

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1613

H.P. 1148

House of Representatives, March 20, 1997

**An Act to Allow the Child Support Obligor the Right to Provide
Regularly Scheduled Child Care.**

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative LANE of Enfield.
Cosponsored by Senator KIEFFER of Aroostook and
Representatives: JOY of Crystal, KASPRZAK of Newport, MacDOUGALL of North
Berwick, MADORE of Augusta, NASS of Acton, PLOWMAN of Hampden,
SNOWE-MELLO of Poland, VEDRAL of Buxton.

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

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Sec. 1. 19 MRSA §316, sub-§3-A is enacted to read:

3-A. Child care. In any court action to determine or modify support of a minor child or children, the party not providing primary residential care, or either party in case primary residential care is shared equally, may provide regularly scheduled child care, may have a parent or sibling provide regularly scheduled child care or may schedule a less expensive child care provider, subject to the following conditions.

A. A preponderance of the evidence standard must be used if it becomes necessary to determine if the child care is regularly scheduled.

B. If the obligor's place of residence or employment is within 20 miles of the place of residence or employment of the other parent, the parties shall share equally the responsibility and costs of transportation associated with the care.

C. If the obligor's place of residence or employment is not within 20 miles of the place of residence or employment of the other parent, the responsibility and costs of transportation associated with the care must be borne by the obligor.

D. The child care provided must be consistent with the best interests of the child or children.

The provision of child care by the child support obligor in accordance with this subsection does not increase or decrease the percentage of time that a parent has primary responsibility for a child for purposes of determining the annual percentage of time a parent has primary residential care under section 311, subsection 8. If a court refuses to authorize child care by the obligor pursuant to this subsection, the court shall state in writing or on the record any reasons that care should not be allowed.

This subsection does not apply to a parent denied parental rights and responsibilities in a court order.

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Sec. 2. 19 MRSA §317, sub-§3, ¶¶P and Q, as enacted by PL 1989, c. 834, Pt. A, are amended to read:

P. An obligor party's substantial financial obligation regarding the costs of transportation of the child or children for purposes of parent and child contact. To be considered substantial, the transportation costs must exceed 15% of the yearly support obligation; and

2 Q. A finding by the court or hearing officer that the
3 application of the support guidelines would be unjust,
4 inappropriate or not in the child's best interest; and

6 **Sec. 3. 19 MRSA §317, sub-§3, ¶R** is enacted to read:

8 R. The nonprimary residential care provider, or either
9 party in case primary residential care is shared equally, is
10 providing child care services pursuant to section 316,
11 subsection 3-A.

12 **Sec. 4. 19-A MRSA §2006, sub-§4-A** is enacted to read:

14 **4-A. Child care.** In any court action to determine or
15 modify support of a minor child or children, the party not
16 providing primary residential care, or either party in case
17 primary residential care is shared equally, may provide regularly
18 scheduled child care, may have a parent or sibling provide
19 regularly scheduled child care or may schedule a less expensive
20 child care provider, subject to the following conditions.

22 A. A preponderance of the evidence standard must be used if
23 it becomes necessary to determine if the child care is
24 regularly scheduled.

26 B. If the obligor's place of residence or employment is
27 within 20 miles of the place of residence or employment of
28 the other parent, the parties shall share equally the
29 responsibility and costs of transportation associated with
30 the care.

32 C. If the obligor's place of residence or employment is not
33 within 20 miles of the place of residence or employment of
34 the other parent, the responsibility and costs of
35 transportation associated with the care must be borne by the
36 obligor.

38 D. The child care provided must be consistent with the best
39 interests of the child or children.

42 The provision of child care by the child support obligor in
43 accordance with this subsection does not increase or decrease the
44 percentage of time that a parent has primary responsibility for a
45 child for purposes of determining the annual percentage of time a
46 parent has primary residential care under section 2001,
47 subsection 8. If a court refuses to authorize child care by the
48 obligor pursuant to this subsection, the court shall state in
49 writing or on the record any reasons that care should not be
50 allowed.

2 This subsection does not apply to a parent denied parental rights
3 and responsibilities in a court order.

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5 **Sec. 5. 19-A MRSA §2007, sub-§3, ¶¶P and Q,** as enacted by PL
6 1995, c. 694, Pt. B, §2, and affected by Pt. E, §2, are amended
7 to read:

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9 P. An obligor party's substantial financial obligation
10 regarding the costs of transportation of each child for
11 purposes of parent and child contact. To be considered
12 substantial, the transportation costs must exceed 15% of the
13 yearly support obligation; and

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15 Q. A finding by the court or hearing officer that the
16 application of the support guidelines would be unjust,
17 inappropriate or not in the child's best interest, ; and

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19 **Sec. 6. 19-A MRSA §2007, sub-§3, ¶R** is enacted to read:

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21 R. The nonprimary residential care provider, or either
22 party in case primary residential care is shared equally, is
23 providing child care services pursuant to section 2006,
24 subsection 4-A.

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26 **Sec. 7. Effective date.** Those sections of this Act that enact
27 the Maine Revised Statutes, Title 19-A, section 2006, subsection
28 4-A and section 2007, subsection 3, paragraph R and amends Title
29 19-A, section 2007, subsection 3, paragraphs P and Q take effect
30 October 1, 1997.

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33 SUMMARY

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35 This bill provides that the nonprimary residential care
36 provider, or either party in case primary residential care is
37 shared equally, may provide child care personally, by a close
38 relative or by less expensive methods if it is consistent with
39 the best interests of the child. If a court does not allow child
40 care under the Maine Revised Statutes, Title 19, section 316 or
41 Title 19-A, section 2006, it must state the reasons in writing or
42 on the record.