

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWELFTH LEGISLATURE

SECOND REGULAR SESSION
January 8, 1986 to April 16, 1986

SECOND SPECIAL SESSION
May 28, 1986 to May 30, 1986

AND AT THE
THIRD SPECIAL SESSION
October 17, 1986

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Co., Inc.
Augusta, Maine

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND TWELFTH LEGISLATURE
1985

Sec. 3. Application. This Act shall apply to the tax years beginning on or after January 1, 1986.

Effective July 16, 1986.

CHAPTER 652

S.P. 887 - L.D. 2246

AN ACT to Facilitate the Collection of Child Support.

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

Sec. 1. 10 MRSA §1329 is enacted to read:

§1329. Reporting of child support debts

1. Information available on request of consumer reporting agency. The Department of Human Services, upon request of a consumer reporting agency, shall make available information regarding the amount of overdue child support owed by any parent.

2. Notice of request; contest of accuracy. Prior to making the information available to a requesting agency, the department shall provide the obligor parent with notice of the proposed action. The parent shall be given 20 days in which to contest the accuracy of the information.

3. Fee. The department may impose a fee upon the requesting agency in an amount not exceeding the actual cost of providing the information.

4. Information provided without request. Nothing within this section may prevent the department from voluntarily providing information to a consumer reporting agency regarding any individual who is indebted to the department for his failure to pay child support.

Sec. 2. 19 MRSA §214, sub-§2, ¶B, as enacted by PL 1983, c. 813, §1, is repealed and the following enacted in its place:

B. Child support means money to be paid directly to a parent or to the Department of Human Services on behalf of a child receiving public as-

sistance and any medical or dental insurance coverage provided on behalf of a child pursuant to court order.

Sec. 3. 19 MRSA §214, sub-§9, as enacted by PL 1983, c. 813, §1, is repealed and the following enacted in its place:

9. Support order. The court may order either parent of a minor child to contribute reasonable and just sums as child support payable weekly, monthly or quarterly. Availability of public welfare benefits to the family shall not affect the decision of the court as to the responsibility of a parent to provide child support. The court shall inquire of the parties concerning the existence of a child support order entered pursuant to subchapter V. If such an order exists, the court shall consider its terms in establishing a child support obligation.

The court's order may include a requirement for the payment of part or all of the medical expenses, hospital expenses and other health care expenses of the child. If medical, hospitalization or dental insurance coverage for his child is available to an obligated parent on a group basis through his employment or other affiliation, the court's order shall include a provision requiring the obligated parent to obtain and maintain that coverage on behalf of his child. The court may enforce a support order as provided in chapter 14-A.

Sec. 4. 19 MRSA §272, as enacted by PL 1967, c. 325, §2, is amended to read:

§272. Enforcement

Paternity may be determined upon the complaint of the mother, child or the public authority chargeable by law with the support of the child. If paternity has been determined or has been acknowledged according to the laws of this State, the liabilities of the father may be enforced in the same or other proceedings by the mother, child or the public authority which has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, necessary support or funeral expenses, and by other persons including private agencies to the extent that they have furnished the reasonable expenses of pregnancy, confinement, education, necessary support or funeral expenses. Aid to Families with Dependent Children benefits expended, pursuant to Title 22,

chapter 1053, on behalf of the mother by the public authority shall be considered necessary support for the child.

In execution of the powers given the court under this subchapter, the court may employ any compulsory process which it deems proper, by execution, attachment or other effectual form, on which costs shall be taxed as in other actions. The court may enforce any support order established under this subchapter as provided in chapter 14-A.

Sec. 5. 19 MRSA §273, as enacted by PL 1967, c. 325, §2, is amended by adding at the end a new paragraph to read:

All complainants may commence an action at any time prior to the child's 18th birthday.

Sec. 6. 19 MRSA §277, as enacted by PL 1967, c. 325, §2, is amended to read:

§277. Authority for blood or tissue typing tests

The court, upon its own initiative or upon suggestion made by or on behalf of any person whose blood is involved, or the mother, may order or, upon motion of any party to the action made at a time so as not to delay the proceedings unduly, shall order the mother, child and alleged father to submit to blood or tissue typing tests which may include, but are not limited to, tests of red cell antigens, red cell isoenzymes, human leukocyte antigens and serum proteins. If any party refuses to submit to such those tests, the court may resolve the question of paternity against such that party or enforce its order if the rights of others and the interests of justice so require.

Sec. 7. 19 MRSA §278, as enacted by PL 1967, c. 325, §2, is amended to read:

§278. Selection of experts

The tests shall be made by experts qualified as examiners of blood or tissue types who shall be appointed by the court. The experts ~~shall~~ may be called by the court as witnesses to testify to their findings and ~~shall~~ may be subject to cross-examination by the parties. Any party or person at whose suggestion the tests have been ordered may demand that other experts, qualified as examiners of blood or tissue types, perform independent tests under order of

court, the results of which may be offered in evidence. The number and qualifications of ~~such~~ those experts shall be determined by the court.

Sec. 8. 19 MRSA §280, as enacted by PL 1967, c. 325, §2, is repealed and the following enacted in its place:

§280. Effect of test results

1. Effect of results. The results of those tests shall have the following effect.

A. If the court finds that the conclusion of all the experts, as disclosed by the evidence based upon the tests, is that the alleged father is not the parent of the child, the question of paternity shall be resolved accordingly.

