

# MAINE STATE LEGISLATURE

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Minority

10/15

L.D. 234

DATE: 5-20-03

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

COMMITTEE AMENDMENT "B" 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.

COMMITTEE AMENDMENT

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  
          presumption that the parental support obligation derived from the  
36           support guidelines is the amount ordered to be paid, unless  
          support is established under section 2006, subsection 5 or  
38           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  
50           actually being expended for child care costs must be added

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

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

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

17  
18 **Sec. 8. 19-A MRSA §2006, sub-§4**, as enacted by PL 1995, c.  
19 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

20  
21 **4. Computation of parental support obligation.** The total  
22 basic support obligation must be divided between the parties in  
23 proportion to their respective gross incomes. The court or  
24 hearing officer shall order the party not providing primary  
25 residential care to pay, in money, that party's share of the  
26 total basic support obligation to the party providing primary  
27 residential care. The primary residential care provider is  
28 presumed to spend the primary care provider's share directly on  
29 each child. If the court or hearing officer determines that the  
30 parties provide substantially equal care for a child for whom  
31 support is sought, presumptive support must be calculated in  
32 accordance with subsection 5, paragraph D-1.

33  
34 **Sec. 9. 19-A MRSA §2006, sub-§5, ¶D**, as enacted by PL 1995, c.  
35 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

36  
37 D. When the parties have equal annual gross incomes and  
38 provide ~~residential~~ substantially equal care ~~equally~~ for  
39 each child for whom support is being determined, neither  
40 party is required to pay the other a parental support  
41 obligation. The parties shall share equally the child care  
42 costs, health insurance premiums and uninsured medical  
43 expenses.

44  
45 **Sec. 10. 19-A MRSA §2006, sub-§5, ¶D-1** is enacted to read:

46  
47 D-1. When the parties do not have equal annual gross  
48 incomes but provide substantially equal care for each child

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

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

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

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

15 (a) The enhanced support entitlement multiplied  
16 by the difference between the percentage of the  
17 higher income party's proportional share as  
18 calculated in subparagraph (2) and 50%; and

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

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

27  
28 **Sec. 12. 19-A MRSA §2006, sub-§7, ¶G,** as amended by PL 2001,  
29 c. 264, §5, is further amended to read:

30  
31 G. The parental support obligation of the ~~nonprimary-care~~  
32 ~~provider~~ party ordered to pay child support; and

33  
34 **Sec. 13. 19-A MRSA §2006, sub-§8, ¶C,** as amended by PL 2001,  
35 c. 264, §7, is further amended to read:

36  
37 C. A breakdown of the parental support obligation,  
38 including:

39  
40 (1) The amount for basic support entitlements and the  
41 amount for enhanced support entitlements, if applicable;

42  
43 (2) The amount for child care costs;

44  
45 (3) The amount for extraordinary medical expenses;

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

4  
6 (5) The amount for health insurance premiums;

8 **Sec. 14. 19-A MRSA §2007, sub-§3, ¶A**, as enacted by PL 1995,  
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  
14 best interest;

16 **SUMMARY**

18 This amendment is the minority report of the committee. It  
differs from the majority report in that the enhanced basic  
20 support obligation, after being divided in proportion to the  
obligors' gross income, is divided so that each parent ends up  
22 with 1/2 of the enhanced amount in that parent's home. The  
higher income party's payment is the enhanced support entitlement  
24 multiplied by the difference between that party's percentage of  
income and 50%. The obligation, however, is never greater than  
26 it would be under the basic support obligation.

28 This amendment adds definitions for the terms used in the  
formula for calculating child support when the parents have  
30 unequal incomes but provide substantially equal care for the  
child. It also clarifies that the child care costs,  
32 extraordinary medical expenses and health insurance premiums are  
not included in the calculations, but are shared by the parties  
34 in proportion to their incomes.