

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1716

H.P. 1265

House of Representatives, March 20, 2001

An Act to Improve Child Support Services.

Submitted by the Department of Human Services pursuant to Joint Rule 204.
Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative NASS of Acton.
Cosponsored by Senator MILLS of Somerset and
Representatives: DUGAY of Cherryfield, O'BRIEN of Lewiston, TESSIER of Fairfield,
Senators: MARTIN of Aroostook, President MICHAUD of Penobscot.

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

2
3 **Sec. 1. 19-A MRSA §2001, sub-§4**, as enacted by PL 1995, c.
4 694, Pt. B, §2 and affected by Pt. E, §2, is repealed and the
5 following enacted in its place:

6 **4. Extraordinary medical expenses.** "Extraordinary medical
7 expenses" means recurring, uninsured medical expenses in excess
8 of \$250 per child or group of children per year that can
9 reasonably be predicted by the court or hearing officer at the
10 time of establishment or modification of a support order.
11 Responsibility for nonrecurring or subsequently occurring
12 uninsured medical expenses in excess of \$250 in the aggregate per
13 child or group of children supported per year must be divided
14 between the parties in proportion to their adjusted gross
15 incomes. These expenses include, but are not limited to,
16 insurance copayments and deductibles, reasonable and necessary
17 costs for orthodontia, dental treatment, asthma treatment,
18 physical therapy, chronic health problems and professional
19 counseling or psychiatric therapy for diagnosed mental disorders.

20
21 **Sec. 2. 19-A MRSA §2001, sub-§5, ¶F**, as enacted by PL 1995, c.
22 694, Pt. B, §2 and affected by Pt. E, §2, is repealed.

23 **Sec. 3. 19-A MRSA §2006, sub-§3**, as enacted by PL 1995, c.
24 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

25 **3. Total support obligation.** The total support obligation
26 is determined by adding the child care costs, health insurance
27 premiums and extraordinary medical expenses to the basic support
28 entitlement as follows.

29 A. When each child is under the age of 12 years, the sums
30 actually being expended for child care costs must be added
31 to the basic support entitlement to determine the total
32 support obligation.

33 B. If a child is incurring extraordinary medical expenses,
34 the future incidence of which is determinable because of the
35 permanent, chronic or recurring nature of the illness or
36 disorder, the sums actually being expended for the medical
37 expenses must be added to the basic support entitlement to
38 determine the total support obligation.

39 C. If a party is paying health insurance premiums, the sums
40 actually being expended for health insurance premiums for
41 the child or children for whom support is being ordered must
42 be added to the basic support entitlement to determine the
43 total support obligation.

2 **Sec. 4. 19-A MRSA §2006, sub-§5, ¶¶B, C and E**, as enacted by PL
1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to
read:

4
6 B. When the parties' combined annual gross income exceeds
\$126,600 \$240,000, the child support table is not
8 applicable, except that the basic weekly child support
entitlement of a child is presumed to be not less than that
10 set forth in the table for a combined annual gross income of
\$126,600 \$240,000.

12 C. The subsistence needs of the nonprimary care provider
must be taken into account when establishing the parental
14 support obligation. ~~If the annual gross income of a~~
~~nonprimary care provider is less than the federal poverty~~
16 ~~guideline, or if the nonprimary care provider's income is~~
~~insufficient to meet work-related expenses and other basic~~
18 ~~necessities as defined in Title 22, section 4301, subsection~~
~~1, that nonprimary care provider's weekly parental support~~
20 ~~obligation for each child for whom a support award is being~~
~~established or modified may not exceed 10% of that~~
22 ~~nonprimary care provider's weekly gross income, regardless~~
~~of the amount of the parties' combined annual gross income.~~
24 The child support table includes a self-support reserve for
obligors earning less than \$12,600 per year.

26
28 E. When each party is the primary residential care provider
for at least one of the children involved, a child support
30 obligation must first be computed separately for each party
for each child residing primarily with the other party,
32 based on a calculation pursuant to the support guidelines,
and using as input in each calculation the number of
34 children in each household, rather than the total number of
children. The amounts determined in this manner represent
36 the theoretical support obligation due each party for
support of each child for whom the party has primary
38 residential responsibility. Each party's proportionate
share of child care costs and health insurance premiums is
40 added to the amounts calculated, and the party owing the
greater amount of child support shall pay the difference
42 between the 2 amounts as a parental support obligation.

44 **Sec. 5. 19-A MRSA §2006, sub-§7, ¶¶F and G**, as enacted by PL
1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to
read:

46
48 F. The name and date of birth of each child for whom
extraordinary medical expenses are paid and the amount of
50 those expenses; and

2 G. The parental support obligation of the nonprimary care
provider; and

4 **Sec. 6. 19-A MRSA §2006, sub-§7, ¶H** is enacted to read:

6 H. The name and date of birth of each child for whom health
insurance premiums are paid and the amount of those premiums.

