

MAINE STATE LEGISLATURE

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L.D. 234

DATE: 5-20-03

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**MAJORITY
JUDICIARY**

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
121ST LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 189, L.D. 234, Bill, "An Act To Create a Uniform Approach to the Determination of Child Support When Parents Provide Substantially Equal Care for Children"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 19-A MRSA §2001, sub-§3-A is enacted to read:

3-A. Enhanced support entitlement. "Enhanced support entitlement" means the basic support entitlement multiplied by a factor of 1.5.

Sec. 2. 19-A MRSA §2001, sub-§§6, 7 and 8, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to read:

6. Parental support obligation. "Parental support obligation" means the portion of total basic or enhanced support obligation a party is ordered to pay in money as child support.

7. Primary residence. "Primary residence" means the residence of a child where that child receives residential care for more than 50% of the time on an annual basis if the parents do not provide substantially equal care as defined in subsection 8-A.

8. Primary residential care provider. "Primary residential care provider" means the party who provides residential care for a child for more than 50% of the time on an annual basis if the parents do not provide substantially equal care as defined in subsection 8-A.

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2 **Sec. 3. 19-A MRSA §2001, sub-§8-A** is enacted to read:

4 **8-A. Substantially equal care.** "Substantially equal care"
6 means that both parents participate substantially equally in the
8 child's total care, which may include, but is not limited to, the
child's residential, educational, recreational, child care and
medical, dental and mental health care needs.

10 **Sec. 4. 19-A MRSA §2001, sub-§10**, as enacted by PL 1995, c.
12 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

14 **10. Total basic support obligation.** "Total basic support
16 obligation" means the sum of money determined by adding the basic
support entitlement, child care costs and, extraordinary medical
expenses and health insurance premiums.

18 **Sec. 5. 19-A MRSA §2001, sub-§10-A** is enacted to read:

20 **10-A. Total enhanced support obligation.** "Total enhanced
22 support obligation" means the sum of money determined by
24 calculating the enhanced support entitlement. "Total enhanced
support obligation" does not include child care costs,
extraordinary medical expenses and health insurance premiums.

26 **Sec. 6. 19-A MRSA §2005**, as enacted by PL 1995, c. 694, Pt.
28 B, §2 and affected by Pt. E, §2, is amended to read:

30 **§2005. Rebuttable presumption**

32 In a proceeding to establish or modify child support or to
34 establish an award for past support, there is a rebuttable
36 presumption that the parental support obligation derived from the
38 support guidelines is the amount ordered to be paid, unless
support is established under section 2006, subsection 5 or
section 2007. The court or hearing officer shall review the
adequacy of a child support amount agreed to by the parties with
reference to the parental support obligation.

40 **Sec. 7. 19-A MRSA §2006, sub-§3**, as amended by PL 2001, c.
42 264, §3, is further amended to read:

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

48 A. When each child is under the age of 12 years, the sums
actually being expended for child care costs must be added

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2 to the basic support entitlement to determine the total
2 basic support obligation.

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

10 C. If a party is paying health insurance premiums, the sums
12 actually being expended for health insurance premiums for
14 the child or children for whom support is being ordered must
14 be added to the basic support entitlement to determine the
16 total basic support obligation. The court shall determine
16 the pro rata share of the health insurance premium actually
18 expended that is attributable to each child.

18 **Sec. 8. 19-A MRSA §2006, sub-§4**, as enacted by PL 1995, c.
20 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

22 **4. Computation of parental support obligation.** The total
24 basic support obligation must be divided between the parties in
24 proportion to their respective gross incomes. The court or
26 hearing officer shall order the party not providing primary
26 residential care to pay, in money, that party's share of the
28 total basic support obligation to the party providing primary
28 residential care. The primary residential care provider is
30 presumed to spend the primary care provider's share directly on
30 each child. If the court or hearing officer determines that the
32 parties provide substantially equal care for a child for whom
32 support is sought, presumptive support must be calculated in
34 accordance with subsection 5, paragraph D-1.

34 **Sec. 9. 19-A MRSA §2006, sub-§5, ¶D**, as enacted by PL 1995, c.
36 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

38 D. When the parties have equal annual gross incomes and
40 provide residential substantially equal care equally for
40 each child for whom support is being determined, neither
42 party is required to pay the other a parental support
42 obligation. The parties shall share equally the child care
44 costs, health insurance premiums and uninsured medical
44 expenses.

46 **Sec. 10. 19-A MRSA §2006, sub-§5, ¶D-1** is enacted to read:

48 D-1. When the parties do not have equal annual gross
incomes but provide substantially equal care for each child

2 for whom support is being determined, the presumptive
parental support obligation must be determined as follows.

4 (1) The enhanced support entitlement for each child
must be determined.

6 (2) Using the enhanced support entitlement, a parental
support obligation for each child must be determined by
8 dividing the total enhanced support obligation between
10 the parties in proportion to their respective gross
incomes.

12 (3) The party with the higher annual gross income has
14 a presumptive obligation to pay the other party the
lower of:

16 (a) The difference between their parental support
18 obligations as calculated in subparagraph (2); and

20 (b) The presumptive parental support obligation
determined for the payor party using the basic
22 support entitlement under the support guidelines
as though the other party provided primary
24 residential care of the child.

26 (4) The parties shall share the child care costs,
health insurance premiums and uninsured medical
28 expenses in proportion to their incomes.

30 **Sec. 12. 19-A MRSA §2006, sub-§7, ¶G,** as amended by PL 2001,
c. 264, §5, is further amended to read:

32 G. The parental support obligation of the nonprimary-care
34 provider party ordered to pay child support; and

36 **Sec. 13. 19-A MRSA §2006, sub-§8, ¶C,** as amended by PL 2001,
c. 264, §7, is further amended to read:

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

42 (1) The amount for basic support entitlements and the
amount for enhanced support entitlements, if applicable;

44 (2) The amount for child care costs;

46 (3) The amount for extraordinary medical expenses;

48

2 (4) The percentage of the total child care costs and
extraordinary medical expenses included in the parental
support obligation, if applicable; and

4 (5) The amount for health insurance premiums;

6 **Sec. 14. 19-A MRSA §2007, sub-§3, ¶A**, as enacted by PL 1995,
8 c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed and the
following enacted in its place:

10 A. The application of section 2006, subsection 5, paragraph
12 D or D-1 would be unjust, inequitable or not in the child's
best interest;

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SUMMARY

18 This amendment is the majority report of the committee. It
20 adds definitions for the terms used in the formula for
calculating child support when the parents have unequal incomes
22 but provide substantially equal care for the child. It also
clarifies that the child care costs, extraordinary medical
24 expenses and health insurance premiums are not included in the
calculations, but are shared by the parties in proportion to
their incomes.