

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION-2009

Legislative Document

No. 1459

S.P. 543

In Senate, April 14, 2009

An Act To Modify Child Support Enforcement Procedures and Requirements

Submitted by the Department of Health and Human Services pursuant to Joint Rule 204.
Reference to the Committee on Judiciary suggested and ordered printed.

Handwritten signature of Joy J. O'Brien in cursive.

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator SIMPSON of Androscoggin.

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

2 **Sec. 1. 14 MRSA §252**, as amended by PL 1995, c. 694, Pt. D, §13 and affected
3 by Pt. E, §2 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

4 **§252. Summary process where decree disobeyed; contempt**

5 Whenever a party or the Department of Health and Human Services, if it is
6 subrogated to a party under Title 19-A, chapter 65, subchapter H 2, article 3, complains in
7 writing and under oath that the process, decree or order of court or a decision of the
8 department pursuant to Title 19-A, section 2304, which is not, except as provided in Title
9 19-A, section 2101, for the payment of money only, has been disregarded or disobeyed
10 by any person, summary process shall issue by order of any justice, requiring that person
11 to appear on a day certain and show cause why that person should not be adjudged guilty
12 of contempt. Such a process must fix a time for answer to the complaint and may fix a
13 time for hearing on oral testimony, depositions or affidavits, or may fix successive times
14 for proof, counterproof and proof in rebuttal, or the time for hearing and manner of proof
15 may be subsequently ordered upon the return day or thereafter. The court may for good
16 cause enlarge the time for the hearing. If the person summoned does not appear as
17 directed or does not attend the hearing at the time appointed as enlarged, or if, upon
18 hearing, the person is found guilty of such disregard or disobedience, the person must be
19 adjudged in contempt and the court may issue a *capias* to bring the person before it to
20 receive sentence and may punish the person by any reasonable fine or imprisonment the
21 case requires. The court may allow the offender to give bail to appear at a time certain,
22 when the punishment may be imposed if the person continues in contempt; but when a
23 second time found guilty of contempt in disregarding or disobeying the same order or
24 decree, no bail may be allowed. When the person purges that contempt, the justice may
25 remit the fine or imprisonment or any portion thereof. Appeal from any order or decree or
26 judgment under this section must be governed by the Maine Rules of Civil Procedure.
27 Such an appeal may not suspend the enforcement of any such order or decree unless the
28 court so directs.

29 **Sec. 2. 19-A MRSA §1501, sub-§4**, as enacted by PL 1995, c. 694, Pt. B, §2 and
30 affected by Pt. E, §2, is repealed.

31 **Sec. 3. 19-A MRSA §1501, sub-§4-A** is enacted to read:

32 **4-A. Medical support.** "Medical support" means an amount ordered to be paid
33 toward the cost of health insurance provided by a public entity or by another parent
34 through employment or otherwise or for other medical costs not covered by insurance.

35 **Sec. 4. 19-A MRSA §1501, sub-§4-B** is enacted to read:

36 **4-B. Private health insurance.** "Private health insurance" means fee-for-service,
37 health maintenance organization, preferred provider organization and other types of
38 coverage available to either parent under which medical services could be provided to a
39 child. "Private health insurance" does not include insurance that provides coverage only
40 for accidental injury, specified disease, hospital indemnity, Medicare supplement,

1 disability income, long-term care or other limited benefit health insurance policies and
2 contracts.

3 **Sec. 5. 19-A MRSA §1501, sub-§4-C** is enacted to read:

4 **4-C. Reasonable cost.** "Reasonable cost" means the cost of private health insurance
5 to the parent responsible for providing medical support that does not exceed amounts
6 adopted by the Department of Health and Human Services in a rule implementing a cost-
7 reasonableness standard. "Cost of private health insurance" means the cost of adding the
8 child to existing coverage or the difference between self-only and family coverage, unless
9 that cost is determined to be unjust by a court or the Department of Health and Human
10 Services.

11 **Sec. 6. 19-A MRSA §1604**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected
12 by Pt. E, §2, is amended to read:

13 **§1604. Service**

14 Service of a notice under section 1605 must be made by personal service in-hand and
15 may be made by an authorized representative of the commissioner or by a person
16 authorized as provided for personal service of summons by the Maine Rules of Civil
17 Procedure, Rule 4(d). Personal service within the State of a notice under section 1605
18 may be made by an authorized representative of the commissioner. Personal service
19 outside the State of a notice under section 1605 may be made in the manner provided for
20 personal service of summons outside the State by the Maine Rules of Civil Procedure,
21 Rule 4(e).