8
10 **Sec. 7. 19-A MRSA §2006, sub-§8, ¶C**, as enacted by PL 1995, c.
694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

12 C. A breakdown of the parental support obligation,
including:

- 14 (1) The amount for basic support entitlements;
- 16 (2) The amount for child care costs;
- 18 (3) The amount for extraordinary medical expenses; and
- 20 (4) The percentage of the total child care costs and
22 extraordinary medical expenses included in the parental
support obligation; and
- 24 (5) The amount for health insurance premiums;

26
28 **Sec. 8. 19-A MRSA §2007, sub-§3, ¶L**, as enacted by PL 1995, c.
694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

30 L. The tax consequences of a support award, including the
substantial monetary benefit that a party may derive from
32 any federal tax credit for child care expenses if the
obligor is awarded any tax benefits;

34
36 **Sec. 9. 19-A MRSA §2007, sub-§3, ¶M**, as enacted by PL 1995, c.
694, Pt. B, §2 and affected by Pt. E, §2, is repealed.

38 **Sec. 10. 19-A MRSA §2152, sub-§12** is enacted to read:

40 12. Admissible evidence. Information provided by any
person pursuant to this section is admissible as a public record
42 pursuant to the Maine Rules of Evidence 803(8)(A) and is not
within the investigative report exception found in the Maine
44 Rules of Evidence 803(8)(B) because the information is provided
pursuant to a duty imposed by law and is inherently reliable.

46
48 **Sec. 11. 19-A MRSA §2301, sub-§4**, as enacted by PL 1995, c.
694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

2 ~~4. Interstate cooperation. A payment of public assistance~~
3 ~~by another state for the benefit of a dependent child located~~
4 ~~within that state creates a debt due that state from a~~
5 ~~responsible parent in the amount of the public assistance paid.~~
6 With the execution of an application for nonwelfare services
7 between a state and a resident of that state, the state may
8 request the department to enforce or collect any unpaid support
9 debt belonging to the applicant. Upon written request by a state
10 to the department, the department may attempt to collect either
11 the welfare or nonwelfare debt by action under any appropriate
12 laws, including, but not limited to, remedies established by this
13 article.

14 **Sec. 12. 19-A MRSA §2304, first ¶**, as amended by PL 1997, c.
15 466, §17 and affected by §28, is further amended to read:

16
17 When a support order has not been established, the
18 department may establish the responsible parent's current
19 parental support obligation pursuant to chapter 63, establish the
20 responsible parent's debt for past support, including medical
21 expenses, and establish the responsible parent's obligation to
22 maintain health insurance coverage for each dependent child or to
23 pay a proportionate share of health insurance premiums. The
24 department may proceed on its own behalf or on behalf of another
25 state or another state's instrumentality, an individual or
26 governmental applicant for services under section 2103 or a
27 person entitled by federal law to support enforcement services as
28 a former recipient of public assistance. The department acting
29 on behalf of another state, another state's instrumentality or a
30 person residing in another state constitutes good cause within
31 the meaning of Title 5, section 9057, subsection 5.
32 Notwithstanding any other provision of law, a parental support
33 obligation established under this section continues beyond the
34 child's 18th birthday, if the child is attending secondary school
35 as defined in Title 20-A, section 1, until the child graduates,
36 withdraws, is expelled or attains 19 years of age, whichever
37 occurs first. For purposes of this section, "debt for past
38 support" includes a debt owed to the department under section
39 2301, subsection 1, paragraph A, a debt owed under section 2103
40 and a debt that accrues under sections 1504 and 1554.

42 **Sec. 13. 19-A MRSA §2369, first ¶**, as enacted by PL 1995, c.
43 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

44
45 The receipt of public assistance for a child constitutes an
46 assignment by the recipient to the department of all rights to
47 support for the child and spousal support, including any support
48 unpaid at the time of assignment, as long as public assistance is
49 paid.
50

2

SUMMARY

4 This bill makes the following changes to the laws concerning
child support.

6 It changes the definition of "extraordinary medical
8 expenses" to conform to current practice and understanding.

10 It includes the actual costs of health insurance premiums
12 paid by a party in the child support obligation and allows the
hearing officers to obligate the responsible parent for that
14 parent's proportionate share of the health insurance premium that
is paid by the other parent.

16 It includes the self-support reserve for certain obligors.

18 It changes the criteria related to tax consequences as the
child support tables assume the primary residential care provider
20 receives all the tax benefits; and removes the incremental cost
of health insurance as this is included in the child support
22 obligation.

24 It amends the law concerning interstate cooperation to
conform to a federal mandate that child support orders be
26 established in accordance with child support guidelines and not
be based on the amount of public assistance expended.

28 It states specifically that spousal support is also assigned
30 to the Department of Human Services when the person receives
public assistance, as required by federal law, 42 United States
32 Code, Section 608.