

# MAINE STATE LEGISLATURE

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L.D. 2025

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
120TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1521, L.D. 2025, Bill, "An Act to Make Certain Changes to the State's Child Support Enforcement Laws"

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,** compliance with federal child support requirements with regard to the National Medical Support Notice is essential for continued receipt by the State of federal child support funding; 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 the enacting clause and before section 1 the following:

**'Sec. 1. 4 MRSA §807, sub-§3, ¶I,** as amended by PL 1997, c. 669, §1, is further amended to read:

I. A person who is not an attorney, but is representing the Department of Human Services in a child support enforcement matter as provided by Title 14, section 3128-A, subsection 7; Title 18-A, section 5-204; and Title 19-A, section 2361, subsection 10;'

COMMITTEE AMENDMENT "A" to H.P. 1521, L.D. 2025

Further amend the bill in section 1 in the indented paragraph in the 6th and 7th lines (page 1, lines 11 and 12 in L.D.) by striking out the following: "prepare motions under this paragraph, to file those motions in Probate Court and to"

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

**Sec. 2. 19-A MRSA §1605, sub-§2, ¶¶K and L**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to read:

K. A statement that if, prior to the filing in a court, the alleged father executes and delivers to the department and the department accepts an acknowledgment of paternity, the proceeding must terminate and the department may proceed against him under chapter 65, subchapter II, article 3; and

L. A statement that the alleged father may, within 25 days after notice has been mailed to him that the record has been filed in a court, assert any defense, in law or fact, if the record is filed because the alleged father:

(1) Refuses to submit to blood or tissue-typing tests; or

(2) Fails to execute and deliver to the department an acknowledgment of paternity; and

**Sec. 3. 19-A MRSA §1605, sub-§2, ¶M** is enacted to read:

M. A statement that the department may require the alleged father to submit to blood or tissue-typing tests prior to accepting an acknowledgement of paternity if it appears that there may be more than one alleged father, and may file the action in court if the alleged father refuses to submit to testing.

**Sec. 4. 19-A MRSA §1608**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended by adding a new 2nd paragraph to read:

When the department initiates proceedings against one alleged father when there may be more than one alleged father, the department may require the parties to submit to blood or tissue-typing tests prior to accepting an acknowledgement of paternity from the alleged father. If the alleged father refuses to participate in testing, the department may file the action in court.

2 **Sec. 5. 19-A MRSA §1614**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

4 **§1614. Acknowledgment of paternity**

6 If, prior to the filing in a court, the alleged father  
7 executes and delivers to the department an acknowledgment of  
8 paternity of the child in accordance with the laws of the state  
9 in which the child was born, and if the department does not  
10 require the alleged father to participate in blood or  
11 tissue-typing tests, the proceeding must be terminated and the  
12 department may proceed against the father under chapter 65,  
13 subchapter II, article 3 with respect to any remedy provided  
14 under that article.'

16 Further amend the bill by striking out all of section 3 and  
17 inserting in its place the following:

18 'Sec. 3. 19-A MRSA §2001, sub-§3, as enacted by PL 1995, c.  
19 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

22 3. **Child support table.** "Child support table" means the  
23 schedule that ~~reflects the percentage of combined gross income~~  
24 ~~that parents living in the same household in this State~~  
25 ~~ordinarily spend on their children that~~ has been adopted by the  
26 department under ~~former Title 19, section 303-A~~ section 2011.

28 **Sec. 4. 19-A MRSA §2001, sub-§4**, as repealed and replaced by  
29 PL 2001, c. 264, §1, is amended to read:

30 4. **Extraordinary medical expenses.** "Extraordinary medical  
31 expenses" means recurring, uninsured medical expenses in excess  
32 of \$250 per child or group of children per calendar year that can  
33 reasonably be predicted by the court or hearing officer at the  
34 time of establishment or modification of a support order.  
35 Responsibility for nonrecurring or subsequently occurring  
36 uninsured medical expenses in excess of \$250 in the aggregate per  
37 child or group of children supported per calendar year must be  
38 divided between the parties in proportion to their adjusted gross  
39 incomes. These expenses include, but are not limited to,  
40 insurance copayments and deductibles, reasonable and necessary  
41 costs for orthodontia, dental treatment, eye care, eyeglasses,  
42 prescriptions, asthma treatment, physical therapy, chronic health  
43 problems and professional counseling or psychiatric therapy for  
44 diagnosed mental disorders.