22 **Sec. 7. 19-A MRSA §1653, sub-§8, ¶C**, as amended by PL 2005, c. 323, §12, is
23 further amended to read:

24 C. The court may require the payment of part or all of the medical expenses, hospital
25 expenses and other health care expenses of the child. The court order must include a
26 provision requiring at least one parent to obtain and maintain private health insurance
27 coverage for medical, hospitalization and dental expenses the child, if reasonable cost
28 private health insurance for the child is available to that parent at reasonable cost.
29 The court order must also require the parent providing insurance to furnish proof of
30 coverage to the other parent within 15 days of receipt of a copy of the court order. If
31 ~~reasonable cost private health insurance for the child~~ is not available at reasonable
32 cost at the time of the hearing, the court order must ~~establish the obligation to provide~~
33 include a provision requiring at least one parent to obtain and maintain private health
34 insurance on the part of at least one parent, for the child that must be effective
35 immediately upon reasonable cost private health insurance for the child being
36 available at reasonable cost.

37 **Sec. 8. 19-A MRSA §2001, sub-§5, ¶E**, as amended by PL 2003, c. 123, §1, is
38 further amended to read:

39 E. Gross income of an obligor does not include the amount of a preexisting spousal
40 maintenance support obligation to a former spouse who is not the parent of the child
41 for whom support is being determined ~~or~~, a preexisting child support obligation

1 actually paid pursuant to court or administrative order, or an appropriate amount of
2 preexisting child support being voluntarily paid by a party who has a legal obligation
3 to support that child.

4 **Sec. 9. 19-A MRSA §2001, sub-§5-A**, as enacted by PL 2007, c. 448, §1, is
5 repealed.

6 **Sec. 10. 19-A MRSA §2001, sub-§5-B**, as enacted by PL 2007, c. 448, §2, is
7 repealed.

8 **Sec. 11. 19-A MRSA §2001, sub-§5-C**, as enacted by PL 2007, c. 448, §3, is
9 repealed.

10 **Sec. 12. 19-A MRSA §2006, sub-§3, ¶C**, as amended by PL 2003, c. 415, §7, is
11 further amended to read:

12 C. ~~If a party is paying health insurance premiums~~ private health insurance for the
13 child is available at reasonable cost, the sums actually being expended for cost of
14 private health insurance premiums for the child or children for whom support is being
15 ordered must be added to the basic support entitlement to determine the total basic
16 support obligation. ~~The court shall determine the pro rata share of the health~~
17 ~~insurance premium actually expended that is attributable to each child.~~ For the
18 purposes of this paragraph, "the cost of private health insurance" is the cost of adding
19 the child to existing coverage or the difference between self-only and family
20 coverage.

21 **Sec. 13. 19-A MRSA §2006, sub-§5, ¶B**, as amended by PL 2001, c. 264, §4, is
22 further amended to read:

23 B. When the parties' combined annual gross income exceeds ~~\$240,000~~ the highest
24 income amount in the child support table, the child support table is not applicable,
25 except that the basic weekly child support entitlement of a child is presumed to be not
26 less than that set forth in the table for ~~a combined annual gross income of \$240,000~~
27 the highest income amount in the table.

28 **Sec. 14. 19-A MRSA §2006, sub-§5, ¶C**, as amended by PL 2001, c. 554, §10,
29 is further amended to read:

30 C. The subsistence needs of the nonprimary care provider must be taken into
31 account when establishing the parental support obligation. If the annual gross income
32 of the nonprimary care provider is less than the federal poverty guideline, the
33 nonprimary care provider's weekly parental support obligation for each child for
34 whom a support award is being established or modified may not exceed 10% of the
35 nonprimary care provider's weekly gross income, regardless of the amount of the
36 parties' combined annual gross income. The child support table includes a self-
37 support reserve ~~for obligors earning less than \$12,600 per year within each age~~
38 category. If, within an age category, the nonprimary care provider's annual gross
39 income, without adjustments, is in the self-support reserve, for the total number of
40 children for whom support is being determined, the amount listed in the table ~~for the~~
41 ~~number of children is~~ self-support reserve multiplied by the number of children in the

1 age category is the nonprimary care provider's basic support obligation for the
2 children in that age category, regardless of the parties' combined annual gross
3 income. The nonprimary care provider's proportional share of childcare, health
4 insurance premiums and extraordinary medical expenses are added to this basic
5 support obligation. This paragraph does not apply if its application would result in a
6 greater support obligation than a support obligation determined without application of
7 this paragraph.

