 1996-97

APPROPRIATIONS/ALLOCATIONS

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2	General Fund	(\$1,350,000)	(\$3,150,000)
	Other Funds	4,757,320	6,485,181

4

REVENUES

6

8	Other Funds	\$4,757,320	\$6,495,181
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10

This bill includes net General Fund appropriations of (\$1,350,000) and (\$3,500,000) in fiscal years 1995-96 and 1996-97, respectively; net Federal Expenditure Fund allocations of \$137,566 and (\$3,039,168) in fiscal years 1995-96 and 1996-97, respectively; and Other Special Revenue allocations of \$4,619,754 and \$9,524,349 in fiscal years 1995-96 and 1996-97, respectively.

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These appropriations and allocations to the Department of Human Services reflect increases in child support revenue and the corresponding savings those increases have on the Aid to Families with Dependent Children program due to 49 additional positions within the Division of Support Enforcement and Recovery, expanded authority for enforcement staff and the ability to charge fees for child support enforcement services.

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The Governor's proposed current services budget includes changes that may affect this bill's impact on the Aid to Families with Dependent Children program. This estimate of the fiscal impact may need to be adjusted based on final legislative actions on the current services budget.

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In addition to the impact on the Department of Human Services, this bill may also result in some significant increases in Judicial Department workload and administrative costs. These increases in cases result primarily from the authority granted to the Department of Human Services to have nonattorney representatives enforce these child support laws in court, the addition of new enforcement personnel, the creation of new support enforcement procedures and the creation of several new civil violations. The amount of the additional General Fund appropriations that may be required by the Judicial Department can not be determined at this time.

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The collection of additional fines may increase General Fund revenue by minor amounts.'

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COMMITTEE AMENDMENT

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STATEMENT OF FACT

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This amendment replaces the bill. It contains sections that are revised versions of the child support enforcement proposals originally proposed in L.D. 706, Part I.

This amendment does the following.

1. The amendment allows the Department of Human Services to train and authorize nonattorneys to represent the department in two types of child support enforcement proceedings in court. A nonattorney representing the department may ask the court to order a delinquent child support obligor to seek work to become able to make child support payments. A nonattorney may also represent the department in an action for appropriate relief after the department has issued an order to an obligor to appear before the department and disclose the obligor's assets and ability to pay child support.

2. This amendment alters Part I, section 12 of L.D. 706 in 2 significant respects. First, because financial institutions are being asked to serve as enforcement arms of the State, the amendment requires the department to reimburse financial institutions who carry out a computer match. Second, the amendment removes the requirement that the financial institutions turn over funds when there is a match between its records and those provided by the Department of Human Services.

This amendment clarifies that the computer match is based on social security numbers. This reflects the current record-keeping practice of financial institutions in this State. This amendment makes clear that the department must provide computer data that is compatible with the data of the financial institution. It also limits the number of match requests per calendar year to one. This amendment places the burden on the department to provide an address to which the financial institutions must send the computer match list.

This amendment removes the requirement that financial institutions transfer deposits when a match is found. Instead, financial institutions are directed to compile a list of the matched social security numbers and corresponding names. The requirement of providing account information is currently too costly for financial institutions. When that information is available, however, the financial institution must report it to the department.

This amendment prohibits financial institutions from notifying their depositors that a match has been found. This guards against depletion of matched accounts. To protect the

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2 financial institution, the amendment also makes clear that
3 failure to provide notice is not a violation of a financial
4 institution's duty of good faith to its customers.

6 This amendment authorizes financial institutions to assess a
7 reasonable fee to the Department of Human Services to cover
8 actual costs incurred in carrying out the match.

10 This amendment prohibits the knowing or intentional use of
11 the information without department authorization. Violation of
12 the prohibition is a civil violation. This amendment also makes
13 clear that a financial institution is immune from liability for
14 its good faith actions to comply with this law.

16 This amendment amends the Maine Banking Code to authorize
17 the disclosure of this information to the Department of Human
18 Services. The Maine Banking Code is also amended to authorize
19 the disclosure of information to the Internal Revenue Service for
20 uses of the information beyond the Internal Revenue Service.

22 This amendment amends the disclosure prohibitions in the
23 Maine Revised Statutes, Title 36, to authorize the Bureau of
24 Taxation to provide Internal Revenue Service information to the
25 Department of Human Services upon request under current child
26 support enforcement disclosure statutes. The information that
27 may be useful to the Department of Human Services is the
28 identification of financial institutions in which delinquent
29 child support obligors have interest-bearing accounts. Because
30 interest on accounts must be reported to the Internal Revenue
31 Service by financial institutions, the information about names,
32 social security numbers and account numbers is readily available.

34 3. This amendment amends the law on the enforcement of
35 money judgments to ensure that the Department of Human Services
36 can act as a judgment creditor when collecting child support on
37 behalf of the recipient or because the obligor owes a debt to the
38 department. It also establishes the procedure by which the
39 department or the intended recipient of child support asks the
40 court to issue an order requiring the obligor to seek employment
41 if the obligor has claimed an inability to pay child support in
42 either a disclosure proceeding before the department or before a
43 disclosure proceeding in court. The court may not issue the
44 order to seek work if the obligor shows by a preponderance of the
45 evidence that the obligor is already engaged in a work search or
46 that the obligor is unable to search for work. The burden is on
47 the obligor to show either of these facts. If the obligor is
48 ordered to seek employment, the obligor must make weekly reports
49 either to the court, when a private party asks for an order to
50 seek work, or to the department. The report must include the
name of the new employer or information about employers the

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2 obligor has contacted that week for employment. The order
3 expires in 6 months or earlier if the obligor finds work.
4 Failure to comply with the order, absent good cause, may result
5 in contempt sanctions imposed by the court.

