

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1510, L.D. 2132, Bill, "An Act to Repeal the Sunsets on Certain Child Support Enforcement Remedies"

Amend the bill by inserting after the title and before the enacting clause the following:

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

Whereas, federal law requires compliance with the Uniform Interstate Family Support Act in order for the State to remain eligible for federal funding of child support enforcement; and

Whereas, compliance with the Uniform Interstate Family Support Act is required immediately; 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, '

Further amend the bill by inserting after section 1 the following:

'Sec. 2. 19-A MRSA §2154, sub-§1, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

1. Employment information. Upon notice by the department, and--except--as--provided--in--subsection--2, an employer doing business in this State shall report to the department the:

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2 A. Hiring of a person who resides or works in this State to whom the employer anticipates paying earnings; and

4 B. Rehiring or return to work of an employee who was laid off, furloughed, separated, granted a leave without pay or
6 terminated from employment.

8 **Sec. 3. 19-A MRSA §2154, sub-§2**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed.'

10 Further amend the bill by inserting after section 2 the following:

14 **Sec. 3. 19-A MRSA §2306, sub-§1, ¶A**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

16 A. The decision must provide for the withholding of amounts payable as child support, effective from the date of the
18 decision, from the responsible parent's earnings, regardless of whether support payments by the responsible parent are in
20 arrears. The withholding order must:

22 (1) Specify the amount of earnings to be withheld. The amount must include \$2 per week in addition to the amount to be withheld for child support;

24 (2) Specify the support enforcement case number; and

26 (3) Direct that, upon receipt of a copy of the withholding order, a payor of earnings to the responsible parent shall:

28 (a) Immediately begin to withhold those earnings when earnings are usually paid to the responsible parent; and

30 (b) Send each amount of earnings withheld to the department at the address set forth in the withholding order within ~~10~~ 7 business days after each withholding of earnings.

32 **Sec. 4. 19-A MRSA §2306, sub-§3, ¶C**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

34 C. The payor may combine amounts withheld for transmittal to the department from more than one responsible parent if the portion attributable to each responsible parent is
36 separately designated, except that the payor may not combine amounts if that action would result in a responsible
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parent's withheld earnings being sent to the department more than ~~10~~ 7 business days from the withholding date.

Sec. 5. 19-A MRSA §2306, sub-§7, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

7. Liability of payor; violations. A payor is liable, after service of the withholding order, for any earnings the payor fails to withhold and send to the department within ~~10~~ 7 business days of the day the payee is usually paid. The department may maintain an action against the payor for the earnings the payor did not withhold and send to the department or for the imposition of any of the following civil penalties, or both, plus attorney's fees and court costs.

A. A payor who knowingly fails to withhold earnings on the day earnings are usually paid to the responsible parent commits a civil violation for which a forfeiture of not more than \$100 may be adjudged for each failure to withhold.

B. A payor who knowingly fails to send withheld earnings to the department within ~~10~~ 7 business days of the withholding commits a civil violation for which a forfeiture of not more than \$100 may be adjudged for each failure to timely send withheld earnings.

C. A payor who knowingly fails to send the notification required by subsection 6 commits a civil violation for which a forfeiture of not more than \$100 may be adjudged.

D. A payor who discharges from employment or refuses to employ a responsible parent, or who takes disciplinary action against a responsible parent employed by the payor, or who otherwise discriminates against the responsible parent because of the existence of the withholding order or the obligations imposed upon the payor by the order, is subject to a civil penalty of not more than \$5,000, payable to the State, to be recovered in a civil action. The payor is also subject to an action by the responsible parent for compensatory and punitive damages for those actions, plus attorney's fees and court costs.'

Further amend the bill by inserting after section 4 the following:

'Sec. 5. 19-A MRSA §2654, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§2654. Payor duty

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2 A payor of income to an obligor named in a withholding order
3 issued under this subchapter must shall comply with the
4 provisions of the withholding order upon receipt of a copy of the
5 order. The balance of income due an obligor after withholding
6 must be paid to the obligor on the day the obligor is usually
7 paid. A payor may combine amounts withheld for transmittal to
8 the department from more than one obligor if the portion
9 attributable to each obligor is separately designated, except
10 that the payor may not combine amounts if that action would
11 result in an obligor's withheld income being sent to the
12 department more than 10 7 business days from the date of
withholding.

