

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1637

S.P. 654

In Senate, April 12, 2023

An Act to Prohibit the Revocation of a Professional or Occupational License for Lapsed Child Support Payments

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BRAKEY of Androscoggin. (BY REQUEST)
Cosponsored by Representatives: BOYER of Poland, SAMPSON of Alfred.

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

2 **Sec. 1. 10 MRSA §8005**, as amended by PL 1995, c. 694, Pt. D, §7 and affected by
3 Pt. E, §2, is repealed.

4 **Sec. 2. 10 MRSA §8006**, as amended by PL 2003, c. 193, §2; c. 396, §§1 and 2;
5 and c. 689, Pt. B, §6, is further amended to read:

6 **§8006. Licensees not in compliance with court order of support and other court**
7 **orders; enforcement of parental support obligations and suspensions**

8 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
9 following terms have the following meanings.

10 A. "Board" means any bureau, board or commission listed in section 8001 or 8001-A,
11 other licensors that are affiliated with or are a part of the department and the Board of
12 Overseers of the Bar.

13 ~~B. "Compliance with a support order" means that the support obligor has obtained or~~
14 ~~maintained health insurance coverage if required by a support order and is:~~

15 ~~(1) No more than 60 days in arrears in making any of the following payments:~~

16 ~~(a) Payments in full for current support;~~

17 ~~(b) Periodic payments on a support arrearage pursuant to a written agreement~~
18 ~~with the Department of Health and Human Services; and~~

19 ~~(c) Periodic payments as set forth in a support order; and~~

20 ~~(2) No more than 30 days in arrears in making payments as described in~~
21 ~~subparagraph (1) if the obligor has been in arrears for more than 30 days in making~~
22 ~~payments as described in subparagraph (1) at least 2 times within the past 24~~
23 ~~months.~~

24 ~~C. "Support order" means a judgment, decree or order, whether temporary, final or~~
25 ~~subject to modification, issued by a court or an administrative agency of competent~~
26 ~~jurisdiction for the support and maintenance of a child, including a child who has~~
27 ~~attained the age of majority under the law of the issuing state, or a child and the parent~~
28 ~~with whom the child is living, that provides for monetary support, health care,~~
29 ~~arrearages or reimbursement and may include related costs and fees, interest and~~
30 ~~penalties, income withholding, attorney's fees and other relief.~~

31 D. "Court-ordered suspension" means a suspension by a court of the right of a licensee
32 to hold a professional license based on the contempt procedures pursuant to Title 14,
33 sections 3141 and 3142.

34 ~~**2. Noncompliance with a support order.** An applicant for the issuance or renewal~~
35 ~~of a license or an existing licensee regulated by a board who is not in compliance with a~~
36 ~~support order is subject to the requirements of Title 19-A, section 2201.~~

37 **3. Court-ordered suspension.** An applicant for the issuance or renewal of a license
38 or an existing licensee regulated by a board who has not paid a court-ordered fine, court-
39 appointed attorney's fees or court-ordered restitution is subject to court suspension of all
40 licenses as provided in Title 14, sections 3141 and 3142.

1 **Sec. 3. 12 MRSA §6308**, as amended by PL 1997, c. 537, §4 and affected by §62,
2 is repealed.

3 **Sec. 4. 12 MRSA §6309**, as amended by PL 2003, c. 396, §§3 and 4 and c. 689, Pt.
4 B, §6, is repealed.

5 **Sec. 5. 12 MRSA §6351, sub-§1, ¶E**, as enacted by PL 2009, c. 394, §1, is
6 amended to read:

7 E. A suspension authorized under section 6409 ~~or 6410~~.

8 **Sec. 6. 12 MRSA §6410**, as amended by PL 2019, c. 642, §3, is repealed.