B. If the experts disagree in their findings or conclusions, the question shall be submitted upon all the evidence.

C. If the experts conclude that the blood or tissue tests show that the alleged father is not excluded and that the probability of the alleged father's paternity is less than 97%, this evidence must be admitted by the court and shall be weighed with other competent evidence of paternity.

D. If the experts conclude that the blood or tissue tests show that the alleged father is not excluded and that the probability of the alleged father's paternity is 97% or higher, the alleged father is presumed to be the father, and this evidence must be admitted.

2. Chain of custody; evidence. Notarized documentation of the chain of custody of the blood and tissue samples is competent evidence to establish the chain of custody.

3. Notarized reports; challenges. A notarized report of the blood and tissue tests, prepared by the appointed experts, shall be admitted at trial, unless a written challenge to the testing procedure or the results of the blood and tissue tests have been filed with the court and delivered to opposing counsel at least 30 days before any hearing set to determine the issue of paternity. Failure to make that timely challenge constitutes a waiver of the right to have

the experts appear in person and is not grounds for a continuance of the hearing to determine paternity.

Sec. 9. 19 MRSA §§280-A and 280-B are enacted to read:

§280-A. Rebuttal of presumption

An alleged father may rebut the presumption of paternity contained in section 280, subsection 1, paragraph D, by clear and convincing evidence.

§280-B. Admissible evidence

1. Evidence of paternity; admissible. In an action brought under this subchapter, evidence relating to paternity may include, but is not limited to:

A. An expert's opinion concerning the time of conception;

B. Evidence of sexual intercourse between the mother and alleged father at any possible time of conception;

C. Medical, scientific or genetic evidence relating to the alleged father's paternity of the child based upon tests performed by experts; and

D. The statistical probability of the alleged father's paternity based upon the blood or tissue tests.

2. Evidence inadmissible. Testimony relating to sexual relations or possible sexual relations of the mother at any time other than the probable time of conception of the child is inadmissible in evidence, unless offered by the mother.

Sec. 10. 19 MRSA §301, sub-§5, as enacted by PL 1979, c. 668, §3, is amended to read:

5. Enforcement. The court may enforce an order as provided under chapter ~~14~~ 14-A.

Sec. 11. 19 MRSA §302, as amended by PL 1979, c. 733, §6, is further amended to read:

§302. Support of child committed to custodial agency

Whenever a child under the age of 17 years is committed by the District Court, or the District Court acting as a juvenile court, to custody other

than that of its parent, such commitment shall be subject to Title 22, sections 4038, 4061 and 4063. The court may, after giving a parent a reasonable opportunity to be heard, adjudge that such parent shall pay in such manner as the court may direct such sum as will cover in whole or in part the support of such child, and if such parent shall ~~willfully fail or refuse to pay such sum, he may be proceeded against as provided by law for cases of desertion or failure to provide subsistence in chapter 14-A.~~

Sec. 12. 19 MRSA §303-A, 2nd ¶, as enacted by PL 1975, c. 532, §1, is amended to read:

No court, officer, political subdivision or agency of the State ~~shall~~ may be required to use the scale, except the Department of Human Services may require the use of the scale in proceedings initiated pursuant to subchapter V.

Sec. 13. 19 MRSA §400, sub-§1, ¶C, as repealed and replaced by PL 1971, c. 393, §10, is repealed and the following enacted in its place:

C. Receive all petitions from initiating states and forward them to the IV-D agency for enforcement under subchapter V, unless the department has determined that appropriate remedies under this subchapter are not available with respect to the obligor. In that instance, the petition shall be forwarded to the appropriate court within the responding state.

Sec. 14. 19 MRSA §400, sub-§1, ¶D is enacted to read:

D. Forward to the court in this State which has jurisdiction over the obligor or his property petitions, certificates and copies of the Act it receives from courts or information agencies of other states, provided that the department has not acted pursuant to paragraph C.

Sec. 15. 19 MRSA §405, sub-§3, as amended by PL 1971, c. 393, §14, is amended to read:

3. Violations. To punish under the power of contempt the obligor who violates any order of the court, or to issue ~~executions as in actions of debt~~ any order pursuant to chapter 14-A. When the obligor is committed to jail for contempt ~~or on execution issued~~, as provided, the county having jurisdiction

of the process shall bear the expense of his support and commitment and he may be discharged in the same manner as provided by section 722.

Sec. 16. 19 MRSA §448 is amended to read:

§448. Enforcement of rights

The obligee may enforce his right of support against the obligor, pursuant to chapter 14-A, and the State or any political subdivision thereof may proceed on behalf of the obligee to enforce his right of support against the obligor. Whenever the State or a political subdivision thereof furnishes support to an obligee, it has the same right as the obligee to whom the support was furnished, for the purpose of securing reimbursement and of obtaining continuing support.

Sec. 17. 19 MRSA §448-A, sub-§1, as enacted by PL 1981, c. 657, §2, is amended to read:

1. Enforcement of support obligation. ~~Upon application, the~~ The Department of Human Services may, for a fee, locate absent parents, defend against support reductions, establish support obligations, seek motions to increase support obligations, enforce support obligations and determine paternity on behalf of applicants who are not recipients of public assistance, by actions under any appropriate statute, including, but not limited to, remedies established in subchapter V, to establish and enforce the support obligations. The department and the applicant shall sign an agreement in duplicate describing the fee. ~~On a showing of necessity, the~~ The department may defer or waive that fee.

Sec. 18. 19 MRSA §448-A, sub-§2, as enacted by PL 1981, c. 657, §2, is repealed.