46 **Sec. 5. 19-A MRSA §2006, sub-§5, ¶C**, as amended by PL 2001, c.  
47 264, §4, is further amended to read:

2 C. The subsistence needs of the nonprimary care provider  
must be taken into account when establishing the parental  
3 support obligation. If the annual gross income of the  
4 nonprimary care provider is less than the federal poverty  
5 guideline, the nonprimary care provider's weekly parental  
6 support obligation for each child for whom a support award  
7 is being established or modified may not exceed 10% of the  
8 nonprimary care provider's weekly gross income, regardless  
9 of the amount of the parties' combined annual gross income.  
10 The child support table includes a self-support reserve for  
obligors earning less than \$12,600 per year. If the  
12 nonprimary care provider's annual gross income, without  
13 adjustments, is in the self-support reserve, the amount  
14 listed in the table for the number of children is the  
15 nonprimary care provider's basic support obligation,  
16 regardless of the parties' combined annual gross income.  
17 The nonprimary care provider's proportional share of  
18 childcare, health insurance premiums and extraordinary  
19 medical expenses are added to this basic support obligation.

20 **Sec. 6. 19-A MRSA §2011** is enacted to read:

22 **§2011. Child support table established**

24 The department, in consultation with the Supreme Judicial  
25 Court and interested parties, shall adopt rules in accordance  
26 with Title 5, chapter 375, establishing a child support table  
27 that reflects the percentage of combined gross income that  
28 parents living in the same household in this State ordinarily  
29 spend on their children. Rules adopted pursuant to this section  
30 are routine technical rules pursuant to Title 5, chapter 375,  
31 subchapter II-A.

34 **Sec. 7. 19-A MRSA §2106, sub-§1**, as enacted by PL 1997, c.  
537, §29 and affected by §62, is amended to read:

36 **1. Enrollment of dependent children in employer health**  
37 **plans.** If a parent is required by a support order to provide  
38 health care coverage for a child and the parent is eligible for  
39 family health care coverage through an employer doing business in  
40 the State, upon application by either parent, the employer or  
41 plan administrator shall enroll the child, if otherwise eligible,  
42 in the employer health plan without regard to any enrollment  
43 season restrictions, except as provided by subsection 2. If the  
44 employer offers more than one plan, the employer or plan  
45 administrator shall enroll the child in the plan in which the  
46 employee is enrolled or, if the employee is not enrolled, in the  
47 least costly plan otherwise available, if the plan's services are  
48 available where the child resides. If the services of the  
49 employee's plan or the least costly plan are not available where  
50

the child resides, the employer or plan administrator shall enroll the child in the least costly plan that is available where the child resides. If the plan requires that the participant be enrolled in order for the child to be enrolled, and the participant is not currently enrolled, the employer or the plan administrator must enroll both the participant and the child. The enrollments must be without regard to open season restrictions. The court or the department shall order health care coverage using the format of the federal National Medical Support Notice as required by the Child Support Performance and Incentives Act of 1998, Public Law 105-200, 42 United States Code, Section 666(a)(19)(A) and the federal Employee Retirement Income Security Act of 1974, 29 United States Code, Section 1169(a)(5)(C). The employer or other payor of income shall complete Part A of the National Medical Support Notice and the plan administrator shall complete Part B.

**Sec. 8. 19-A MRSA §2106, sub-§4,** as enacted by PL 1997, c. 537, §29 and affected by §62, is amended to read:

**4. Answer.** The employer shall respond to a parent who requests enrollment within 30 20 days and confirm:

A. That the child has been enrolled in the employer's health plan;

B. The date when the child will be enrolled, if enrollment is pending; or

C. That coverage can not be provided, stating the reasons why coverage can not be provided.

**Sec. 9. 19-A MRSA §2308,** as amended by PL 1997, c. 537, §§42 and 43 and affected by §62, is further amended to read:

**§2308. Medical support notice**

**1. Issuance of notice.** The department, on its own behalf, on behalf of a custodial parent who applies for the department's support enforcement services or on behalf of another state's Title IV-D agency, political subdivision or agent, may issue to a responsible parent's employer or other payor of income a health ~~insurance-withholding-order~~ medical support notice to enforce a responsible parent's obligation to obtain or maintain health insurance coverage or other health care services for each dependent child of the responsible parent. The medical support notice must be in the format of the federal National Medical Support Notice as required by the Child Support Performance and Incentives Act of 1998, Public Law 105-200, 42 United States Code, Section 666(a)(19)(A) and the federal Employee Retirement

Income Security Act of 1974, 29 United States Code Section 1169(a)(5)(C). The employer or other payor of income shall complete Part A of the National Medical Support Notice and the plan administrator shall complete Part B.