8 **Sec. 15. 19-A MRSA §2006, sub-§8, ¶F**, as amended by PL 2005, c. 352, §4, is
9 further amended to read:

10 F. If the court or hearing officer ultimately determines that the order for current
11 support is to be set under section 2007, the written findings of the court or hearing
12 officer in support of the deviation; and

13 **Sec. 16. 19-A MRSA §2006, sub-§8, ¶G**, as enacted by PL 2005, c. 352, §5, is
14 amended to read:

15 G. With regard to any initial or modified child support order that affects more than
16 one child and that was entered before January 18, 2005, unless that order states the
17 manner in which the order must be modified upon the events listed in subparagraphs
18 (1) to (4), that the order be automatically modified pursuant to this paragraph to
19 address any of the following events:

- 20 (1) Any child reaches 18 years of age and has graduated from secondary school;
21 (2) Any child reaches 19 years of age without having graduated from secondary
22 school;
23 (3) Any child obtains an order of emancipation; or
24 (4) Any child dies.

25 As of the date of an event listed in subparagraphs (1) to (4), the total child support
26 amount stated in the order must be decreased by the child support amount assigned to
27 that child in the worksheets accompanying the child support order or as set forth in
28 the order; and

29 **Sec. 17. 19-A MRSA §2006, sub-§8, ¶H** is enacted to read:

30 H. A requirement that private health insurance must be provided for the benefit of
31 the child, if private health insurance for the child is available at reasonable cost. If
32 private health insurance for the child is not available at reasonable cost at the time of
33 the hearing, a requirement that private health insurance for the child must be provided
34 effective immediately upon being available at reasonable cost.

35 **Sec. 18. 19-A MRSA §2009, sub-§1-A** is enacted to read:

36 1-A. Motion to modify by department. When a parent receives public assistance
37 for the benefit of a dependent child, the department may file a motion to modify support
38 regardless of whether the parent has been allocated the primary residential care of the
39 dependent child pursuant to chapter 55.

1 **Sec. 19. 19-A MRSA §2009, sub-§4**, as enacted by PL 1995, c. 694, Pt. B, §2
2 and affected by Pt. E, §2, is repealed.

3 **Sec. 20. 19-A MRSA §2009, sub-§4-A** is enacted to read:

4 **4-A. Service.** Except as otherwise provided in this subsection, service of a motion to
5 modify support must be made in the manner provided for service of summons by the
6 Maine Rules of Civil Procedure, Rule 4. For the purpose of this subsection, this service
7 must be deemed to be an action pursuant to Chapter XIII of the Maine Rules of Civil
8 Procedure. When the department is providing child support services, personal service
9 within the State of a motion to modify support may be made by authorized
10 representatives of the commissioner. Service of the motion must be accompanied by:

11 A. A notice that the court may enter an order without hearing if the party does not
12 request a hearing;

13 B. A notice of the right to request a hearing;

14 C. A notice of the requirement of mediation prior to a hearing;

15 D. The income affidavit of the moving party or the party receiving the assistance of
16 the department, as well as the responding party's affidavit, if available;

17 E. A proposed order, incorporating the child support worksheet; and

18 F. Any stipulation entered into by the parties.

19 **Sec. 21. 19-A MRSA §2106, sub-§1**, as amended by PL 2001, c. 554, §12, is
20 further amended to read:

21 **1. Enrollment of dependent children in employer health plans.** If a parent is
22 required by a support order to provide ~~health care coverage~~ private health insurance for a
23 child and the parent is eligible for ~~family health care coverage~~ health insurance through
24 an employer doing business in the State then, upon application by either parent or notice
25 from the court or the department, the employer or plan administrator shall enroll the
26 child, if otherwise eligible, in the employer health plan without regard to any enrollment
27 season restrictions, except as provided by subsection 2. If the employer offers more than
28 one plan, the employer or plan administrator shall enroll the child in the plan in which the
29 employee is enrolled or, if the employee is not enrolled, in the least costly plan otherwise
30 available, if the plan's services are available where the child resides. If the services of the
31 employee's plan or the least costly plan are not available where the child resides, the
32 employer or plan administrator shall enroll the child in the least costly plan that is
33 available where the child resides. If the plan requires that the participant be enrolled in
34 order for the child to be enrolled, and the participant is not currently enrolled, the
35 employer or the plan administrator must enroll both the participant and the child. The
36 enrollments must be without regard to open season restrictions. The court or the
37 department ~~shall order health care coverage using the~~ may issue to a parent's employer or
38 other payor of income a medical support notice to enforce a parent's obligation to obtain
39 or maintain health insurance coverage or other health care services for each dependent
40 child of the parent. The format of the medical support notice must be the federal National
41 Medical Support Notice as required by the Child Support Performance and Incentives Act

1 of 1998, Public Law 105-200, 42 United States Code, Section 666(a)(19)(A) and the
2 federal Employee Retirement Income Security Act of 1974, 29 United States Code,
3 Section 1169(a)(5)(C). The employer or other payor of income shall complete Part A of
4 the National Medical Support Notice and the plan administrator shall complete Part B.