Sec. 19. 19 MRSA §491, as enacted by PL 1975, c. 532, §3, is amended to read:

§491. Purpose

With this subchapter the Legislature intends to provide additional remedies for the enforcement of support for dependent children and spouses and former spouses caring for dependent children by establishing an alternative method directed to the real and personal property of the responsible parents. These remedies are in addition to, not in lieu of, existing law.

Sec. 20. 19 MRSA §492-A is enacted to read:

§492-A. Persons subject to jurisdiction

1. Declaration of purpose. It is declared, as a matter of legislative determination, that the public interest demands that the State provide its citizens with an effective means of redress against nonresident persons who, through certain significant minimal contacts with this State, incur obligations to citizens entitled to the State's protection.

This section, to insure maximum protection to citizens of this State, shall be applied so as to assert jurisdiction over nonresident responsible parents to the fullest extent permitted by the due process clause of the United States Constitution, Amendment XIV.

2. Causes of action. Any person, whether or not a citizen or resident of this State, who does any of the acts enumerated in this section, thereby submits such person to the jurisdiction of the Department of Human Services for the purpose of enforcing this subchapter as to any cause of action arising from the doing of any such acts:

A. Maintaining a domicile in this State while subject to a marital or family relationship out of which arises a claim for child support, spousal support, alimony or the commission in this State of any act giving rise to such a claim; or

B. Conception resulting in paternity within the meaning of chapter 5, subchapter III.

3. Personal service. Service of any notice sent pursuant to section 498 or 498-A upon any person who is subject to the jurisdiction of this subchapter, as provided in this section, shall be made by personally serving the notice upon the responsible parent outside this State, with the same force and effect as though it had been served personally within this State. Service of any other notice or lien provided for in this subchapter upon any person who is subject to the jurisdiction of this subchapter, as provided in this section, shall be governed by section 494.

Sec. 21. 19 MRSA §493, sub-§2, as enacted by PL 1975, c. 532, §3, is amended to read:

2. "Court order of support" means any judgment or order for the support of dependent children issued by any court of the State of Maine or another state, including an order in a final decree of divorce or any judgment or order issued in accordance with an administrative procedure, which is established by state law, which affords substantial due process and which is subject to judicial review.

Sec. 22. 19 MRSA §493, sub-§6, as amended by PL 1981, c. 657, §3, is further amended to read:

6. "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus or otherwise, and specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, and all gain derived from capital, from labor or from both combined, including profit gained through sale or conversion of capital assets, and unemployment compensation benefits; ~~but does not include payments by any department or division of the State or Federal Government based upon inability to work and workers compensation benefits.~~

Sec. 23. 19 MRSA §493, sub-§10 is enacted to read:

10. Spousal support order. "Spousal support order" means any judgment or order for support or maintenance, including alimony, issued by any court of the State or any state for the benefit of a spouse or former spouse of the responsible parent where dependent children are residing with that spouse or former spouse.

Sec. 24. 19 MRSA §495, sub-§1-A, as enacted by PL 1981, c. 657, §4, is amended to read:

1-A. Failure to pay child or spousal support. For actions initiated pursuant to section 448-A, failure to pay support obligations under a court or administrative order of support shall create a debt due the applicant. ~~Upon assignment of the debt to the Department of Human Services by the applicant execution of a contract between the department and the applicant,~~ the department may take action to establish, enforce or collect the debt under any appropriate statute including, but not limited to, remedies contained in this subchapter.

Sec. 25. 19 MRSA §495, sub-§2, as repealed and replaced by PL 1981, c. 657, §4, is repealed and the following enacted in its place:

2. Interstate cooperation. A payment of public assistance by another state for the benefit of a dependent child located within that state creates a debt due that state from a responsible parent in the amount of the public assistance paid. With the execution of an application for nonwelfare services between a state and a resident of that state, the state may request the department to enforce or collect any unpaid support debt belonging to the applicant. Upon written request by a state to the department, the department may attempt to collect either the welfare or nonwelfare debt by action under any appropriate laws, including, but not limited to, remedies established by this subchapter.

Sec. 26. 19 MRSA §498, as amended by PL 1981, c. 657, §6, is further amended to read:

§498. Determination of amount of support debt in absence of court order

If no court order of support exists, the department may, by hearing and other procedures set forth below, establish a periodic payment to satisfy the responsible parent's support obligation under sections 442 and 443, establish the debt accrued under section 495, ~~and~~ establish a periodic payment to satisfy that debt and establish the responsible parent's obligation to maintain medical insurance coverage and to provide payment for other medical expenses incurred on behalf of his dependent children.

1. Notice of hearing. The department shall serve on the responsible parent a notice of hearing not less than 20 days before the date of the hearing.

2. Contents of notice. In addition to conforming with the requirements of the Maine Administrative Procedure Act, Title 5, section 9052, subsection 4, the notice shall contain:

A. A statement of the debt accrued or accruing under section 495 ~~and periodic support payments in the future;~~

B. A statement of the periodic public assistance;

C. A statement of the name of the recipient of the public assistance and the names of dependent children;

D. A statement of rights at the hearing;

E. A statement that if the responsible parent fails to appear, the stated accrued debt ~~and~~, periodic support payments in the future, medical insurance coverage and payment of noncovered medical expenses shall be assessed and enforced by collection action; and

F. A statement that the property of the responsible parent may be subject to lien and foreclosure, administrative seizure and disposition, order to withhold and deliver or other collection actions; and that any debt determined to be owed by the responsible parent may be reported to a consumer reporting agency;

G. A statement that the responsible parent may be liable for medical insurance coverage for his dependents, if the hearing officer determines that such coverage is available to the responsible parent through an employer or other group affiliation at reasonable cost or if current coverage could be extended to include the dependent children; and

H. A statement that the failure of the responsible parent to maintain any required medical insurance coverage may result in the responsible parent's liability for all medical expenditures made by the department on behalf of the dependent children.

