

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

Ninety-fourth Legislature

OF THE

STATE OF MAINE

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PUBLIC LAWS
OF THE
STATE OF MAINE

As Passed by the Ninety-fourth Legislature

1949

Chapter 297

AN ACT Relating to the Support of Dependent Wives, Children and Poor Relatives.

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

R. S., c. 153-A, additional. The revised statutes are hereby amended by adding thereto a new chapter, to be numbered 153-A, to read as follows:

CHAPTER 153-A.

UNIFORM SUPPORT OF DEPENDENTS LAW.

Sec. 1. Short title; purpose. This chapter may be cited and referred to as the "uniform support of dependents law."

The purpose of this uniform chapter is to secure support in civil proceedings for dependent wives, minor children and poor relatives from persons legally responsible for their support.

Sec. 2. Definitions. As used in this chapter, unless the context shall require otherwise, the following terms shall have the meanings ascribed to them by this section:

"Child" shall mean any minor child who is unable to maintain himself and is likely to become a public charge, or is a public charge at the time of filing of petition.

"Court" shall mean and include a superior court, probate court, municipal court and any other court, by whatever name known, in any state having reciprocal laws or laws substantially similar to this chapter upon which jurisdiction has been conferred to determine the liability of persons for the support of dependents within and without such state.

"Dependent" shall mean and include a wife, child, mother, father, grandparent or grandchild who is in need of and entitled to support from a person who is declared to be legally liable for such support by the laws of the state or states wherein the petitioner and the respondent reside.

"Initiating state" shall mean the state wherein the petitioner resides or is domiciled or found.

"Petitioner" shall mean and include each dependent person for whom support is sought in a proceeding instituted pursuant to this chapter.

"Petitioner's representative" shall mean any attorney at law and include a corporation counsel, city solicitor, county attorney, attorney-general or

any other public officer, by whatever title his public office may be known, charged by law with the duty of instituting, maintaining or prosecuting a proceeding under this chapter or under the laws of the state or states wherein the petitioner and the respondent reside.

“Respondent” shall mean and include each person against whom a proceeding is instituted pursuant to this chapter.

“Responding state” shall mean the state wherein the respondent resides or is domiciled or found.

“State” shall mean and include any state, territory or possession of the United States and the District of Columbia.

“Summons” shall mean and include a subpoena, warrant, citation, order or other notice, by whatever name known, provided for by the laws of the initiating state or responding state as the means for requiring the appearance and attendance in court of the respondent in a proceeding instituted pursuant to this chapter.

Sec. 3. Persons legally liable for support of dependents. For the purpose of this chapter a husband is declared liable for the support of his wife; parents, either natural or adoptive, are declared severally liable for the support of a minor child or children; adult children are declared severally liable for the support of their parents; grandparents are declared severally liable for the support of their minor grandchildren; and adult grandchildren are declared severally liable for the support of their grandparents and if any of those relatives declared liable for the support of their dependents are residing, domiciled or found in another state having substantially similar or reciprocal laws, and if possessed of sufficient means or able to earn such means, they may be required to pay for the support of their dependents a fair and reasonable sum according to their means, as may be determined by the court having jurisdiction of the respondent in a proceeding instituted under the provisions of this chapter.

Sec. 4. Jurisdiction and powers of court. For the purposes of this chapter:

I. The court shall have jurisdiction regardless of the state of last residence or domicile of the petitioner and the respondent and whether or not the respondent has ever been a resident of the initiating state or the dependent person has ever been a resident of the responding state.

II. The court of the responding state shall have the power to order the respondent to pay sums sufficient to provide necessary food, shelter, clothing, care, medical or hospital expenses, expenses of confinement, expenses of education of a child, funeral expenses and such other reason-

able and proper expenses of the petitioner as justice requires, having due regard to the circumstances of the respective parties.

III. The courts of both the initiating state and the responding state shall have the power to order testimony to be taken in either or both of such states by deposition or written interrogatories, and to limit the nature of and the extent to which the right so to take testimony shall be exercised, provided that the respondent is given a full and fair opportunity to answer the allegations of the petitioner.

Sec. 5. Cases in which proceedings are maintainable. A proceeding to compel support of a dependent may be maintained under this chapter in any of the following cases:

I. Where the petitioner resides in one state and the respondent is a resident of or is domiciled or found in another state having substantially similar or reciprocal laws.

II. Where the respondent is not and never was a resident of or domiciled in the initiating state and the petitioner resides or is domiciled in such state and the respondent is believed to be a resident of or domiciled in or is found in another state having substantially similar or reciprocal laws.

III. Where the respondent was or is a resident of or domiciled in the initiating state and has departed or departs from such state leaving therein a dependent in need of and entitled to support under this chapter and is believed to be a resident of or domiciled in or is found in another state having substantially similar or reciprocal laws.

Sec. 6. Procedure. A proceeding under the provisions of this chapter shall be commenced by a petitioner by filing a verified petition in the court in term time or vacation in the county of the state wherein he resides or is domiciled, showing the name, age, residence and circumstances of the petitioner, alleging that he is in need of and is entitled to support from the respondent, giving his name, age, residence and circumstances, and praying that the respondent be compelled to furnish such support, provided that where a minor child or children must petition, said petition may be filed by a parent, guardian, person having legal or actual custody of such minor child or a petitioner's representative in behalf of such minor child.

If the respondent be a resident of or domiciled in such state and the court has or can acquire jurisdiction of the person of the respondent under existing laws in effect in such state, such laws shall govern and control the procedure to be followed in such proceeding.