6 4. This amendment replaces cites to specific sections of
7 Title 19 under which the Department of Human Services has
8 established support obligations because of past repeals and
9 replacements making references to all possibly appropriate
10 sections cumbersome or difficult. The specific cites are
11 replaced with generic "administrative decision" language.

12 5. This amendment repeals and replaces the current
13 provisions on liens for child support and makes the appropriate
14 cross-reference changes. After a responsible parent is notified
15 of the child support debt due or the order establishing child
16 support and the initial appeal period has run, the amount stated
17 in the debt or the administrative decision is a judgment in favor
18 of the department, the obligee or both, and the judgment is a
19 lien against all property of the responsible parent. The
20 department can perfect the lien, establishing priority over
21 subsequent lienholders, by filing a notice of support lien in the
22 registry of deeds for real property and with the Secretary of
23 State for certain personal property. No notice of the lien is
24 required to be given to joint owners of the property. A lien may
25 be collected through an order to seize and sell.

26 6. This amendment includes a new provision to authorize the
27 Department of Human Services to order an obligor to appear before
28 an enforcement agent or other department representative and
29 disclose the obligor's assets and the extent of the obligor's
30 ability to pay child support. The obligee must also be given
31 notice of the disclosure proceeding. This procedure can be used
32 only if the obligor owes \$500 or more in overdue child support,
33 the amount has been owed for at least 60 days and the responsible
34 parent is not making reasonable, regular payments to reduce the
35 debt. A transcribable record must be made of the proceeding.
36 The department may file the record of the proceeding in District
37 Court for any appropriate relief under the enforcement of money
38 judgment provisions, including an order to seek employment.
39 Failure to appear may result in a civil order of arrest, which
40 requires the obligor to comply with the order to appear and
41 disclose. Failure to comply is also a civil violation. An
42 employer may not discharge, refuse to employ or take disciplinary
43 action against an employee who misses work to comply with the
44 order to appear and disclose.

45 7. This amendment revises the warrant for distraint
46 proposal included in L.D. 706, and renames it an "order to seize
47 and sell." The Department of Human Services may issue an order
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to seize and sell to collect support due under a support lien or as otherwise established. An order to seize and sell is the administrative equivalent to a writ of execution issued by a court to a judgment creditor.

The order to seize and sell, issued by the department to a sheriff or other person authorized by the court to seize and sell property, directs the recipient to seize and sell specifically listed property of the obligor. A specified value of certain types of property is exempt.

Before issuing the order, the department must search applicable records registries to determine if others have ownership interests in the property to be seized and sold to satisfy the support debt. A copy of the order must be served on or mailed to all others having an ownership interest in the property. The order must contain information about contesting the seizure through an administrative hearing. A hearing must be requested by the obligor or other interested party within 10 calendar days, and a preliminary hearing, if requested, must be held within 5 business days of the receipt of the request by the department. The hearing officer determines in the preliminary hearing whether the seizure should go forward. If so, the final hearing is scheduled with enough time to allow the parties to gather evidence. The determinations made at the final hearing include the value of the interests of all the parties with ownership interests in the seized property, the proper distribution of the proceeds of the sale and the lowest bid that will cover the value of the interests superior to the department's as well as protecting the obligor's interests in the exempt property. The property must be sold in a commercially reasonable manner. The department reserves the right to reject any and all bids. The obligor and other persons with interests in the property may redeem the property before or after the sale.

8. This amendment retains unchanged the provisions requiring birthing centers to provide an opportunity for all unmarried parents of newborns to acknowledge paternity as close to the birth of the child as possible.

9. This amendment repeals on October 1, 1998, provisions adopted in this amendment pertaining to:

- A. Matching financial records;
- B. Orders to seek employment;
- C. Orders to seize and sell property; and
- D. Orders to appear and disclose.

COMMITTEE AMENDMENT

R.S.

COMMITTEE AMENDMENT "A" to S.P. 556, L.D. 1516

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10. This amendment addresses the collection of fees by the division of support enforcement and recovery for child support enforcement services.

11. It repeals current law authorizing the department to establish fees by rule for welfare and nonwelfare cases.

12. It requires the Department of Human Services to charge the obligor \$2 per week for support enforcement services. It applies to all cases, whether welfare or nonwelfare. Payments made by obligors will first be allocated to the current support obligation, as required by federal law, then to fees and finally to arrearages. The fees are added to the child support obligation, become part of the debt due if not paid and may be collected by the department through any means by which the department collects child support in general.

13. It amends the child support withholding order section to require a notice to both the obligor and the payor or employer, about the \$2 per week fee.

14. It also adds an appropriation section, allocation sections and a fiscal note to the bill.

COMMITTEE AMENDMENT