3. Action upon failure to appear. If the responsible parent fails to appear at the hearing on the date specified by the notice of debt, the hearing officer shall enter a decision pursuant to subsection 4, paragraph B. Within ~~15~~ 30 days of service of the decision, the responsible parent may petition the department to vacate the decision if the responsible parent can show any grounds which would permit relief from judgment in a civil action.

4. Hearing.

A. ~~Procedure.~~ The hearing shall be conducted according to rules promulgated by the commissioner. The rules shall provide at least the right to confront and cross-examine witnesses, to present witnesses, to be represented by an attorney or other person and to be notified of these rights in writing. The decision shall be limited to evidence presented at the hearing.

B. ~~Decision.~~ The decision shall include a statement of the responsibility of the alleged respon-

sible parent, a statement of the periodic support payment, the amount of debt accrued and, the periodic payment against the accrued debt and the liability of the responsible parent to maintain medical insurance coverage and to provide payment for other medical expenses. A copy of the decision shall be served upon the responsible parent. Written notice of the responsible parent's right to review or appeal of the decision within the department or review of the decision by the courts, as the case may be, and of the action required and the time within which the action shall be taken in order to exercise the right of review or appeal shall be given to the responsible parent with the decision. A review of the decision within the department, except pursuant to subsection 3, shall be limited to a review of the record generated by the original hearing.

C. ~~Criteria of decision:~~ The person conducting the hearing shall consider, when deciding on the amount of periodic payment and the availability of medical insurance coverage, at least the following criteria:

- (1) The need of the child;
- (2) The income, real property and personal property of the responsible parent;
- (3) The ability of the responsible parent to borrow;
- (4) The ability of the responsible parent to earn;
- (5) The amount of support debt accrued and accruing;
- (6) The need of the responsible parent;
- (7) The responsibility of the responsible parent for other dependents; but in any case the child for whom support is sought must benefit as much as any other dependent from the income and resources of the responsible parent; ~~and~~
- (8) The responsibility of the responsible parent for creating his own unstable financial condition by voluntarily incurring subsequent obligations. This condition shall not relieve him of his duty to provide support;

(9) The availability of employer-based medical insurance coverage at a reasonable cost to the responsible parent; and

(10) The availability of current medical coverage to the responsible parent which could be extended to include the dependent child.

5. Initiation of collection. The decision of the department in the hearing shall establish the debt of the responsible parent. The department may collect the debt after service of the decision in the hearing.

6. Subsequent court order. An administrative decision under this section shall remain in effect until superseded by a subsequent court order, or subsequent administrative hearing.

7. Enforcement under section 448-A. An administrative decision under this section shall be treated as a support obligation for purposes of enforcement under section 448-A.

Sec. 27. 19 MRSA §498-A is enacted to read:

§498-A. Determination of amount of child support obligation in nonwelfare cases

If no court order of support exists, the department may, by hearing and other procedures set forth in this section, establish a periodic payment to satisfy the responsible parent's support obligation under sections 442 and 443, on behalf of his dependent children for whom the department has agreed to provide enforcement services pursuant to section 448-A. The department may also establish the responsible parent's obligation to maintain medical insurance coverage and to provide payment for other medical expenses incurred on behalf of his dependent children.

1. Notice of hearing. The department shall serve on the responsible parent a notice of hearing not less than 20 days before the date of the hearing.

2. Contents of notice. In addition to conforming with the requirements of the Maine Administrative Procedure Act, Title 5, section 9052, subsection 4, the notice shall contain:

A. A statement that the obligee has contracted with the department pursuant to section 448-A, to establish a child support obligation;

B. A statement of the names of the dependent children for whom support is being sought;

C. A statement that the responsible parent may be liable for medical insurance coverage for his dependents, if the hearing officer determines that the coverage is available to the responsible parent through an employer or other group affiliation at reasonable cost or if current coverage could be extended to include the dependent children;

D. A statement that the responsible parent may be ordered to pay for medical, dental, optical and hospital expenses incurred for the benefit of his dependent children, if the hearing officer determines that the responsible parent has sufficient assets to cover those expenses;

E. A statement that if the responsible parent fails to appear, periodic support payments in the future, medical insurance coverage and payment of noncovered medical expenses shall be assessed and enforced by collection action;

F. A statement that the property of the responsible parent may be subject to lien and foreclosure, administrative seizure and disposition, order to withhold and deliver or other collection actions and that any debt determined to be owed by the responsible parent may be reported to a consumer reporting agency;

G. A statement of rights at the hearing; and

H. A statement that the failure of the responsible parent to maintain any required medical insurance coverage may result in his liability for all medical expenditures made by the department on behalf of the dependent children.

3. Action upon failure to appear. If the responsible parent fails to appear at the hearing on the date specified by the notice of debt, the hearing officer shall enter a decision pursuant to subsection 4, paragraph B. Within 30 days of service of the decision, the responsible parent may petition the department to vacate the decision if the responsible parent can show any grounds which permits relief from judgment in a civil action.

4. Hearing. The hearing shall be conducted as follows.

A. The hearing shall be conducted according to rules promulgated by the commissioner. The rules shall provide at least the right to confront and cross-examine witnesses, to present witnesses, to be represented by an attorney or other person and to be notified of these rights in writing. The decision shall be limited to evidence presented at the hearing.