14 **Sec. 6. 19-A MRSA §2662, first ¶,** as enacted by PL 1995, c.
15 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

16
17 Upon service of an immediate income withholding order, a
18 payor is liable for any income that the payor knowingly fails to
19 withhold and send to the department within 10 7 business days of
20 the day on which the obligor is usually paid. The department, or
21 obligee if the obligee implemented the withholding order as a
22 private action, may maintain a civil action against the payor for
23 the income the payor does not withhold and send to the department
24 as required by the withholding order and for the imposition of
25 any of the civil penalties provided for in this section, plus
26 attorney's fees and court costs.

28 **Sec. 7. 19-A MRSA §2802, sub-§19,** as enacted by PL 1995, c.
29 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

30
31 **19. State.** "State" means a state of the United States, the
32 District of Columbia, the Commonwealth of Puerto Rico or any
33 territory or insular possession subject to the jurisdiction of
34 the United States. The term "state" includes an Indian tribe and
35 includes a foreign jurisdiction that has established procedures
36 for issuance and enforcement of support orders that are
37 substantially similar to the procedures under this chapter, the
38 Uniform Reciprocal Enforcement of Support Act, or the Revised
39 Uniform Reciprocal Enforcement of Support Act.

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41 **Sec. 8. 19-A MRSA c. 67, sub-c. II, art. 3, first 2 lines,** as enacted,
42 is repealed and the following enacted in its place:

43
44 **Article 3**
45 **Reconciliations of Multiple Orders**

46
47 **Sec. 9. 19-A MRSA §2951,** as enacted by PL 1995, c. 694, Pt.
48 B, §2 and affected by Pt. E, §2, is amended to read:

49 **§2951. Recognition of controlling child support orders**

2 **1. Recognition of orders.** If a proceeding is brought under
3 this chapter, and one or more child support orders have been
4 issued in this State or another state with regard to an obligor
5 and a child, a tribunal of this State shall apply the following
6 rules in determining which order ~~to recognize~~ controls and must
7 be recognized for purposes of continuing, exclusive jurisdiction.

8
9 A. If only one tribunal has issued a child support order,
10 the order of that tribunal controls and must be recognized.

11
12 B. If 2 or more tribunals have issued child support orders
13 for the same obligor and child, and only one of the
14 tribunals has continuing, exclusive jurisdiction under this
15 chapter, the order of that tribunal controls and must be
16 recognized.

17
18 C. If 2 or more tribunals have issued child support orders
19 for the same obligor and child, and more than one of the
20 tribunals would have continuing, exclusive jurisdiction
21 under this chapter, an order issued by a tribunal in the
22 current home state of the child controls and must be
23 recognized, but if an order has not been issued in the
24 current home state of the child, the order most recently
25 issued controls and must be recognized.

26
27 D. If 2 or more tribunals have issued child support orders
28 for the same obligor and child, and none of the tribunals
29 would have continuing, exclusive jurisdiction under this
30 chapter, the tribunal of this State may issue a child
31 support order, which controls and must be recognized.

32
33 **2. Tribunal having continuing, exclusive jurisdiction.** The
34 tribunal that has issued an order recognized under subsection 1
35 is the tribunal having continuing, exclusive jurisdiction.

36
37 **3. Request for order.** If 2 or more child support orders
38 have been issued for the same obligor and child and if the
39 obligor or the individual obligee resides in this State, a party
40 may request a tribunal of this State to determine which order
41 controls and must be recognized under subsection 1, paragraph C.
42 The request must be accompanied by a certified copy of every
43 child support order in effect. The requesting party shall give
44 notice of the request to each party whose rights may be affected
45 by the determination.

46
47 **4. Basis for order.** A tribunal of this State that
48 determines by order the identity of the controlling order under
49 subsection 1, paragraph C or that issues a new controlling order
50 under subsection 1, paragraph D shall state in that order the
basis upon which the tribunal made its determination.

