

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)



# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

---

Legislative Document

No. 1502

H.P. 1054

House of Representatives, March 28, 2005

### **An Act To Implement Recommendations of the Family Law Advisory Commission**

---

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

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

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

4 **Sec. 1. 19-A MRSA §§105 and 106** are enacted to read:

6 **§105. Award and payment of attorney's fees and other fees**

8 **1. Attorney's fees and costs.** In an action under this  
10 Title, including actions to modify or enforce existing orders,  
12 the court may, after an opportunity for hearing, order a party,  
including a party in interest, to pay another party or another  
party's attorney reasonable attorney's fees, including costs, for  
participation in the proceedings.

14 **2. While pending; part of final decision.** In appropriate  
16 cases, the court may order fees and costs paid while an action is  
18 pending, including while on appeal, or may make an order as part  
of a final decision in a case.

20 **3. Fees and expenses of 3rd-party participants.** The court  
22 may order a party to pay reasonable fees and expenses of  
24 3rd-party participants in the proceedings, including guardians ad  
litem, expert witnesses and providers of services, whether  
retained by a party or the court.

26 **4. Interest; means of collection.** Awards under this  
28 section are subject to the accumulation of statutory interest and  
30 may be collected by any means available under law, including, but  
32 not limited to, remedies available under Title 14 and Title 36,  
section 5276-A. Additional fees may be assessed in appropriate  
collection actions.

34 **§106. Exclusion of public**

36 **1. Court order to exclude.** In any action under this Title,  
38 upon the request of a party, either personally or through the  
40 party's attorney, the court shall exclude the public from the  
court proceedings, unless the other party who has entered an  
appearance objects either personally or through the other party's  
attorney. Even if the other party objects, the court may exclude  
the public from the court proceedings.

42 **2. Permitted to be present.** If the court excludes the  
44 public from the court proceedings, only the parties, their  
attorneys, court officers and witnesses may be present.

46 **Sec. 2. 19-A MRSA §352, sub-§1,** as enacted by PL 1995, c. 694,  
48 Pt. B, §2 and affected by Pt. E, §2, is amended to read:

2           **1. Membership.** The commission is composed of 9 ~~11~~ members  
3 appointed by the Chief Justice of the Supreme Judicial Court.  
4 The members must have experience in practicing family law or be  
5 knowledgeable about family law. The membership of the commission  
6 must include:

8           A. An active Superior Court Justice;

10           B. An active District Court Judge;

12           B-1. An active family case management officer;

14           C. A current Probate Court Judge;

16           D. Two members of the family law section of the Maine State  
17 Bar Association, or its successor;

18           E. A representative of a legal services organization;

20           E-1. A representative of the Court Alternative Dispute  
21 Resolution Service;

24           F. A representative of the department; and

26           G. Two public members, at least one of whom has experience  
27 providing mental health services.

28           **Sec. 3. 19-A MRSA §851, sub-§8, ¶¶B and E,** as enacted by PL  
29 1997, c. 224, §4 and affected by §5, are amended to read:

32           B. Make reasonable provision for either spouse's support,  
33 ~~on a motion for which costs and attorney's fees may be~~  
34 ~~ordered;~~

36           E. Enforce obedience by appropriate processes ~~on which~~  
37 ~~costs and attorney's fees are taxed as in other actions.~~

38           **Sec. 4. 19-A MRSA §901, sub-§6,** as enacted by PL 1995, c. 694,  
39 Pt. B, §2 and affected by Pt. E, §2, is amended to read:

42           **6. Attorney's fees and costs.** ~~The court may order either~~  
43 ~~party to pay the costs and attorney's fees of the other party in~~  
44 ~~the defense or prosecution of a divorce.~~ Attorney's fees awarded  
45 in the nature of support may be made payable immediately or in  
46 installments.

48           **Sec. 5. 19-A MRSA §904, sub-§1,** as enacted by PL 1995, c. 694,  
49 Pt. B, §2 and affected by Pt. E, §2, is repealed.

2           **Sec. 6. 19-A MRSA §904, sub-§§2 and 4**, as enacted by PL 1995,  
c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to read:

4  
6           **2. Support.** Make reasonable provision for either spouse's  
separate support, ~~on a motion for which costs and attorney's fees~~  
~~may be ordered;~~

8  
10           **4. Enforcement.** Enforce obedience by appropriate processes  
~~on which costs and attorney's fees are taxed as in other actions;~~

12           **Sec. 7. 19-A MRSA §952, sub-§1, ¶¶D and E**, as enacted by PL  
1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to  
14 read:

16           D. For payment of related attorney's fees; or

18           E. For alteration of an existing decree or order for the  
custody or support of a child; or

20           **Sec. 8. 19-A MRSA §952, sub-§1, ¶F** is enacted to read:

22           F. For division and disposition of property ancillary to a  
24 divorce judgment, including, but not limited to, proceedings  
26 to effectuate a qualified domestic relations order; to  
reach, attach or liquidate property; or to quiet title.

