

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1522

H.P. 1136

House of Representatives, March 8, 2001

An Act to Clarify the Status of Support Obligations if an Obligor Begins to Receive Public Assistance.

Reported by Representative LaVERDIERE for the Family Law Advisory Commission pursuant to the Maine Revised Statutes, Title 19-A, section 354, subsection 2.

Reference to the Joint Standing Committee on Judiciary suggested and printing ordered under Joint Rule 218.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

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

2
3 **Sec. 1. 19-A MRSA §2302**, as enacted by PL 1995, c. 694, Pt.
4 B, §2 and affected by Pt. E, §2, is repealed and the following
5 enacted in its place:

6
7 **§2302. Support obligations when obligor receives public**
8 **assistance**

9
10 **1. Definitions.** As used in this section, unless the
11 context otherwise indicates, the following terms have the
12 following meanings.

13 **A. "Assisted obligor"** means an obligor under a court or
14 administrative child support order who receives:

15 (1) Supplemental security income; or

16 (2) Public assistance for the benefit of a child of
17 that obligor.

18
19 **B. "Order"** means a court or administrative child support
20 order in existence at the time an obligor becomes an
21 assisted obligor.

22 **C. "Public assistance"** has the same meaning as set forth in
23 section 2101, subsection 11, except that it does not include
24 medical care only.

25
26 **2. Presumption.** There is a rebuttable presumption that an
27 assisted obligor does not have the capacity to pay child support.

28
29 **3. Child support obligation during period that obligor is**
30 **assisted obligor.** For the period during which an obligor is an
31 assisted obligor and for 2 weeks thereafter, the assisted
32 obligor's child support obligation is automatically suspended.
33 At the end of the 2 weeks, the obligor's child support obligation
34 resumes automatically at the same level at which it was suspended
35 unless modified by an order entered pursuant to subsection 4.

36
37 A debt previously incurred under section 2301 may not be
38 collected from a responsible parent while that parent is an
39 assisted obligor.

40
41 **4. Obligee's opportunity for modification.** The obligee may
42 seek to modify the effect of subsection 3 by filing a petition
43 for modification with the court or the department, whichever
44 issued the affected order. The court or administrative hearing
45 officer may, by order after hearing, modify the effect of
46 subsection 3. The court or administrative hearing officer, in

2 determining whether to make such a modification, shall consider
3 the presumption in subsection 2 and the child support guidelines
4 under chapter 63. For purposes of the hearing, a substantial
5 change in circumstances is deemed to have occurred.

6 5. Department notification responsibilities. As soon as
7 practicable after the department knows that an obligor has become
8 an assisted obligor, the department shall send notices to the
9 obligor and obligee notifying them of:

10 A. The obligor's status as an assisted obligor;

11 B. The existence of the presumption in subsection 2;

12 C. The child support obligation pursuant to subsection 3;

13 D. The obligee's opportunities as set forth in subsection
14 4; and

15 E. The location where forms for modification proceedings
16 can be obtained.

17 In addition, the department shall include with the notices to the
18 parties blank forms for use in initiating modification actions.

26 SUMMARY

27 This bill is a recommendation of the Family Law Advisory
28 Commission.

29 Current law provides that a parent obligated under a court
30 or administrative order to pay child support is not required to
31 pay the support while receiving public assistance. This bill
32 retains that effect by explicitly establishing a rebuttable
33 presumption that an obligor receiving certain public assistance
34 has no capacity to pay child support. The bill also provides,
35 however, the opportunity for the person who is to receive the
36 support under the order, the obligee, to have the court or
37 hearing officer review whether the obligor actually has no
38 capacity to pay child support. This bill uses the existing
39 definition of "public assistance," except that it does not apply
40 if the public assistance provided is medical care only.

41 The Department of Human Services is required to provide
42 notices to the obligee and the obligor about the obligor's
43 status, the presumption of no capacity to pay child support, the
44 child support obligation resulting from the application of the
45 presumption, the obligee's opportunity to modify the effect of
46 the presumption and the location where forms for modification
47 proceedings can be obtained. Blank forms for initiating
48 modification actions must be included with the notices.