5 **Sec. 22. 19-A MRSA §2106, sub-§4**, as amended by PL 2001, c. 554, §13, is
6 further amended to read:

7 **4. Answer.** The employer shall respond within 20 days to a parent who requests
8 enrollment or, if a medical support notice has been issued, to the court or the department
9 within 20 days and confirm:

- 10 A. That the child has been enrolled in the employer's health plan;
11 B. The date when the child will be enrolled, if enrollment is pending; or
12 C. That coverage can not be provided, stating the reasons why coverage can not be
13 provided.

14 **Sec. 23. 19-A MRSA §2201, sub-§1**, as amended by PL 2005, c. 352, §8, is
15 further amended to read:

16 **1. Notice.** The department may serve notice upon a support obligor who is not in
17 compliance with an order of support that informs the obligor of the department's intention
18 to submit the obligor's name to the appropriate board as a licensee who is not in
19 compliance with an order of support. The notice must inform the obligor that:

20 A. The obligor may request an administrative hearing to contest the issue of
21 compliance;

22 B. A request for hearing must be made in writing and must be received by the
23 department within 20 days of service;

24 C. If the obligor requests a hearing within 20 days of service, the department shall
25 stay the action to certify the obligor to a board for noncompliance with an order of
26 support pending a decision after hearing;

27 D. If the obligor does not request a hearing within 20 days of service and is not in
28 compliance with an order of support, the department shall certify the obligor to the
29 appropriate board for noncompliance with an order of support;

30 E. If the department certifies the obligor to a board for noncompliance with an
31 order of support, the board must revoke the obligor's license and refuse to issue or
32 reissue a license until the obligor provides the board with a written confirmation of
33 compliance from the department that states the obligor is in compliance with the
34 obligor's order of support. A revocation by an agency or a refusal by an agency to
35 reissue, renew or otherwise extend the license or certificate of authority is deemed a
36 final determination within the meaning of Title 5, section 10002;

37 F. If the obligor files a motion to modify support with the court or requests the
38 department to amend a support obligation established by an administrative decision,
39 the department shall stay action to certify the obligor to a board for noncompliance
40 with an order of support; and

1 G. The obligor can comply with an order of support by:

2 (1) Paying current support;

3 (2) Paying all past-due support or, if unable to pay all past-due support and a
4 periodic payment for past-due support has not been ordered by the court, by
5 making periodic payments in accordance with a written payment agreement with
6 the department; and

7 (3) Meeting the obligor's health insurance obligation.

8 The notice must include the address and telephone number of the department's support-
9 enforcement office that issues the notice and a statement of the need to obtain a written
10 confirmation of compliance from that office as provided in subsection 8. The department
11 shall attach a copy of the obligor's order of support to the notice. Service of the notice
12 must be made by ~~certified mail, return receipt requested, by service in hand, or as~~
13 specified in the manner provided for service of summons by the Maine Rules of Civil
14 Procedure, Rule 4. For purposes of this section subsection, this must be deemed to be an
15 action pursuant to Chapter XIII of the Maine Rules of Civil Procedure. Personal service
16 within the State of the notice described in this subsection may be made by an authorized
17 representatives representative of the commissioner may serve the notice.

18 **Sec. 24. 19-A MRSA §2201, sub-§15**, as amended by PL 2003, c. 396, §8, is
19 repealed.

20 **Sec. 25. 19-A MRSA §2202, sub-§2**, as enacted by PL 1995, c. 694, Pt. B, §2
21 and affected by Pt. E, §2, is amended to read:

22 **2. Notice.** The commissioner may serve notice upon a support obligor who is not in
23 compliance with an order of support that informs the obligor of the commissioner's
24 intention to certify the obligor to the Secretary of State as an individual who is not in
25 compliance with an order of support. The notice must inform the obligor that:

26 A. The obligor may contest the issue of compliance at an administrative hearing;

27 B. A request for hearing must be made in writing and must be received by the
28 department within 20 days of service;

29 C. If the obligor requests a hearing within 20 days of service, the department shall
30 stay the action to certify the obligor to the Secretary of State for noncompliance with
31 an order of support pending a decision after hearing;