B. The decision shall include a statement of the responsibility of the alleged responsible parent and a statement of the periodic support payment, the liability of the responsible parent to maintain medical insurance coverage and to pay for other medical expenses incurred on behalf of the dependent children. A copy of the decision shall be served upon the responsible parent. Written notice of the responsible parent's right to review of the decision within the department or appeal of the decision to the courts, as the case may be, and of the action required and the time within which the action shall be taken in order to exercise the right of review or appeal shall be given to the responsible parent with the decision. A review of the decision within the department, except pursuant to subsection 3, shall be limited to a review of the record generated by the original hearing.

C. The person conducting the hearing shall consider, when deciding on the amount of periodic payment and the availability of medical insurance coverage, at least the following criteria:

(1) The need of the child;

(2) The income, real property and personal property of the responsible parent;

(3) The ability of the responsible parent to borrow;

(4) The ability of the responsible parent to earn;

(5) The need of the responsible parent;

(6) The responsibility of the responsible parent for other dependents; but in any case the child for whom support is sought must benefit as much as any other dependent from the income and resources of the responsible parent;

(7) The responsibility of the responsible parent for creating his own unstable financial condition by voluntarily incurring subsequent obligations. This condition shall not relieve him of his duty to provide support;

(8) The availability of employer-based, or other group affiliation, medical insurance coverage at a reasonable cost to the responsible parent; and

(9) The availability of current medical coverage to the responsible parent which could be extended to include the dependent child.

5. Subsequent court order. An administrative decision under this section shall remain in effect until superseded by a subsequent court order or subsequent administrative hearing.

Sec. 28. 19 MRSA §499, sub-§1, as amended by PL 1981, c. 657, §7, is further amended to read:

1. Subrogation of support rights. If a court order of support or spousal support order exists, the department shall be subrogated to the right of any dependent child or person having custody of the child named in the court order to pursue any support action or any administrative remedy to secure payment of the debt accrued or accruing under section 495 and to enforce the court order. The department shall not be required to seek an amendment to the court order of support or to the spousal support order in order to subrogate itself to the rights of the payee. The department shall not be required to file a motion to intervene or join in any court proceeding in order to subrogate itself to the rights of the payee and to be treated as a party in any further proceedings regarding the support order.

Sec. 29. 19 MRSA §500, first ¶, as amended by PL 1981, c. 657, §8, is further amended to read:

When the department is subrogated to a court order of support or spousal support order under section 499, the commissioner may issue to the responsible parent a notice of debt accrued or accruing under section 495.

Sec. 30. 19 MRSA §500, sub-§1, ¶C, as enacted by PL 1975, c. 532, §3, is amended to read:

C. Collection actions: A statement that any property of the debtor is subject to lien and foreclosure, administrative seizure and disposition, order to withhold and deliver or other collection actions and that any debt determined to be owed by the responsible parent may be reported to a consumer reporting agency;

Sec. 31. 19 MRSA §500, sub-§1, ¶G, as enacted by PL 1979, c. 663, §127, is repealed and the following enacted in its place:

G. A statement that at the administrative hearing only the following issues shall be considered:

(1) The receipt of public assistance by the responsible parent;

(2) Uncredited cash payments;

(3) The amount of the debt accrued and accruing;

(4) The accuracy of the terms of the court or administrative order as stated in the notice of debt; and

(5) The maintenance of any required medical or dental insurance coverage; and

Sec. 32. 19 MRSA §502, as amended by PL 1983, c. 155, §2, is repealed and the following enacted in its place:

§502. Exemptions

The following exemptions shall apply to weekly earnings. An amount equal to 30 times the federal minimum wage, as prescribed by the United States Code, Title 29, Section 206(a)(1), shall be exempt from an order to withhold and deliver, garnishment, automatic withholding or any other proceeding under this chapter regarding weekly earnings. Except as otherwise provided in this section, any property otherwise exempt from trustee process, attachment and execution shall be exempt from an order to withhold and deliver, administrative seizure and disposition, and lien and foreclosure under this subchapter. The maximum part of the aggregate disposable earnings of a responsible parent for any workweek which is subject to garnishment, pursuant to section 504 or

504-A, to enforce any decision entered pursuant to section 498, 498-A, 500 or 515, shall not exceed:

1. Support spouse or dependent child. When the individual is supporting his spouse or dependent child, other than a spouse or child with respect to whose support that order is used, 50% of that individual's disposable earnings for that week; and

2. Not supporting spouse or dependent child. When the individual is not supporting such a spouse or dependent child described in subsection 1, 60% of that individual's disposable earnings for that week.

With respect to the disposable earnings of any individual for any workweek, the 50% specified in subsection 1, shall be deemed to be 55% and the 60% specified in subsection 2, shall be deemed to be 65% if and to the extent that such earnings are subject to garnishment to enforce a support order with respect to a period which is prior to the 12-week period which ends with the beginning of that workweek. In no event may the amount withheld exceed the limitations imposed by the United States Code, Title 15, Section 1673.

Sec. 33. 19 MRSA §503, first ¶, as amended by PL 1979, c. 259, §8, is further amended to read:

Twenty-one days after receipt of the notice of debt under section 500 or upon receipt of the decision under section 498 or section 498-A, the amount stated in the notice of debt or in the decision shall be a lien in favor of the department against all non-exempt property of the responsible parent. This lien shall be separate and apart from and in addition to any other lien created by, or provided for in, this Title.