9 **Sec. 7. 19-A MRSA §2201**, as amended by PL 2009, c. 158, §§1 to 3 and c. 290,
10 §22, is further amended by amending the section headnote to read:

11 ~~§2201. Notice to licensing boards and obligor~~ **Revocation of license; judicial review**

12 **Sec. 8. 19-A MRSA §2201, sub-§1**, as amended by PL 2009, c. 158, §§1 and 2
13 and c. 290, §22, is further amended to read:

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

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

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

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

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

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

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

41 (1) Paying current support;

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

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

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

15 **Sec. 9. 19-A MRSA §2201, sub-§1-B**, as enacted by PL 1997, c. 466, §9 and
16 affected by §28, is amended to read:

17 **1-B. Failure to comply with written agreement.** Failure to comply with a written
18 payment agreement is grounds for ~~license~~ revocation under Title 12, chapter 913 unless the
19 obligor notifies the department that the obligor is unable to comply with the agreement and
20 provides the department with evidence of the obligor's current financial circumstances to
21 support the claim. The consequences of failing to comply with a written payment
22 agreement and the requirements to avoid license revocation, if the obligor ~~can not~~ cannot
23 comply with the agreement, must be stated in the agreement. If the obligor claims inability
24 to comply with a written payment agreement, the department, upon motion to the District
25 Court, may request the court to determine the obligor's ability to pay past-due support.
26 After notice and an opportunity for hearing, the court may make a finding of money due,
27 render judgment in that amount and order any relief provided under sections 2603 and
28 2603-A. For purposes of this subsection, the commissioner may designate employees of
29 the department who are not attorneys to represent the department in District Court. The
30 commissioner shall ensure that appropriate training is provided to all employees designated
31 to represent the department under this subsection.

32 **Sec. 10. 19-A MRSA §2201, sub-§5**, as enacted by PL 1995, c. 694, Pt. B, §2 and
33 affected by Pt. E, §2, is amended to read:

34 **5. Stay.** If an obligor timely requests a hearing to contest the issue of compliance, the
35 department may not certify the name of the obligor to ~~a board~~ the Department of Inland
36 Fisheries and Wildlife for noncompliance with an order of support until the department
37 issues a decision after hearing that finds the obligor is not in compliance with an order of
38 support.

39 **Sec. 11. 19-A MRSA §2201, sub-§6**, as amended by PL 1997, c. 466, §§10 and
40 11 and affected by §28, is further amended to read:

41 **6. Certification of noncompliance.** The department may certify in writing to the
42 ~~appropriate board~~ Department of Inland Fisheries and Wildlife that a support obligor is not
43 in compliance with an order of support if:

- 1 A. The obligor does not timely request a hearing upon service of a notice issued under
2 subsection 1 and is not in compliance with an order of support 21 days after service of
3 the notice;
- 4 B. The department issues a decision after a hearing that finds the obligor is not in
5 compliance with an order of support and the obligor has not appealed the decision
6 within the 30-day appeal period provided in subsection 3;
- 7 C. The court enters a judgment on a petition for judicial review that finds the obligor
8 is not in compliance with a support order;
- 9 D. The obligor abandons a timely request for a hearing on the department's notice of
10 noncompliance and is not in compliance with the support order; or
- 11 E. The obligor fails to comply with a written payment agreement, does not notify the
12 department that the obligor is unable to comply with the agreement and does not
13 provide the department with evidence of the obligor's current financial circumstances.

14 The department shall send by regular mail a copy of a certification of noncompliance filed
15 with ~~a board~~ the Department of Inland Fisheries and Wildlife to the obligor at the obligor's
16 most recent address of record.

17 **Sec. 12. 19-A MRSA §2201, sub-§7**, as enacted by PL 1995, c. 694, Pt. B, §2 and
18 affected by Pt. E, §2, is amended to read:

19 **7. Notice from ~~board~~ Department of Inland Fisheries and Wildlife.** ~~A board~~ The
20 Department of Inland Fisheries and Wildlife shall notify an obligor certified by the
21 department under subsection 6, without undue delay, that the obligor's application for the
22 issuance or renewal of a license may not be granted or that the obligor's license has been
23 revoked because the obligor's name has been certified by the department as a support
24 obligor who is not in compliance with an order of support.