32 D. If the obligor does not timely request a hearing to contest the issue of
33 compliance and does not obtain a written confirmation of compliance from the
34 department, the commissioner shall certify the obligor to the Secretary of State for
35 noncompliance with an order of support;

36 E. If the commissioner certifies the obligor to the Secretary of State, the Secretary
37 of State must suspend any motor vehicle operator's licenses that the obligor holds and
38 the obligor's right to apply for or obtain a motor vehicle operator's license;

1 F. If the obligor requests a hearing, the obligor shall direct the request to the
2 department's support enforcement office that is responsible for handling the obligor's
3 case;

4 G. If the obligor files a motion to modify support with the court or requests the
5 department to amend a support obligation established by an administrative decision,
6 the department shall stay action to certify the obligor to the Secretary of State for
7 noncompliance with an order of support; and

8 H. The obligor can comply with an order of support by:

9 (1) Paying current support;

10 (2) Paying all past-due support or, if unable to pay all past-due support and a
11 periodic payment for past-due support has not been ordered by the court, by
12 making periodic payments in accordance with a written payment agreement with
13 the department; and

14 (3) Meeting the obligor's health insurance obligation.

15 The notice must include the address and telephone number of the department's support
16 enforcement office that issues the notice and a statement of the need for the obligor to
17 obtain a written confirmation of compliance from that office as provided in subsection 8.
18 The department shall attach a copy of the obligor's order of support to the notice. The
19 notice must be served by certified mail, return receipt requested, by service in hand, or as
20 specified made in the manner provided for service of summons by the Maine Rules of
21 Civil Procedure, Rule 4. For purposes of this ~~section~~ subsection, this notice must be
22 deemed to be an action pursuant to Chapter XIII of the Maine Rules of Civil Procedure.
23 Personal service within the State of the notice described in this subsection may be made
24 by an authorized representative of the commissioner may serve the notice.

25 **Sec. 26. 19-A MRSA §2202, sub-§12,** as enacted by PL 1995, c. 694, Pt. B, §2
26 and affected by Pt. E, §2, is repealed.

27 **Sec. 27. 19-A MRSA §2203, sub-§5,** as enacted by PL 1995, c. 694, Pt. B, §2
28 and affected by Pt. E, §2, is amended to read:

29 **5. Sheriff or levying officer.** An order to seize and sell may be sent by the
30 department to a county sheriff or levying officer. ~~When the order is issued, the~~
31 ~~department shall serve a copy of the order on all persons other than the obligor who the~~
32 ~~department knows have an ownership interest in the property identified in the order. If~~
33 ~~personal service is unsuccessful, the department shall mail the order to the person's last~~
34 ~~known address by regular mail.~~ Upon receipt of the order, the sheriff or levying officer
35 shall proceed to execute the order in the same manner as prescribed for execution of a
36 judgment. A sheriff or levying officer shall return the order, along with any funds
37 collected, to the department within 90 days of the receipt of the order. Funds resulting
38 from execution of the order must first be applied to the sheriff's or levying officer's costs,
39 then to any superior liens and then to the support lien or other money obligation and any
40 inferior liens of which the department has notice. Any amounts in excess of this
41 distribution must be paid to the obligor. If the order is returned not fully satisfied, the

1 department has the same remedies to collect the deficiency as are available for any civil
2 judgment.

3 **Sec. 28. 19-A MRSA §2203, sub-§6**, as enacted by PL 1995, c. 694, Pt. B, §2
4 and affected by Pt. E, §2, is amended to read:

5 **6. Right to hearing.** ~~Before~~ At least 20 calendar days before the sale, the
6 department shall serve a copy of the order on the obligor and all other persons that the
7 department knows have an ownership interest in the property identified in the order.
8 Service of an order under this subsection must be made in the manner provided for
9 service of summons by the Maine Rules of Civil Procedure, Rule 4. For purposes of this
10 subsection, this service must be deemed to be an action pursuant to Chapter XIII of the
11 Maine Rules of Civil Procedure. Personal service within the State of a copy of the order
12 may be made by an authorized representative of the commissioner. The obligor and any
13 other persons who claim an ownership interest in the property seized under an order to
14 seize and sell have a right to an administrative hearing to contest the seizure and sale of
15 the property and to establish the value of their relative interest in the property. A request
16 for a hearing must be in writing and must be received by the department within 10
17 calendar days of the seizure service of a copy of the order. Upon receiving a request for a
18 hearing, the department shall notify all persons who the department has reason to believe
19 have an ownership interest in the property of the time, place and nature of the hearing.