**2. Employer notice.** A ~~health-insurance-withholding-order~~ medical support notice must be accompanied by an employer notice that contains the substance of subsections 3 to 16.

**3. Duty to enroll.** An employer or other payor of income served with a ~~health-insurance-withholding-order~~ medical support notice shall enroll each dependent child of the employee named in the withholding order as a covered person in a group health insurance plan or other similar plan providing health care services or coverage offered by the employer, without regard to any enrollment season restrictions, if the child is eligible for such coverage under the employer's enrollment provisions, and deduct any required premiums from the employee's earnings to pay for the insurance.

**4. Choice of plan.** If more than one plan is offered by the employer, the employer or the plan administrator shall enroll each qualified child prospectively in the insurance plan in which the employee is enrolled or, if the employee is not enrolled, in the least costly plan otherwise available, ~~providing that~~ as long as the plan's services are available where the child resides. If the services of the employee's plan or the least costly plan are not available where the child resides, the employer or the plan administrator shall enroll each qualified child prospectively in the least costly plan that is available where the child resides. If the plan requires that the participant be enrolled in order for the child to be enrolled, and the participant is not currently enrolled, the employer or the plan administrator must enroll both the participant and the child. The enrollments must be made without regard to enrollment season restrictions.

**5. Answer.** An employer shall respond to a ~~health-insurance-withholding-order~~ medical support notice in writing within ~~30~~ 20 days of service. The employer shall advise the department of the plan in which each child is enrolled or if a child is ineligible for any plan through the employer. The department shall include a- preprinted answer forms for the employer's and plan administrator's use and shall include the ~~form~~ forms and a prepaid, self-addressed envelope with each ~~health--insurance-withholding-order~~ medical support notice. The plan administrator must complete and return the Part B response within 40 business days of service.

2           **6. Mistake of fact; affirmative defenses.** A responsible  
parent may claim a mistake of fact or assert affirmative defenses  
4           to contest the issuance of a ~~health--insurance--withholding--order~~  
medical support notice. The department shall establish by rule  
6           an administrative process for reviewing claims of mistake and  
investigating affirmative defenses.

8           **7. Duration of notice.** A ~~health--insurance--withholding~~  
~~order~~ medical support notice remains in force until the employee  
10          terminates employment, the employer or other payor of earnings is  
released from the order in writing by the department or release  
12          is ordered by a court.

14          **8. Change of plan.** After it is initially determined in  
response to a ~~health--insurance--withholding--order~~ medical support  
16          notice that a child is eligible for coverage, the employer or  
plan administrator must make subsequent enrollment changes to  
18          include the child if the group health insurance plan is changed  
and provide notices of any changes in coverage to the department.

20          **9. Fee.** The commissioner may establish by rule a fee that  
22          an employer may charge an employee for each withholding and for a  
change of plan.

24          **10. Failure to honor.** Failure of an employer or other  
26          payor of earnings or the plan administrator to comply with the  
requirements of a ~~health--insurance--withholding--order~~ medical  
28          support notice is a civil violation for which the department may  
recover up to \$1,000 in a civil action.

30          **11. Priority of notice.** A ~~health--insurance--withholding~~  
32          ~~order~~ medical support notice has priority over any previously  
filed attachment, execution, garnishment or assignment of  
34          earnings that is not for the purpose of enforcing or paying a  
child support obligation.

36          **12. Employer protected.** The department shall defend and  
38          hold harmless any employer or other payor of earnings or plan  
administrator who honors a ~~health--insurance--withholding--order~~  
40          medical support notice.

42          **13. Immunity.** The employer or plan administrator may not  
be held liable for medical expenses incurred on behalf of a  
44          dependent child because of the employer's or plan administrator's  
failure to enroll the dependent child in a health insurance or  
46          health care plan after being directed to do so by the department.

48          **14. Employee protected.** An employer who discharges,  
refuses to employ or takes disciplinary action against a  
50          responsible parent, or who otherwise discriminates against that



parent because of the existence of the ~~order~~ medical support notice or the obligation the ~~order~~ medical support notice imposes upon the employer, is subject to a civil penalty of not more than \$5,000 payable to the State, to be recovered in a civil action. The employer is also subject to an action by the responsible parent for compensatory and punitive damages, plus attorney's fees and court costs.