28           **Sec. 9. 19-A MRSA §952, sub-§3.** as enacted by PL 1995, c. 694,  
Pt. B, §2 and affected by Pt. E, §2, is amended to read:

30           **3. Attorney's fees.** ~~When making a final decree, the court~~  
32 ~~may order a party to pay reasonable attorney's fees.~~ Attorney's  
fees awarded in the nature of support may be made payable  
34 immediately or in installments.

36           **Sec. 10. 19-A MRSA §1552**, as enacted by PL 1995, c. 694, Pt.  
B, §2 and affected by Pt. E, §2, is amended to read:

38           **§1552. Obligations of father**

40           The father of a child who is or may be born out of wedlock  
42 is liable to the same extent as the father of a child born in  
wedlock, whether or not the child is born alive, for the  
44 reasonable expense of the mother's pregnancy and confinement and  
for the education, support and funeral expenses of the child, ~~and~~  
46 ~~reasonable attorney's fees for the prosecution of paternity~~  
~~proceedings.~~

2           **Sec. 11. 19-A MRSA §1606, sub-§6**, as enacted by PL 1995, c.  
694, Pt. B, §2 and affected by Pt. E, §2, is repealed.

4           **Sec. 12. 19-A MRSA §1653, sub-§8, ¶C**, as enacted by PL 1995,  
c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

6  
8           C. The court may require the payment of part or all of the  
medical expenses, hospital expenses and other health care  
expenses of the child. The court order must include a  
10          provision requiring ~~the-obligated~~ at least one parent to  
obtain and maintain health insurance coverage for medical,  
12          hospitalization and dental expenses, if reasonable cost  
health insurance is available to ~~the-obligated~~ that parent.  
14          The court order must also require the ~~obligated~~ parent  
providing insurance to furnish proof of coverage to the  
16          ~~obligee other parent~~ within 15 days of receipt of a copy of  
the court order. If reasonable cost health insurance is not  
18          available at the time of the hearing, the court order must  
establish the obligation to provide health insurance on the  
20          part of ~~the--obligated~~ at least one parent, effective  
immediately upon reasonable cost health insurance being  
22          available.

24           **Sec. 13. 19-A MRSA §1803, sub-§6**, as enacted by PL 1995, c.  
694, Pt. B, §2 and affected by Pt. E, §2, is repealed.

26           **Sec. 14. 19-A MRSA §2102**, as enacted by PL 1995, c. 694, Pt.  
28          B, §2 and affected by Pt. E, §2, is amended to read:

30          **§2102. Enforcement of rights**

32           The obligee may enforce the right of support against the  
obligor, and the State or any political subdivision of the State  
34          may proceed on behalf of the obligee to enforce that right of  
support against the obligor. When the State or a political  
36          subdivision of the State furnishes support to an obligee, it has  
the same right as the obligee to whom the support was furnished,  
38          for the purpose of securing an award for past support and of  
obtaining continuing support. ~~The-obligee's--right--of--support~~  
40          ~~includes-an-independent-right-to-see-appropriate-attorney's-fees~~  
~~for-handling-the-action.~~ An award of attorney's fees may be  
42          collected by any means available under the law, including, but  
not limited to, remedies available under Title 14 and Title 36,  
44          section 5276-A.

2

## SUMMARY

4           This bill puts into law recommendations of the Family Law  
Advisory Commission.

6

8           This bill authorizes a court to order payment of attorney's  
fees and costs while an action under the Maine Revised Statutes,  
Title 19-A is proceeding or when the action is completed.  
10          Current law authorizes attorney's fees in only limited types of  
family law actions. The court may order a party to pay the fees  
12          and expenses of 3rd-party participants, including guardians ad  
litem, expert witnesses and service providers. The costs of  
14          prosecuting a collection action may also be awarded. This bill  
deletes attorney's fees provisions throughout Title 19-A that are  
16          duplicative.

18          This bill adds a family case management officer and a  
representative of the Judicial Branch's Court Alternative Dispute  
20          Resolution Service to the membership of the Family Law Advisory  
Commission.

22

24          This bill amends the definition of "decree of spousal  
support, support or costs" to include an order for the division  
and disposition of property connected to a divorce judgment,  
26          including, among other actions, proceedings to effectuate a  
qualified domestic relations order, to reach, attach or liquidate  
28          property or to quiet title.

30          Current law presumes that the parent paying child support  
also provides health insurance for the child. This bill allows  
32          the court to order either parent to provide health insurance  
coverage for the child.