Sec. 34. 19 MRSA §504-A is enacted to read:

§504-A. Expedited income withholding

1. Order to withhold; commissioner may serve. The commissioner may direct any person by order to withhold property, including wages, which is due or belonging to the responsible parent when the responsible parent has failed to make payments under a support order and the amount in arrears is at least equal to the support payable for one month. The com-

missioner shall serve the order on the person directed to withhold.

2. Notice of order to withhold. Prior to implementation of the order to withhold, the responsible parent shall be served with a notice of intention to withhold.

3. Content of notice. In addition to conforming with the requirements of the Maine Administrative Procedure Act, Title 5, section 9052, subsection 4, the notice of intention to withhold shall include:

A. A statement of the amount of the arrearage, and the amount of the current support order;

B. A statement of the amount that will be withheld or the formula by which that amount will be determined;

C. A statement that the withholding will apply to any current or subsequent period of employment;

D. A statement that the responsible parent may contest the withholding by requesting a review pursuant to section 515;

E. A statement that the only basis for contesting the withholding is a mistake of fact;

F. A statement that the request for review must be filed within 20 days of receipt of the notice of intention and that failure to request a review within 20 days will result in the department notifying the responsible parent's employer or other person holding property belonging to the responsible parent to begin withholding; and

G. A statement that at the review hearing the responsible parent will have an opportunity to present his case; that the hearing officer's decision will be based on an evaluation of the facts, including the responsible parent's statement of his case; that the responsible parent will be informed of the decision and, if withholding is to occur, the time within which the withholding will begin and the information to be given to the employer or other payor.

4. Implementation of order to withhold. Upon receipt of an order to withhold issued by the department, the employer or other payor shall immediately

begin withholding from the income of the responsible parent the amount specified in the order. Sums withheld shall be remitted to the department within 10 days of the date the responsible parent is paid. Any person who honors an order to withhold issued under this section shall be discharged from any liability or obligation to the responsible parent for such property. The department warrants that it will defend and hold harmless any such persons for honoring the order.

5. Priority of order. Withholding initiated under this section shall have priority over any other legal process under state law against the same wages.

6. Termination of withholding. The withholding shall be terminated with regard to a current support obligation if:

A. The department is unable to forward funds to the obligee for an extended period of time;

B. The child or spousal support or alimony obligation has been eliminated by a subsequent court order;

C. The child has reached majority or has otherwise been emancipated; or

D. The child has been adopted.

No termination may occur while an arrearage remains, unless other provisions acceptable to the department for its repayment have been made.

No withholding with regard to a support arrearage may be terminated unless the department is unable to forward funds to the obligee for 3 months. Funds not forwarded shall be returned to the obligor and notice shall be given to the obligor's employer or other payor to cease withholding.

Sec. 35. 19 MRSA §507, as enacted by PL 1975, c. 532, §3, is amended to read:

§507. Foreclosure on liens

The commissioner shall proceed as follows with respect to foreclosures on filed liens.

1. Liens on real property. Actions to foreclose liens on real property filed under section 503 may be brought in the county where the lien is filed pursu-

ant to the procedures of Title 10, chapter 603 Title 14, chapter 403, subchapter II.

2. Liens on personal property. Actions to foreclose liens on personal property filed under section 503 may be brought in the county where the lien is filed pursuant to the procedures of Title 10, chapter 631 Title 14, chapter 509, subchapter III.

Sec. 36. 19 MRSA §509, as enacted by PL 1975, c. 532, §3, is repealed and the following enacted in its place:

§509. Employer responsibility and liability

Any person who fails to honor an order to withhold and deliver, an order for expedited withholding, or a duly executed assignment of earnings, or fails to surrender property under section 506, shall be liable to the department in an amount equal to the debt which is the basis of the lien, order to withhold and deliver, order for expedited withholding, demand for surrender or assignment of earnings, together with costs, interest and reasonable attorney fees.

When any withholding order or assignment of earnings is in effect and the obligor's employment is terminated or the periodic payment terminates, the obligor's employer or other payor of funds shall notify the department of the termination within 30 days of the termination date. The notice must include the obligor's home address and the name and address of the obligor's new employer or payor of funds, if known.

Sec. 37. 19 MRSA §510, as amended by PL 1979, c. 309, §10, is further amended by adding at the end a new paragraph to read:

Any employer who, in contravention of this section, discharges from employment, refuses to employ, or takes disciplinary action against any responsible parent because of the existence of any lien, order to withhold and deliver or assignment of earnings and the obligations or additional obligations which it imposes upon the employer shall be subject to a fine in an amount not to exceed \$5,000.

Sec. 38. 19 MRSA §512-A is enacted to read:

§512-A. Employer; payor compensation

The commissioner may by rule establish a processing fee which an employer or individual possessing

property belonging to the responsible parent may charge for implementation of an order to withhold and deliver, assignment of earnings or expedited wage withholding.

Sec. 39. 19 MRSA §515, first ¶, as amended by PL 1975, c. 623, §19-A, is further amended to read:

The Within 30 days of receiving notice of any action under this subchapter, the responsible parent or the department may move for a review of any action under this subchapter by serving a request for review, together with an affidavit stating the grounds upon which the request is based, upon the other party. The department may review any action under this subchapter, except the decision under section 498, subsection 4, without proceeding under this section.

Sec. 40. 19 MRSA §515, sub-§2-A, as enacted by PL 1979, c. 259, §10, is repealed and the following enacted in its place:

2-A. Hearing. The conduct of the hearing and rendering of any decision shall be as follows.

