

MAINE STATE LEGISLATURE

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N I N E T Y - S I X T H L E G I S L A T U R E

Legislative Document

No. 1142

H. P. 1023

House of Representatives, February 25, 1953

Referred to the Committee on Judiciary, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Martin of Augusta

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-THREE

AN ACT Relating to Uniform Reciprocal Enforcement of Support Act.

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

R. S., c. 153-A, repealed and replaced. Chapter 153-A of the revised statutes, as repealed and replaced by chapter 186 of the public laws of 1951, is hereby repealed and the following enacted in place thereof:

'CHAPTER 153-A.

UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT.

General Provisions

Sec. 1. Purposes. The purposes of this chapter are to improve and extend by reciprocal legislation the enforcement of duties of support and to make uniform the law with respect thereto.

Sec. 2. Definitions. As used in this chapter unless the context requires otherwise,

"State" includes any state, territory or possession of the United States and the District of Columbia in which this or a substantially similar reciprocal law has been enacted.

"Initiating state" means any state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced.

"Responding state" means any state in which any proceeding pursuant to the proceeding in the initiating state is or may be commenced.

"Court" means the superior court of this state and when the context requires, means the court of any other state as defined in a substantially similar reciprocal law.

"Law" includes both common and statute law.

"Duty of support" includes any duty of support imposed or imposable by law, or by any court order, decree or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, judicial or legal separation, separate maintenance or otherwise.

"Obligor" means any person owing a duty of support.

"Obligee" means any person to whom a duty of support is owed.

Sec. 3. Remedies additional to those now existing. The remedies herein provided are in addition to and not in substitution for any other remedies.

Sec. 4. Extent of duties of support. Duties of support arising under the law of this state, when applicable under the provisions of section 7, bind the obligor, present in this state, regardless of the presence or residence of the obligee.

Criminal Enforcement

Sec. 5. Interstate rendition. The governor of this state may demand from the governor of any other state the surrender of any person found in such other state who is charged in this state with the crime of failing to provide for the support of any person in this state and may surrender on demand by the governor of any other state any person found in this state who is charged in such other state with the crime of failing to provide for the support of a person in such other state. The provisions for extradition of criminals not inconsistent herewith shall apply to any such demand although the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and although he had not fled therefrom. Neither the demand, the oath nor any proceedings for extradition pursuant to this section need state or show that the person whose surrender is demanded has fled from justice, or at the time of the commission of the crime was in the demanding or other state.

Sec. 6. Relief from the above provisions. Any obligor contemplated by section 5, who submits to the jurisdiction of the court of such other state and complies with the court's order of support, shall be relieved of extradition for desertion or non-support entered in the courts of this state during the period of such compliance.

Civil Enforcement

Sec. 7. Choice of law. Duties of support applicable under this chapter are those imposed or imposable under the laws of any state where the obligor was present during the period for which support is sought. The obligor is presumed to have been present in the responding state during the period for which support is sought until otherwise shown.

Sec. 8. Remedies of a state or political subdivision thereof furnishing support. Whenever the state or a political subdivision thereof furnishes support to an obligee, it has the same right to invoke the provisions hereof as the obligee to whom the support was furnished for the purpose of securing reimbursement of expenditures so made and of obtaining continuing support.

Sec. 9. How duties of support are enforced. All duties of support are enforceable by petition irrespective of relationship between the obligor and obligee. Jurisdiction of all proceedings hereunder shall be vested in the superior court. All proceedings may be commenced and acted upon by the court in vacation before a single justice as well as in term time.

Residence of the petitioner shall determine the jurisdiction of the court even though the petitioner may have been a party to a divorce granted in another jurisdiction in which support was allowed.

Sec. 10. Contents of petition for support. The petition shall be verified and shall state the name and, so far as known to the petitioner, the address and circumstances of the respondent and his dependents for whom support is sought and all other pertinent information. The petitioner may include in or attach to the petition any information which may help in locating or identifying the respondent including, but without limitation by enumeration, a photograph of the respondent, a description of any distinguishing marks of his person, other names and aliases by which he has been or is known, the name of his employer, his finger prints, or social security number.

Sec. 11. Officials to represent petitioner. The county attorney, upon the request of the court, shall represent the petitioner in any proceeding under this chapter, when this state is the responding state.

Sec. 12. Petition for a minor. A petition on behalf of a minor obligee may be brought by a person having legal custody of the minor without appointment as guardian ad litem.