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2 **5. Filing certified copy of order.** Within 30 days after
4 the issuance of an order determining the identity of the
6 controlling order, the party obtaining the order shall file a
8 certified copy of it with each tribunal that issued or registered
10 an earlier child support order. A party who obtains an order and
12 fails to file a certified copy is subject to appropriate
14 sanctions by the tribunal in which the issue of failure to file
16 arises. The failure to file does not affect the validity or
18 enforceability of the controlling order.

12 **Sec. 10.** 19-A MRSA §3006, as enacted by PL 1995, c. 694, Pt.
14 B, §2 and affected by Pt. E, §2, is amended to read:

16 **§3006. Inappropriate tribunal**

18 If a petition or comparable pleading is received by an
20 inappropriate tribunal of this State, the inappropriate tribunal
22 shall forward the petition or pleading and accompanying documents
24 to an appropriate tribunal or to the state information agency in
26 this State or another state and notify the petitioner where and
28 when the pleading was sent.

24 **Sec. 11.** 19-A MRSA §3008, as enacted by PL 1995, c. 694, Pt.
26 B, §2 and affected by Pt. E, §2, is repealed.

28 **Sec. 12.** 19-A MRSA §3008-A is enacted to read:

30 **§3008-A. Duty of commissioner**

32 If the commissioner determines that the support enforcement
34 agency is neglecting or refusing to provide services to an
36 individual, the commissioner may order the agency to perform its
38 duties under this chapter or may otherwise provide those services
40 directly to the individual.

38 **Sec. 13.** 19-A MRSA c. 67, sub-c. V, first 3 lines, as enacted, are
40 repealed and the following enacted in their place:

42 **SUBCHAPTER V**
44 **ENFORCEMENT OF ORDER OF ANOTHER STATE**
46 **WITHOUT REGISTRATION**

46 **Sec. 14.** 19-A MRSA §3101, as enacted by PL 1995, c. 694, Pt.
48 B, §2 and affected by Pt. E, §2, is repealed and the following
50 enacted in its place:

50 **§3101. Employer's receipt of out-of-state income-withholding**
 order

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2 An income-withholding order issued in another state may be
4 sent to the obligor's employer, described as a payor of income
6 under chapter 65, subchapter IV, without first filing a petition
or comparable pleading or registering the order with a tribunal
of this State.

8 **Sec. 15. 19-A MRSA §§3101-A to 3101-F** are enacted to read:

10 **§3101-A. Employer's compliance with out-of-state**
12 **income-withholding order**

14 **1. Copy of order to obligor.** Upon receipt of an
16 income-withholding order, the obligor's employer shall
immediately provide a copy of the order to the obligor.

18 **2. Recognition of out-of-state order.** The employer shall
20 treat an income-withholding order issued in another state that
appears regular on its face as if it had been issued by a
tribunal of this State.

22 **3. Employer to withhold and distribute funds.** Except as
24 otherwise provided in subsection 4 and section 3101-B, the
employer shall withhold and distribute the funds as directed in
26 the withholding order by complying with terms of the order that
specify:

28 **A. The duration and amount of periodic payments of current**
30 **child support, stated as an exact sum;**

32 **B. The person or support enforcement agency designated to**
receive payments and the address to which payments are to be
34 **forwarded;**

36 **C. Medical support, whether in the form of periodic cash**
payments stated as an exact sum or an order that the obligor
38 **provide health insurance coverage for the child under a**
policy available through the obligor's employment;

40 **D. The amount of periodic payments of fees and costs for a**
support enforcement agency, the issuing tribunal and the
42 **obligee's attorney, stated as exact sums; and**

44 **E. The amount of periodic payments of arrearages and**
46 **interest on arrearages, stated as exact sums.**

48 **4. Compliance with state laws.** An employer shall comply
50 with the laws of the state of the obligor's principal place of
employment with respect to:

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- 2 A. The employer's fee for processing an income-withholding order;
- 4 B. The maximum amount permitted to be withheld from the obligor's income; and
- 6
- 8 C. The times within which the employer must implement the income-withholding order and forward the child support payment.