A. The hearing shall be conducted according to rules promulgated by the commissioner. The rules shall provide at least the right to confront and cross-examine witnesses, to present witnesses, to be represented by an attorney or other person and to be notified of these rights in writing. The decision shall be limited to evidence presented at the hearing.

B. If the hearing is on a notice of debt issued under section 500, only the following issues shall be considered:

(1) The receipt of public assistance by the responsible parent;

(2) Uncredited cash payments;

(3) The amount of the debt accrued and accruing;

(4) The accuracy of the terms of the court or administrative order as stated in the notice of debt; and

(5) The maintenance of any required medical or dental insurance coverage.

C. The hearing officer shall render a decision within 30 days of the date on which the hearing was held.

D. Within 10 days of the decision being rendered, a copy of the decision together with a notice of his right to a judicial review shall be sent to the responsible parent by ordinary mail.

Sec. 41. 19 MRSA §581, sub-§2, ¶B, as enacted by PL 1983, c. 813, §2, is repealed and the following enacted in its place:

B. "Child support" means money to be paid directly to a parent or to the Department of Human Services on behalf of any child receiving public assistance and any medical or dental insurance coverage provided to a child pursuant to court order.

Sec. 42. 19 MRSA §581, sub-§9, as enacted by PL 1983, c. 813, §2, is repealed and the following enacted in its place:

9. Support; prosecution money. The court may order either parent of a minor child to contribute reasonable and just sums as child support payable weekly, monthly or quarterly. An order for child support under this section may include an order for the payment of part or all of the medical expenses, hospital expenses and other health care expenses of the child or an order to provide a policy or contract for coverage of those expenses. If medical, hospitalization or dental insurance coverage for his child is available to an obligated parent on a group basis through his employer or group affiliation, the court's order shall include a provision requiring the obligated parent to obtain and maintain that coverage on behalf of his child. The court shall inquire of the parties concerning the existence of a child support order entered pursuant to subchapter V. If such an order exists, the court shall consider its terms in establishing a child support obligation.

Sec. 43. 19 MRSA §581, sub-§11, as enacted by PL 1983, c. 813, §2, is amended to read:

11. Enforcement. The court may enforce obedience to its orders by appropriate process including remedies provided in chapter 14-A. Nothing in this section may preclude the court from incarcerating a spouse for nonpayment of child support, alimony or

attorney's fees in violation of a court order to do so.

Sec. 44. 19 MRSA §722, sub-§4, as enacted by PL 1979, c. 668, §4, is further amended to read:

4. Enforcement. The court may enforce an order as provided under chapter ~~14~~ 14-A.

Sec. 45. 19 MRSA §752, sub-§2, ¶B, as enacted by PL 1983, c. 813, §5, is repealed and the following enacted in its place:

B. "Child support" means money to be paid directly to a parent, to another person or agency awarded parental rights and responsibilities with respect to a child, or to the Department of Human Services on behalf of any child receiving public assistance and any medical or dental insurance coverage provided to a child pursuant to court order.

Sec. 46. 19 MRSA §752, sub-§10, as enacted by PL 1983, c. 813, §5, is amended to read:

10. Support order. An order of the court for child support may run against the father or the mother in whole or in part or against both, irrespective of the fault of the father or mother in the divorce action. When the order is to run against both, the court shall specify the amount each shall pay. The court shall inquire of the parties concerning the existence of a child support order entered pursuant to subchapter V. If such an order exists, the court shall consider its terms in establishing a child support obligation.

An order for child support may include an order for the payment of part or all of the medical expenses, hospital expenses and other health care expenses of the child or an order to provide a policy or contract for coverage of these expenses. If medical, hospitalization or dental insurance coverage for the child is available to an obligated parent on a group basis through his employer or group affiliation, the court's order shall include a provision requiring the obligated parent to obtain and maintain that coverage on behalf of his child.

Availability of public welfare benefits to the family shall not affect the decision of the court as to the responsibility of a parent to provide child support.

The court may enforce a support order as provided in chapter 14-A.

Sec. 47. 19 MRSA §774, sub-§§5 and 6, as enacted by PL 1979, c. 668, §6, are amended to read:

5. Execution. Execution as provided under Title 14, chapter 509; ~~or~~

6. Other methods. Any other method of enforcement that may be used in a civil action; or

Sec. 48. 19 MRSA §774, sub-§7 is enacted to read:

7. Security. The judgment debtor to give security, post a bond or give some other guarantee to secure payment of the judgment.

Sec. 49. 19 MRSA §776, sub-§§2 and 3, as enacted by PL 1979, c. 668, §6, are repealed and the following enacted in their place:

2. Pleading public assistance. In an action to establish a support order, enforce a support order, amend a support order or to collect support arrearages, if the child is receiving or has received public assistance in any relevant time period, the party bringing the action shall affirmatively plead that fact.

3. Notice to State. In an action to establish a support order, enforce a support order, amend a support order or to collect support arrearages, if the action relates to a period when the child has received, is receiving or will receive public assistance, a copy of the motion or petition shall be furnished by ordinary mail to the department.

Sec. 50. 19 MRSA §777 is enacted to read:

§777. Income withholding

1. Availability and establishment of income withholding. Support and alimony orders issued or modified by the courts in this State must have a provision for withholding of income, in order to ensure that withholding as a means of obtaining support is available if arrearages occur. Income withholding against all support obligations entered by a court within the State shall be implemented as follows.

