

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1428

S.P. 454

In Senate, March 11, 1997

**An Act to Amend the Child Support Laws Concerning Seize and Sell
Orders and Reunited Families.**

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 TREAT of Kennebec.
Cosponsored by Representative SAMSON of Jay and
Senators: HARRIMAN of Cumberland, LaFOUNTAIN of York, PINGREE of Knox,
Representatives: COLWELL of Gardiner, HATCH of Skowhegan, MADORE of Augusta,
MAYO of Bath, WATSON of Farmingdale.

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

PART A

Sec. A-1. 14 MRSA §3125, sub-§7 is enacted to read:

7. Notice to and disclosure by other owners. If it becomes apparent to the court that other parties have an interest in the debtor's property that may be subject to the judgment, those persons must be given written notice to appear before the court and disclose the extent of their property interest that is not available to satisfy the judgment creditor's judgment against the debtor. The court shall grant a continuance as necessary.

Sec. A-2. 19 MRSA §496, as amended by PL 1981, c. 657, §5, is repealed and the following enacted in its place:

§496. Limitation of debt

1. Receipt of public assistance. A debt may not be incurred under section 495 by a responsible parent while that parent receives public assistance for the benefit of a biological or adopted child of that parent. A debt previously incurred under section 495 may not be collected from a responsible parent while that parent receives public assistance for the benefit of a biological or adopted child of that parent.

2. Reunited families. The department may not collect a debt previously incurred under section 495 from a reunited family except as provided in paragraph B.

A. A family is reunited for the purposes of this section if:

(1) Benefits under aid to families with dependent children are no longer being received for the benefit of a child; and

(2) The responsible parent is no longer absent from the home of the parent who received the aid to families with dependent children benefits and a child for whom past-due support is owed.

B. The department may not collect the past-due support debt from a reunited family whose family income is at or below the federal poverty guidelines for a family of that size. The department may not collect past-due support in an amount exceeding 20% of family income that exceeds the federal poverty guidelines for a family of that size unless the responsible parent agrees to income withholding of that amount. Receipt of lump sum payments by the reunited family

2 is not considered part of family income and is subject to
3 collection by the department to the extent that the lump sum
4 payment, if added to family income, exceeds the federal
5 poverty guidelines for a family of that size.

6 C. The responsible parent is responsible for notifying the
7 department that the family is reunited.

8
9 **Sec. A-3. 19 MRSA §503-A, sub-§§2-A and 2-B** are enacted to
10 read:

11 **2-A. Notice to motor vehicle owners.** When the department
12 files a notice of support lien with the Secretary of State for a
13 lien on a motor vehicle, the department shall provide written
14 notice to any other owner listed on the title that the department
15 has a lien against the motor vehicle. The notice must state that
16 the department has a support lien against the motor vehicle of up
17 to the amount of the debtor's child support debt or the value of
18 the debtor's interest in the motor vehicle above the exempt value
19 of the motor vehicle, whichever is less.

20
21 **2-B. Notice to other owners.** When the department is
22 provided with reliable information that, in addition to the
23 responsible parent, another person has an ownership interest in
24 the property of the responsible parent subject to a support lien,
25 the department shall provide written notice to the other person
26 that the department has a support lien against that property.
27 The notice must state that the department has a support lien
28 against the property of up to the amount of the debtor's child
29 support debt or the value of the debtor's interest in the
30 property above the exempt value of the property, whichever is
31 less.

32
33 **Sec. A-4. 19 MRSA §504-C, sub-§1-A** is enacted to read:

34 **1-A. Other persons with ownership interest.** When the
35 commissioner is provided with reliable information that, in
36 addition to the responsible parent, another person has an
37 ownership interest in the property of the responsible parent, the
38 commissioner shall notify the other person that the department
39 has a support lien against the property. The department may
40 direct that other person to appear before the department to
41 disclose the extent of that person's interest in the property.
42 The commissioner may require a person who is directed to appear
43 to provide documents, papers and other evidence about that
44 person's ownership interest in the property of the responsible
45 parent. An order to appear and disclose must be served on the
46 other person as provided by the Maine Rules of Civil Procedure,
47 Rule 4. The department shall grant a continuance as necessary.

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2 parent receives public assistance for the benefit of a biological
3 or adopted child of that parent. A debt previously incurred
4 under section 2301 may not be collected from a responsible parent
5 while that parent receives public assistance for the benefit of a
6 biological or adopted child of that parent.

7 2. Reunited families. The department may not collect a
8 debt previously incurred under section 2301 from a reunited
9 family except as provided in paragraph B.

10 A. A family is reunited for the purposes of this section if:

11 (1) Benefits under aid to families with dependent
12 children are no longer being received for the benefit
13 of a child; and

14 (2) The responsible parent is no longer absent from
15 the home of the parent who received the aid to families
16 with dependent children benefits and a child for whom
17 past-due support is owed.