25 **Sec. 13. 19-A MRSA §2201, sub-§10**, as enacted by PL 1995, c. 694, Pt. B, §2
26 and affected by Pt. E, §2, is amended to read:

27 **10. Agreements.** The department and the ~~various boards~~ Department of Inland
28 Fisheries and Wildlife shall enter into agreements that are necessary to carry out the
29 requirements of this section, but only to the extent the department determines it is cost-
30 effective.

31 **Sec. 14. 19-A MRSA §2201, sub-§12**, as amended by PL 2001, c. 182, §6, is
32 further amended to read:

33 **12. Reporting.** On or before April 1, 1994, or as soon as economically feasible and
34 at least annually, ~~all boards subject to this section and the Department of Professional and~~
35 ~~Financial Regulation, Division of Administrative Services~~ Inland Fisheries and Wildlife
36 shall provide to the department specified information, on magnetic tape or other machine-
37 readable form, according to standards established by the department, about applicants for
38 licensure and all current licensees. The Department of ~~Professional and Financial~~
39 ~~Regulation, Office of Securities~~ Inland Fisheries and Wildlife shall provide the specified
40 information for only those current licensees that are residents of this State. The information
41 to be provided must include all of the following information about the licensee:

- 42 A. Name;

- 1 B. Address of record;
- 2 C. Federal employer identification number or social security number;
- 3 D. Type of license;
- 4 E. Effective date of license or renewal;
- 5 F. Expiration date of license; and
- 6 G. Active or inactive status.

7 **Sec. 15. 19-A MRSA §2201, sub-§13**, as amended by PL 2007, c. 206, §4, is
8 further amended to read:

9 **13. Effect of noncompliance.** The department, upon receipt of the licensee
10 information referred to in subsection 12 and registration information referred to in
11 subsection 12-A, shall identify and notify ~~each board and~~ the Department of ~~Professional~~
12 ~~and Financial Regulation, Division of Administrative Services,~~ Inland Fisheries and
13 Wildlife of the names of their licensees and registrants who are support obligors subject to
14 this section. The notice must include the social security number and address of the support
15 obligor, the name, address and telephone number of the department's designee for
16 implementing this section and a certification by the department that it has verified that the
17 licensee or registrant is a support obligor subject to this section. When the department
18 notifies ~~a board~~ the Department of Inland Fisheries and Wildlife under this subsection, the
19 department shall provide adequate notice of its action to the obligor. The notice must
20 inform the obligor of the right to request a hearing on the issue of whether the obligor is in
21 compliance with an order of support. The ~~board~~ Department of Inland Fisheries and
22 Wildlife may not issue or renew a license or registration to a person whose name is on the
23 most recent list from the department until the ~~board~~ Department of Inland Fisheries and
24 Wildlife receives a copy of the written confirmation of compliance specified in subsection
25 8.

26 **Sec. 16. 19-A MRSA §2201, sub-§14**, as enacted by PL 1995, c. 694, Pt. B, §2
27 and affected by Pt. E, §2, is amended to read:

28 **14. Subsequent reissuance, renewal or other extension of license ~~or certificate.~~**
29 The ~~board~~ Department of Inland Fisheries and Wildlife may reissue, renew or otherwise
30 extend the license ~~or certificate of authority~~ in accordance with the ~~board's~~ Department of
31 Inland Fisheries and Wildlife's rules after the ~~board~~ Department of Inland Fisheries and
32 Wildlife receives a copy of the written confirmation of compliance specified in subsection
33 8. ~~A board~~ The Department of Inland Fisheries and Wildlife may waive any applicable
34 requirement for reissuance, renewal or other extension if it determines that the imposition
35 of that requirement places an undue burden on the person and that waiver of the
36 requirement is consistent with the public interest.

37 **SUMMARY**

38 This bill removes the provisions of law requiring the revocation of a professional or
39 occupational license for nonpayment of child support.