Sec. 13. Duty of court of this state as initiating state. If the court of this state acting as an initiating state finds that the petition sets forth facts from which it may be determined that the respondent owes a duty of support and that a court of the responding state may obtain jurisdiction of the respondent or his property, it shall so certify and shall cause 3 copies of the complaint, its certificate and this chapter to be transmitted to the court in the responding state. If the name and address of such court is unknown and the responding state has an information agency comparable to that established in the initiating state it shall cause such copies to be transmitted to the state information agency or other proper official of the responding state, with a request that it forward them to the proper court, and that the court of the responding state acknowledge their receipt to the court of the initiating state.

Sec. 14. Costs and fees. A court of this state acting either as an initiating or responding state may in its discretion direct that any part of or all fees and costs incurred in this state, including without limitation by enumeration, fees for filing, service of process, seizure of property, and stenographic service of both petitioner and respondent, or either, shall be paid by the county. Where the action is brought by or through the state or an agency thereof, there shall be no filing fee.

Sec. 15. Jurisdiction by arrest. When the court of this state, acting either as an initiating or responding state, has reason to believe that the respondent may flee the jurisdiction it may as an initiating state request in its certificate that the court of the responding state obtain the body of the respondent by appropriate process if that be permissible under the law of the responding state; or as a responding state, obtain the body of the respondent by appropriate process.

Sec. 16. State information agency. The department of health and welfare is hereby designated as the state information agency under this chapter, and it shall be its duty to compile a list of the courts and their addresses in this state having jurisdiction under this chapter and transmit the same to the state information agency of every other state which has adopted this or a substantially similar law.

Sec. 17. Duty of the court of this state as responding state. When the court of this state, acting as a responding state, receives from the court of an initiating state the aforesaid copies, it shall docket the cause, notify the

county attorney, set a time and place for a hearing, and take such action as is necessary in accordance with the laws of this state to obtain jurisdiction.

Sec. 18. Further duty of responding court. If a court of this state, acting as a responding state, is unable to obtain jurisdiction of the respondent or his property due to inaccuracies or inadequacies in the petition or otherwise, the court shall communicate this fact to the court in the initiating state, shall on its own initiative use all means at its disposal to trace the respondent or his property, and shall hold the case pending the receipt of more accurate information or an amended petition from the court in the initiating state.

Sec. 19. Order of support. If the court of the responding state finds a duty of support, it may order the respondent to furnish support or reimbursement therefor and subject the property of the respondent to such order.

Sec. 20. Responding state to transmit copies to initiating state. The court of this state when acting as a responding state shall cause to be transmitted to the court of the initiating state a copy of all orders of support or for reimbursement therefor.

Sec. 21. Additional powers of court. In addition to the foregoing powers, the court of this state when acting as the responding state has the power to subject the respondent to such terms and conditions as the court may deem proper to assure compliance with its orders and in particular.

I. To require the respondent to furnish recognizance in the form of a cash deposit or bond of such character and in such amount as the court may deem proper to assure payment of any amount required to be paid by the respondent.

II. To require the respondent to make payments at specified intervals to the clerk of the court or the obligee and to report personally to such clerk at such times as may be deemed necessary.

III. To punish the respondent who shall violate any order of the court to the same extent as is provided by law for contempt of the court in any other suit or proceeding cognizable by the court.

Sec. 22. Additional duties of the court of this state when acting as a responding state. The court of this state when acting as a respondent state shall have the following duties which may be carried out through the clerk of the court:

I. Upon the receipt of a payment made by the respondent pursuant to

any order of the court or otherwise, to transmit the same forthwith to the court of the initiating state, and

II. Upon request to furnish to the court of the initiating state a certified statement of all payments made by the respondent.

Sec. 23. Additional duty of the court of this state when acting as an initiating state. The court of this state when acting as an initiating state shall have the duty which may be carried out through the clerk of the court to receive and disburse forthwith all payments made by the respondent or transmitted by the court of the responding state.

Sec. 24. Evidence of husband and wife. Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this chapter. Husband and wife are competent witnesses and may be compelled to testify to any relevant matter, including marriage and parentage.

Sec. 25. Application of payments. Any order of support issued by a court of this state when acting as a responding state shall not supersede any previous order of support issued in a divorce or separate maintenance action, but the amounts for a particular period paid pursuant to either order shall be credited against amounts accruing or accrued for the same period under both.

Sec. 26. Effect of participation in proceeding. Participation in any proceedings under this chapter shall not confer upon any court jurisdiction of any of the parties in any other proceeding.