10 **§3101-B. Compliance with multiple income-withholding orders**

12 If an employer receives multiple income-withholding orders for the same obligor, the employer satisfies the terms of the multiple orders if the employer complies with the laws of the state of the obligor's principal place of employment when establishing the priorities for withholding and allocating income for multiple child support obligees.

20 **§3101-C. Immunity from civil liability**

22 An employer who complies with an income-withholding order issued in another state in accordance with this subchapter is not subject to civil liability to an individual or support enforcement agency with regard to the employer's withholding of child support payments from the obligor's income.

28 **§3101-D. Penalties for noncompliance**

30 An employer who willfully fails to comply with an income-withholding order issued by another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this State.

36 **§3101-E. Option to appoint department as payment agent**

38 An employer who is required to comply with an income-withholding order for child support payments under this subchapter may designate the department as the payment agent and forward withheld wages to the department instead of to the out-of-state jurisdiction as long as the payments are received by the department within 5 working days after wages are withheld.

44 **§3101-F. Contest by obligor**

46 1. Contesting the validity or enforcement of an order. An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this State in the same manner as if

the order had been issued by a tribunal of this State. Section 3153 applies to the contest.

2. Notice of the contest. The obligor shall give notice of the contest to:

A. The support enforcement agency providing services to the obligee;

B. Each employer that has directly received an income-withholding order; and

C. The person or agency designated to receive payments in the income-withholding order or, if a person or agency is not designated, to the obligee.

Sec. 16. 19-A MRSA §3253, sub-§§1, 3 and 5, as enacted by PL 1995, c. 694, Pt. B, §2 and affected Pt. E, §2, are amended to read:

1. Modification of order issued in another state. After a child support order issued in another state has been registered in this State, the responding tribunal of this State may modify that order only if, after notice and hearing, it finds that:

A. The following requirements are met:

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

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

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

B. An individual party or the child is subject to the personal jurisdiction of the tribunal and all of the individual parties have filed a written consent in the issuing tribunal providing that a tribunal of this State may modify the support order and assume continuing, exclusive jurisdiction over the order. If the issuing state is a foreign jurisdiction that has not established procedures substantially similar to the procedures under this chapter, the consent otherwise required of an individual residing in this State is not required for the tribunal to assume jurisdiction to modify the child support order; or

C. If all individual parties reside in this State and the child does not reside in the issuing state, a tribunal of

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2 this State has jurisdiction to enforce and to modify the
3 issuing state's child support order in a proceeding to
4 register that order. A tribunal of this State exercising
5 jurisdiction under this section shall apply the provisions
6 of subchapters I and II, this subchapter, and the procedural
7 and substantive law of this State to the proceeding for
8 enforcement or modification. Subchapters III, IV, V, VII
9 and VIII do not apply.

10 **3. No modification.** A tribunal of this State may not
11 modify any aspect of a child support order that may not be
12 modified under the law of the issuing state. If 2 or more
13 tribunals have issued child support orders for the same obligor
14 and child, the order that controls and must be recognized under
15 section 2951 establishes the aspects of the child support order
16 that are nonmodifiable.

17 **5. Filing of modified order.** Within 30 days after issuance
18 of a modified child support order, the party obtaining the
19 modification shall file a certified copy of the order with the
20 issuing tribunal that had continuing, exclusive jurisdiction over
21 the earlier order and with each tribunal in which the party knows
22 that the earlier order has been registered. A party who obtains
23 an order and fails to file a certified copy is subject to
24 appropriate sanctions by the tribunal in which the issue of
25 failure to file arises. The failure to file does not affect the
26 validity or enforceability of the modified order of the new
27 tribunal having continuing, exclusive jurisdiction.

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

30 Further amend the bill by relettering or renumbering any
31 nonconsecutive Part letter or section number to read
32 consecutively.

33 Further amend the bill by inserting at the end before the
34 summary the following:

35 **FISCAL NOTE**

36 This bill may avoid a loss of budgeted Other Special Revenue
37 within the Department of Human Services by repealing the sunset
38 on existing child support provisions.'

SUMMARY

This amendment incorporates all changes necessary to comply with the Uniform Interstate Family Support Act, as mandated in 42 United States Code, Section 666(f). The amendment also adds an emergency to the bill because of federally imposed deadlines.