20 A. Anyone requesting a hearing has the right to a preliminary hearing within 5
21 business days of the hearing request. At the preliminary hearing, if the hearing
22 officer determines that there is reasonable ground to believe the seizure was lawful
23 and that the obligor owes a support debt that could be satisfied in whole or in part by
24 nonexempt property that has been seized, the hearing officer shall require the seizure
25 to remain in force and schedule a final hearing, allowing all parties reasonable time to
26 collect evidence and prepare for the final hearing. If the hearing officer determines
27 that the seizure was not lawful or that the obligor does not owe a support debt that
28 could be satisfied in whole or in part by nonexempt property that has been seized, the
29 hearing officer shall declare the order to seize and sell void.

30 B. The department shall notify any person who the department has reason to believe
31 has an ownership interest in the seized property of the time and place of the final
32 hearing. At the final hearing, the hearing officer shall determine:

- 33 (1) Whether the obligor owes a support debt;
- 34 (2) Whether the support debt could be satisfied in whole or in part by the
35 property seized;
- 36 (3) The percentage share of ownership of all persons claiming an ownership
37 interest in the property;
- 38 (4) The amount of the debtor's interest in the property that is exempt; and
- 39 (5) The value of the interest in the property owned by nonobligor parties with an
40 interest superior to that of the department.

41 **Sec. 29. 19-A MRSA §2253**, as enacted by PL 1995, c. 694, Pt. B, §2 and
42 affected by Pt. E, §2, is repealed.

1 **Sec. 30. 19-A MRSA §2254**, as enacted by PL 1995, c. 694, Pt. B, §2 and
2 affected by Pt. E, §2, is amended to read:

3 **§2254. Service**

4 Service of a notice, order or lien described in this article ~~may~~ must be by ~~certified~~
5 ~~mail, return receipt requested, by service in hand as specified in civil actions or by~~
6 ~~publication as specified in civil actions~~ made in the manner provided for service of
7 summons by the Maine Rules of Civil Procedure, Rule 4. For the purposes of this article
8 ~~only, section, this service must be deemed to be an action pursuant to Chapter XIII of the~~
9 Maine Rules of Civil Procedure. Personal service within the State of a notice, order or
10 lien described in this article may be made by an authorized representatives representative
11 of the commissioner may serve a notice or lien described in this article.

12 **1. Date of service.** ~~Service is completed when the certified mail is received or~~
13 ~~refused, or when specified in civil actions for service in hand or by publication.~~

14 **2. Branch banks.** ~~Service on a bank or other financial institution maintaining~~
15 ~~branch offices is only effective as to the accounts, credits or other personal property of~~
16 ~~the responsible parent in the particular branch on which service is made.~~

17 **Sec. 31. 19-A MRSA §2306, sub-§9** is enacted to read:

18 **9. Responsible person liability.** A person who is responsible for a payor's duty to
19 comply with a withholding order issued under this section and who willfully fails to send
20 withheld earnings to the department within 7 business days of the day on which the payee
21 is usually paid is jointly and severally liable under this section for the amount of any
22 earnings not sent and for any civil penalties, attorney's fees and court costs imposed under
23 this section.

24 **Sec. 32. 19-A MRSA §2308, sub-§1**, as amended by PL 2001, c. 554, §14, is
25 further amended to read:

26 **1. Issuance of notice.** The department, on its own behalf, on behalf of a custodial
27 parent who applies for the department's support enforcement services or on behalf of
28 another state's Title IV-D agency, political subdivision or agent, may issue to a
29 ~~responsible~~ parent's employer or other payor of income a medical support notice to
30 enforce a ~~responsible~~ parent's obligation to obtain or maintain health insurance coverage
31 or other health care services for each dependent child of the ~~responsible~~ parent. The
32 medical support notice must be in the format of the federal National Medical Support
33 Notice as required by the Child Support Performance and Incentives Act of 1998, Public
34 Law 105-200, 42 United States Code, Section 666(a)(19)(A) and the federal Employee
35 Retirement Income Security Act of 1974, 29 United States Code, Section 1169(a)(5)(C).
36 The employer or other payor of income shall complete Part A of the National Medical
37 Support Notice and the plan administrator shall complete Part B.

38 **Sec. 33. 19-A MRSA §2308, sub-§6**, as amended by PL 2001, c. 554, §14, is
39 further amended to read:

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

5 **Sec. 34. 19-A MRSA §2308, sub-§14,** as amended by PL 2001, c. 554, §14, is
6 further amended to read:

7 **14. Employee protected.** An employer who discharges, refuses to employ or takes
8 disciplinary action against a responsible parent, or who otherwise discriminates against
9 that a parent because of the existence of the medical support notice or the obligation the
10 medical support notice imposes upon the employer, is subject to a civil penalty of not
11 more than \$5,000 payable to the State, to be recovered in a civil action. The employer is
12 also subject to an action by the responsible parent for compensatory and punitive
13 damages, plus attorney's fees and court costs.