18 B. The department may not collect the past-due support debt
19 from a reunited family whose family income is at or below
20 the federal poverty guidelines for a family of that size.
21 The department may not collect past-due support in an amount
22 exceeding 20% of family income that exceeds the federal
23 poverty guidelines for a family of that size unless the
24 responsible parent agrees to income withholding of that
25 amount. Receipt of lump sum payments by the reunited family
26 is not considered part of family income and is subject to
27 collection by the department to the extent that the lump sum
28 payment, if added to family income, exceeds the federal
29 poverty guidelines for a family of that size.

30 C. The responsible parent is responsible for notifying the
31 department that the family is reunited.

32 Sec. B-2. 19-A MRSA §2357, sub-§§2-A and 2-B are enacted to
33 read:

34 2-A. Notice to motor vehicle owners. When the department
35 files a notice of support lien with the Secretary of State for a
36 lien on a motor vehicle, the department shall provide written
37 notice to any other owner listed on the title that the department
38 has a lien against the motor vehicle. The notice must state that
39 the department has a support lien against the motor vehicle of up
40 to the amount of the debtor's child support debt or the value of
41 the debtor's interest in the motor vehicle above the exempt value
42 of the motor vehicle, whichever is less.

2 2-B. Notice to other owners. When the department is
3 provided with reliable information that, in addition to the
4 responsible parent, another person has an ownership interest in
5 the property of the responsible parent subject to a support lien,
6 the department shall provide written notice to the other person
7 that the department has a support lien against that property.
8 The notice must state that the department has a support lien
9 against the property of up to the amount of the debtor's child
10 support debt or the value of the debtor's interest in the
11 property above the exempt value of the property, whichever is
12 less.

13 **Sec. B-3. 19-A MRSA §2361, sub-§1-A** is enacted to read:

14 1-A. Other persons with ownership interest. When the
15 commissioner is provided with reliable information that, in
16 addition to the responsible parent, another person has an
17 ownership interest in the property of the responsible parent, the
18 commissioner shall notify the other person that the department
19 has a support lien against the property. The department may
20 direct that other person to appear before the department to
21 disclose the extent of that person's interest in the property.
22 The commissioner may require a person who is directed to appear
23 to provide documents, papers and other evidence about that
24 person's ownership interest in the property of the responsible
25 parent. An order to appear and disclose must be served on the
26 other person as provided by the Maine Rules of Civil Procedure,
27 Rule 4. The department shall grant a continuance as necessary.

28 **Sec. B-4. 19-A MRSA §2361, sub-§3, ¶¶F and G,** as enacted by PL
29 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to
30 read:

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 G. The penalties as provided by this section that could be
36 incurred by the responsible parent for failure to appear,
37 failure to provide documents, papers and other evidence as
38 required or intentionally providing false information; and

39 **Sec. B-5. 19-A MRSA §2361, sub-§3, ¶H** is enacted to read:

40 H. That the responsible parent must provide to the
41 department the name and last known address of any other
42 person that has an ownership in any property in which the
43 responsible parent has an ownership interest.

44

2 **Sec. B-6. 19-A MRSA §2364, sub-§§3 and 4** are enacted to read:

4 **3. Motor vehicle liens; hearing to determine ownership**
6 **interest.** Before the foreclosure, the obligor and any other
8 persons who claim an ownership interest in the motor vehicle
10 subject to the lien have a right to an administrative hearing to
12 establish the value of their relative interest in the motor
14 vehicle. A request for a hearing must be in writing and must be
16 received by the department within 10 calendar days of the notice
18 of the foreclosure. Upon receiving a request for a hearing, the
20 department shall notify all persons who the department has reason
22 to believe have an ownership interest in the motor vehicle of the
24 time, place and nature of the hearing. At the hearing, the
26 hearing officer shall determine the value of the interests of all
28 persons with an ownership interest in the property.

30 **4. Exemptions.** The exemptions listed in Title 14, section
32 4422 apply to property subject to foreclosure under this section.

34 **Sec. B-7. Effective date.** This Part takes effect October 1,
36 1997.

38 SUMMARY

40 This bill requires the Department of Human Services to
42 provide notice and an opportunity to be heard to co-owners of
44 property in which a responsible parent has an ownership interest
46 that may be subject to the department's broad collection
48 authority.

50 This bill prohibits collection of a support debt based on
52 public assistance payments from a reunited family whose family
54 income is below the federal poverty guidelines. If the family
56 income is above the federal poverty guidelines, income
58 withholding may not exceed 20% of the income above the
60 guidelines, unless the responsible parent agrees to greater
62 withholding.