If the respondent be not a resident of or domiciled in or cannot be found in such state, a judge or justice of such court shall certify that a verified

petition has been filed in his court in a proceeding against the respondent under this chapter to compel the support of the petitioner, that a summons, duly issued out of his court for service upon the respondent has been returned with an affidavit to the effect that the respondent cannot with due diligence be located or served with such process in the initiating state, that the respondent is believed to be residing or domiciled in the responding state and that, in his opinion, the respondent should be compelled to answer such petition and should be dealt with according to law, and he shall transmit such certificate and exemplified copies of such petition and summons to the appropriate court in the responding state.

Any judge or justice of a court in the county of the responding state in which the respondent resides or is domiciled or found, upon presentation to him of such certificate and exemplified copies of such petition and summons, shall fix a time and place for a hearing on such petition and shall issue a summons out of his court, directed to the respondent, duly requiring him to appear at such time and place.

It shall not be necessary for the petitioner or the petitioner's witnesses to appear personally at such hearing, but it shall be the duty of the petitioner's representative of the responding state to appear on behalf of and represent the petitioner at all stages of the proceeding.

If at such hearing the respondent controverts the petition and enters a verified denial of any of the material allegations thereof, together with a verified statement setting forth the respondent's version of the facts and if the judge or justice presiding at such hearing believes there is sufficient reason therefor he shall stay the proceedings and transmit to the judge or justice of the court in the initiating state a transcript of the clerk's minutes showing the denials and statements entered by the respondent.

Upon receipt by the judge or justice of the court in the initiating state of such transcript, such court shall take such proof, including the testimony of the petitioner and the petitioner's witnesses and such other evidence as the court may deem proper, and, after due deliberation, the court shall make its recommendation, based on all of such proof and evidence, and shall transmit to the court in the responding state an exemplified transcript of such proof and evidence and of its proceedings and recommendation in connection therewith.

Upon the receipt of such transcript, the court in the responding state shall resume its hearing in the proceeding and shall give the respondent a reasonable opportunity to appear and reply.

Upon the resumption of such hearing, the respondent shall have the right to examine or cross-examine the petitioner and the petitioner's wit-

nesses by means of depositions or written interrogatories, and the petitioner shall have the right to examine or cross-examine the respondent and the respondent's witnesses by means of depositions or written interrogatories.

If a respondent, duly summoned by a court in the responding state, wilfully fails without good cause to appear as directed in the summons, he shall be punished in the same manner and to the same extent as is provided by law for the punishment of a defendant or witness who wilfully disobeys a summons or subpoena duly issued out of such court in any other action or proceeding cognizable by said court.

If, on the return day of the summons, the respondent appears at the time and place specified therein and fails to answer the petition or admits the allegations thereof, or, if, after a hearing has been duly held by the court in the responding state in accordance with the provisions of this section, such court has found and determined that the prayer of the petitioner, or any part thereof, is supported by the evidence adduced in the proceeding, and that the petitioner is in need of and entitled to support from the respondent, the court shall make and enter an order directing the respondent to furnish support to the petitioner and to pay therefor such sum as the court shall determine, having due regard to the parties' means and circumstances. An exemplified copy of such order shall be transmitted by the court to the court in the initiating state and such copy shall be filed with and made a part of the records of such court in such proceeding. The court shall also have power to require the respondent to furnish bond to the petitioner in the form of a cash deposit or bond with sufficient sureties in such amount and for such period of time as the court may deem proper and just to assure the payment of the amount required to be paid by the respondent for the support of the petitioner. The court may also order the respondent to pay to the attorney for the petitioner sufficient money for the prosecution of such petition.

The court making such order shall have the power to direct the respondent to make the payments required thereby at specified intervals to the probation department or clerk of the court.

A respondent who shall wilfully fail to comply with or violate the terms or conditions of the support order shall be punished by the court in the same manner and to the same extent as is provided by law for a contempt of such court ordered by such court in any other suit or proceeding cognizable by such court.

Upon the receipt of a payment made by the respondent pursuant to the order of the court of the responding state in any proceeding under this chapter, the probation department or clerk of such court shall forthwith transmit the same to the court of the initiating state.

The probation department or clerk of the court in the responding state shall, not later than 30 days following the end of each calendar year, furnish to the court of the initiating state an itemized statement under oath of all payments made by the respondent during such fiscal year for the support of the petitioner in such proceeding.

The court of the initiating state shall receive and accept all payments made by the respondent to the probation department or clerk of the court of the responding state and transmitted by the latter on behalf of the respondent. Upon receipt of any such payment, and under such rules as the court of the initiating state may prescribe, the court, or its probation department or clerk, as the court may direct, shall deliver such payment to the dependent person entitled thereto, take a proper receipt and acquittance therefor, and keep a permanent record thereof.

Sec. 7. Duty of petitioners' representatives. It shall be the duty of all petitioners' representatives of this state to appear in this state on behalf of and represent the petitioner in every proceeding pursuant to this chapter, at the time the petition is filed and at all stages of the proceeding thereafter, and to obtain and present such evidence or proof as may be required by the court in the initiating state or the responding state.

Sec. 8. Construction of chapter. This chapter shall be construed to furnish an additional or alternative civil remedy and shall in no way affect or impair any other remedy, civil or criminal, provided in any other statute and available to the petitioner in relation to the same subject matter.

Sec. 9. Uniformity of interpretation. This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of the states which enact it.'

Effective August 6, 1949

Chapter 298

AN ACT Relating to the Establishment of a Civil Defense Agency and a Public Safety Council.

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

R. S., c. 11-A, additional. The revised statutes are hereby amended by adding thereto a new chapter to be numbered 11-A, to read as follows:

CHAPTER 11-A.

STATE CIVIL DEFENSE AND PUBLIC SAFETY COUNCIL.

Sec. 1. Short title. This chapter may be cited as the "Maine Civil Defense and Public Safety Act of 1949."