

MAINE STATE LEGISLATURE

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No. 628

H.P. 477

House of Representatives, February 8, 2007

An Act To Permit Modification of Department-initiated Paternity Judgments Concerning Parental Rights

Reported by Representative 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

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

2 **Sec. 1. 19-A MRSA §1565, sub-§2,** as enacted by PL 1995, c. 694, Pt. B, §2 and
3 affected by Pt. E, §2, is amended to read:

4 **2. Parental rights and responsibilities.** The court may order an initial allocation of
5 parental rights and responsibilities. The order of the court must provide notice that if
6 either party objects to the allocation, that party may file a complaint pursuant to section
7 1654 and that an order from that action supersedes this initial allocation of parental rights
8 and responsibilities. It is within the court's discretion to award or allocate parental rights
9 and responsibilities under this subchapter and the department is not a party to this issue.
10 In resolving parental rights and responsibilities issues, the court may not delay entering a
11 determination of paternity and an initial order concerning child support. After a final
12 paternity order has been entered, the department may file a motion to withdraw. Whether
13 or not the department has withdrawn, a party or a parent may file a motion to modify
14 pursuant to section 1653 or section 2009. A copy of the motion must be served in
15 accordance with the Maine Rules of Civil Procedure on the other parent and the
16 department, if the department has not withdrawn. A showing of substantial change in
17 circumstances is not required if the moving party has not previously appeared in the
18 action.

19 **Sec. 2. Application.** This Act applies to orders issued under the Maine Revised
20 Statutes, Title 19-A, section 1565, regardless of the date of issuance, if the initial
21 allocation of parental rights and responsibilities is still in effect.

22 **SUMMARY**

23 This bill is a recommendation of the Family Law Advisory Commission.

24 This bill addresses situations in which the Department of Health and Human Services
25 initiates a paternity action and the court establishes an initial allocation of parental rights
26 and responsibilities. Under current law, a parent interested in changing that allocation
27 must file a new complaint in District Court. This bill allows a parent or other party to file
28 a motion to modify the allocation as part of the paternity case rather than requiring the
29 filing of a new court action. The motion to modify is the same as any other motion to
30 modify in cases involving parental rights and responsibilities.

31 This bill also allows the Department of Health and Human Services to file a motion
32 to withdraw from the case once the final paternity order has been issued. Withdrawal
33 does not prohibit the department from petitioning to be made a part of action later if
34 necessary.

35 If the party filing the motion for modification of parental rights and responsibilities
36 did not appear in the action, that party is not required to show a substantial change in
37 circumstances as is otherwise required in motions to modify.

1 This bill includes an application section to make it clear that a new action need not be
2 filed to modify an initial allocation of parental rights and responsibilities made prior to
3 the effective date of this Act, as long as the initial allocation is still in effect.