14 **Sec. 35. 19-A MRSA §2308, sub-§15,** as amended by PL 2001, c. 554, §14, is
15 further amended to read:

16 **15. Service.** A medical support notice must be served on the responsible parent's
17 employer or other payor of earnings. ~~Service may be by certified mail, return receipt~~
18 ~~requested, by an authorized representative of the commissioner, by personal service as~~
19 ~~permitted~~ must be made in the manner provided for service of summons by the Maine
20 Rules of Civil Procedure, Rule 4 ~~or as otherwise permitted by sections 2253 and 2254.~~
21 For purposes of this subsection, this service must be deemed to be an action pursuant to
22 Chapter XIII of the Maine Rules of Civil Procedure. Personal service within the State of
23 a copy of the notice may be made by an authorized representative of the commissioner.
24 The department shall send a copy of the medical support notice to the responsible parent
25 at the responsible parent's most recent address of record.

26 **Sec. 36. 19-A MRSA §2361, sub-§1,** as amended by PL 1997, c. 466, §23 and
27 affected by §28, is further amended to read:

28 **1. Order.** The commissioner may commence an action under Title 14, chapter 502
29 by directing a responsible parent to appear before the department to disclose under oath
30 information that relates to the responsible parent's ability to pay child support. The
31 commissioner may require a responsible parent who is directed to appear to provide
32 documents, papers and other evidence about the responsible parent's income and assets
33 for the purpose of enforcing a support order. ~~An~~ Notwithstanding section 2254, an order
34 to appear and disclose must be served on the responsible parent by personal service as
35 provided for personal service of summons by the Maine Rules of Civil Procedure, Rule
36 4(d). Personal service within the State of an order to appear and disclose may be made by
37 an authorized representative of the commissioner. Personal service outside the State of
38 an order to appear and disclose may be made in the manner provided for personal service
39 of summons outside the State by the Maine Rules of Civil Procedure, Rule 4(e).

40 **Sec. 37. 19-A MRSA §2658,** as enacted by PL 1995, c. 694, Pt. B, §2 and
41 affected by Pt. E, §2, is amended to read:

1 **§2658. Service of process**

2 Service under this subchapter ~~may must be by certified mail or in accordance with the~~
3 ~~requirements of~~ made in the manner provided for service of summons by the Maine Rules
4 of Civil Procedure, Rule 4. The department may serve an income withholding order as
5 provided in section 2254. For purposes of this section, this service must be deemed to be
6 an action pursuant to Chapter XIII of the Maine Rules of Civil Procedure. When the
7 department is providing child support services, personal service within the State of an
8 income withholding order may be made by an authorized representative of the
9 commissioner.

10 **Sec. 38. 19-A MRSA §2662, sub-§5** is enacted to read:

11 **5. Responsible person liability.** A person who is responsible for a payor's duty to
12 comply with the provisions of an income withholding order issued under this subchapter
13 and who willfully fails to send withheld income to the department within 7 business days
14 of the day on which the obligor is usually paid is jointly and severally liable under this
15 section for the amount of any income not sent and for any civil penalties, attorney's fees
16 and court costs imposed under this section.

17 **Sec. 39. 19-A MRSA §2670, sub-§1**, as enacted by PL 1997, c. 537, §51 and
18 affected by §62, is amended to read:

19 **1. Use of this State's income withholding law.** When a payor receives an income
20 withholding order issued by another state for an obligor whose principal place of
21 employment is in this State, the payor shall apply the ~~income withholding law of the state~~
22 ~~of the obligor's principal place of employment~~ provisions of this subchapter when
23 determining:

- 24 A. The payor's fee for processing an income withholding order;
- 25 B. The maximum amount permitted to be withheld from the obligor's income;
- 26 C. The time in which the payor must implement the income withholding order and
27 forward the child support payment;
- 28 D. The priorities for withholding and allocating income withheld for multiple child
29 support obligees; and
- 30 E. Any withholding terms or conditions not specified in the order.

31 **Sec. 40. 19-A MRSA §2674** is enacted to read:

32 **§2674. Maximum amount permitted to be withheld**

33 The maximum amount permitted to be withheld from the obligor's income must be
34 determined in accordance with section 2356.