**15. Service.** A ~~health-insurance-withholding-order~~ medical support notice must be served on the responsible parent's employer or other payor of earnings. Service may be by certified mail, return receipt requested, by an authorized representative of the commissioner, by personal service as permitted by the Maine Rules of Civil Procedure, Rule 4 or as otherwise permitted by sections 2253 and 2254. The department shall send a copy of the ~~health-insurance-withholding-order~~ medical support notice to the responsible parent at the responsible parent's most recent address of record.

**16. Withholding order and support notice combined.** The department may combine a ~~health--insurance--withholding--order~~ medical support notice with a child support income withholding order issued under section 2306.

**17. Rules.** The department shall adopt rules to implement and enforce the requirements of this section.

**Sec. 10. 19-A MRSA §2605, sub-§3,** as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**3. Notice to State.** In an action to establish a or vacate a paternity order or support order, enforce a support order, amend a support order or to collect support arrearages, if the action relates to a period when the child has received, is receiving or will receive public assistance or the party is receiving support enforcement services pursuant to section 2103, the party bringing the action must send a copy of the motion or petition must--be--furnished and all accompanying documents by ordinary mail to the department at--least--21--days--before--the hearing when the motion or petition is filed with the court. If the party bringing the action fails to comply with this subsection, the court may allow the department additional time to file all necessary pleadings.

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

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

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

4

6

**FISCAL NOTE**

8

This bill implements federally mandated changes to the State's child support enforcement program. These changes will help ensure the program is in compliance with federal requirements and thereby avoid a potential loss of federal funds that could result from noncompliance. The additional costs associated with implementing these changes to the child support enforcement program can be absorbed by the Department of Human Services utilizing existing budgeted resources.

16

The Department of the Attorney General will realize some minor savings from allowing employees who are not attorneys to represent the Department of Human Services in Probate Court under certain circumstances.

22

The additional workload and administrative costs associated with the minimal number of new cases filed in the court system can be absorbed within the budgeted resources of the Judicial Department. The collection of additional fines may increase General Fund revenue by minor amounts.'

28

**SUMMARY**

30

The bill authorizes Department of Human Services employees who are not attorneys to represent the department in probate court in cases involving child support enforcement. This amendment deletes the authorization for these employees to prepare and file motions in Probate Court.

36

This amendment amends the paternity statute to address proceedings in which there is more than one alleged father of the same child. It authorizes the Department of Human Services to require an alleged father to submit to blood or tissue-typing tests prior to accepting an acknowledgement if it appears there is more than one alleged father. If the alleged father refuses the testing, the department may file an action in court.

44

This amendment clarifies the responsibility of the Department of Human Services, in consultation with the Supreme Judicial Court and other interested parties, to adopt the child support table by rule.

48

COMMITTEE AMENDMENT "A" to H.P. 1521, L.D. 2025

2 This amendment clarifies that the definition of  
"extraordinary medical expenses" is based on recurring, uninsured  
4 medical expenses in excess of \$250 per child or group of children  
per calendar year.

6 This amendment adds to the statute language similar to  
language removed last year concerning how to calculate a child  
8 support obligation for extremely low-income child support  
obligors. The self-support reserve recognizes that obligors need  
10 to retain enough money in their households to care for  
themselves. The most recently adopted child support table  
12 provides for a self-support reserve starting at 10% of the  
obligor's income, and gradually increasing to 19% in incremental  
14 steps. This reference to the self-support reserve is necessary  
to ensure consistent treatment for extremely low-income obligors.

16 This amendment deletes all of section 3 of the bill, which  
18 established a new subchapter on health insurance withholding. It  
instead amends existing law to require the use of the federally  
20 adopted National Medical Support Notice, used to ensure health  
insurance coverage for obligors' children as required by court  
22 orders. This form takes the place of what is currently termed  
the "health insurance withholding order." A state child support  
24 enforcement program is not in compliance with federal  
requirements and is subject to loss of federal child support  
26 enforcement grants if the form is not used.

28 This amendment also clarifies that a person who files an  
action to establish or vacate a paternity order or support order,  
30 to enforce a support order, to amend a support order or to  
collect support arrearages must send a copy of the motion to the  
32 Department of Human Services when the motion is filed if public  
assistance is involved or if the department provides support  
34 enforcement services.

36 This amendment adds an emergency preamble and emergency  
clause to make the bill take effect immediately to bring the  
38 State into compliance with federal requirements concerning the  
National Medical Support Notice.

40 This amendment also adds a fiscal note to the bill.