35 **Sec. 41. 19-A MRSA §2675** is enacted to read:

1 **§2675. Allocating income withheld for multiple child support obligees**

2 A payor of earnings that receives 2 or more withholding orders for the purpose of
3 enforcing or paying a child support obligation with respect to the earnings of the same
4 obligor shall withhold the full amount of all current support obligations before
5 withholding the obligor's support arrears. If the payor is prohibited by section 2356 from
6 withholding the full amount of current support obligations, the payor satisfies the terms of
7 the orders if the payor withholds a pro rata amount of current support pursuant to each
8 order. If the payor is prohibited by this section or section 2356 from withholding the full
9 amount of support arrears, the payor satisfies the terms of the orders if the payor
10 withholds a pro rata amount of support arrears pursuant to each order.

11 **Sec. 42. Rules.** The Department of Health and Human Services shall adopt rules
12 regarding reasonable cost as described in the Maine Revised Statutes, Title 19-A, section
13 1501, subsection 4-C. Rules adopted pursuant to this section are routine technical rules
14 pursuant to Title 5, chapter 375, subchapter 2-A.

15 **SUMMARY**

16 This bill makes the following changes to the laws governing child support
17 enforcement.

18 1. It authorizes a court to issue summary process for contempt if an administrative
19 child support order has been disregarded or disobeyed.

20 2. It repeals the definition of "reasonable cost health insurance" and replaces it with
21 definitions for "medical support," "private health insurance" and "reasonable cost" in
22 accordance with final federal regulations for medical support in child support
23 enforcement programs.

24 3. It clarifies that service of a notice in the expedited paternity process must be made
25 in accordance with the requirements for personal service provided by Rule 4(d) of the
26 Maine Rules of Civil Procedure.

27 4. It implements requirements of final federal regulations for medical support in
28 child support enforcement programs.

29 5. It deletes the requirement that the amount of support in a child support order be
30 "actually paid" before it can be excluded from the calculation of gross income for the
31 purpose of calculating support for another child.

32 6. It repeals definitions of "health plan," "medical care costs" and "medical support"
33 pursuant to requirements of final federal regulations for medical support in child support
34 enforcement programs.

35 7. It implements requirements of final federal regulations for medical support in
36 child support enforcement programs.

- 1 8. It extends the application of the child support table to the "highest income amount
2 in the child support table."
- 3 9. It extends the application of the self-support reserve in the child support table to
4 incomes greater than \$12,600.
- 5 10. It authorizes a process by which the Department of Health and Human Services
6 may seek child support from a parent regardless of whether there is an order granting
7 primary residential care of the child to that parent if the other parent is receiving public
8 assistance for the child.
- 9 11. It clarifies that service of a motion to modify support is made in the manner as is
10 provided for service of process by the Maine Rules of Civil Procedure, Rule 4.
- 11 12. It clarifies that service of a notice of intention to certify that an obligor is not in
12 compliance with a support order and therefore may have that obligor's license revoked or
13 suspended is made in the same manner as is provided for service of process by the Maine
14 Rules of Civil Procedure, Rule 4.
- 15 13. It repeals specific biennial reporting requirements by the department to the
16 Governor and Legislature regarding administrative license revocation.
- 17 14. It requires a 20-day notice to an obligor and other interested parties before the
18 sale of any property seized under an order to seize and sell and that service of the notice
19 be made in the same manner as is provided for service of process by the Maine Rules of
20 Civil Procedure, Rule 4.
- 21 15. It clarifies that service of an administrative support enforcement notice, order or
22 lien is made in the same manner as is provided for service of process by the Maine Rules
23 of Civil Procedure, Rule 4.
- 24 16. It creates joint and several liability of a responsible person for failure to timely
25 send to the department support payments that have been withheld pursuant to a
26 withholding order.
- 27 17. It clarifies that service of an order to appear and disclose must be made in
28 accordance with the requirements for personal service provided by the Maine Rules of
29 Civil Procedure, Rule 4(d).
- 30 18. It clarifies that service of an income withholding order for support is made in the
31 same manner as is provided for service of process by the Maine Rules of Civil Procedure,
32 Rule 4.
- 33 19. It clarifies what income withholding law applies to a withholding order issued by
34 another state for an obligor whose principal place of employment is this State.
- 35 20. It clarifies that the maximum amount permitted to be withheld from an obligor's
36 income is the same regardless of whether the withholding order is issued administratively
37 or by a court.

1 21. It establishes, in accordance with the requirements of the Uniform Interstate
2 Family Support Act as enacted in this State, the law of this State regarding priority and
3 allocation of income withheld for 2 or more child support obligees.