A. Whenever an obligation for support of a dependent child or spouse or alimony to a former spouse is determined and ordered by a court of this State pursuant to provisions within this Ti-

tle or Title 22, that court shall order the withholding of the amount of child or spousal support or alimony, as determined by court order, from the income, regardless of source, of the person obligated to pay the support or alimony. When an order for withholding has not previously been secured, the obligee may move for an order, and the court shall grant the order.

B. Each order for withholding shall provide for a conspicuous notice to the obligor that withholding may result if the obligor fails to make the support or alimony payments, and that no withholding shall be made until the following conditions are met:

(1) That:

(a) The obligee determines the payments which the obligor has failed to make under that support or alimony order are at least equal to the amount payable for one month; or

(b) The obligor has requested that income withholding be implemented;

(2) The obligee serves written notice of his determination of arrearage upon the obligor at least 20 days before service of the arrearage determination and of a copy of the court's order for withholding upon the payor of funds;

(3) Within the 20-day period, the obligor has failed to file a motion for determination of arrearages with respect to the amount of alimony or support owed and to simultaneously request an ex parte stay of service on the payor of funds until the motion for determination is heard. Any stay issued by the court under this subsection shall expire in 60 days and may be reissued only upon a showing by the obligor that he has made reasonable efforts to obtain a hearing on his motion for determination of arrearages during the effective period of the stay;

(4) The obligee shall mail a copy of the determination of arrearage and a copy of the court's withholding order to the payor of funds; and

(5) The obligee shall also mail to the Department of Human Services, a copy of the determination of arrearage and a copy of the court's withholding order to enable the department to proceed pursuant to subsection 2.

C. An order modifying the amount of alimony or support, issued after the hearing on the motion to modify, may provide that payments be made outright by withholding. The provisions of subsection 1, paragraph B, do not apply.

D. Notwithstanding any law to the contrary, the order is binding on the employer, trustee or other payor of the funds once service has been made upon him. The payor shall be liable for any amounts he fails to withhold after receiving notice. The payor shall withhold from the income payable to the obligor the amount specified in the order and shall monthly or more frequently remit the amounts withheld to the department. For implementing the order to withhold, the payor shall be entitled to charge a processing fee as promulgated by the commissioner under section 512-A. This charge shall be deducted from the amount withheld prior to its remittance to the department. The amount specified in the order shall not exceed the limitations imposed by section 502 or by the United States Code, Title 15, Section 1673. Any employer who, in contravention of this section, discharges from employment, refuses to employ or takes disciplinary action against any obligor because of the existence of such an order and the obligations or additional obligations which it imposes upon the employer shall be subject to a fine in an amount not to exceed \$5,000.

E. An order for withholding under this section shall have priority over any other attachment, execution, garnishment or wage assignment unless otherwise ordered by the court, except such an order shall not have priority over a previously implemented garnishment upon a judgment for support or alimony arrearages or any previously implemented assignment of wages or withholding made pursuant to subchapter V.

F. When a withholding order is in effect and the obligor's employment is terminated or the periodic payment terminates, the obligor's employer or other payor of funds shall notify the

department of the termination within 30 days of the termination date. The notice shall include the obligor's home address and the name and address of the obligor's new employer or payor of funds, if known.

G. The order of withholding with regard to a current support obligation shall be terminated if:

(1) The department is unable to forward funds to the obligee for 3 months;

(2) The child or spousal support or alimony obligation has been eliminated by a subsequent court order;

(3) The child has reached majority or has otherwise been emancipated; or

(4) The child has been adopted.

No termination may occur while an arrearage remains, unless other provisions for its repayment have been made.

No withholding with regard to a support arrearage may be terminated unless the department is unable to forward funds to the obligee for 3 months. Funds not forwarded shall be returned to the obligor and notice shall be given to the obligor's employer or other payor to cease withholding.

2. Department designated as administering agency. The department is designated as the agency responsible for adopting and administering procedures to receive, document, track and monitor all support payments collected pursuant to this section. The department may promulgate a fee for use of these services.

Sec. 51. 24-A MRSA §2809, sub-§1-A is enacted to read:

1-A. Any such policy of group health insurance which provides coverage for family members or dependents of individuals in the insured group may not define the terms "family" or "dependent" to exclude from coverage those minor children of any covered individual who do not reside with that individual.

Sec. 52. 24-A MRSA §2833, as amended by PL 1979, c. 633, §147, is further amended to read:

§2833. Optional coverage of children required

All group or blanket health insurance plans issued in accordance with the requirements of section 2832 shall provide unmarried women certificate holders with the option of coverage, from the date of birth, of their children. A certificate holder who, pursuant to the laws of the State or any other state, has been adjudicated or has acknowledged himself to be the father of an illegitimate child shall be given the option of coverage for that child from the date of his adjudication or acknowledgment of paternity. This optional coverage shall be the same as provided the children of a married certificate holder with family or dependent coverage.

Sec. 53. 36 MRSA §5276-A, sub-§1, as enacted by PL 1981, c. 504, §4, is amended to read:

1. Generally. Any agency of the State, including the University of Maine, which is authorized to collect from any individual or corporation a liquidated debt greater than \$25 shall notify in writing the State Tax Assessor and supply information necessary to identify the debtor whose refund is sought to be set off. The State Tax Assessor, upon any such notification, shall assist the requesting agency by setting off that debt, pursuant to rules promulgated by the State Tax Assessor, against any refund to which that individual or corporation is entitled under this Part. Liquidated child support debts that the Department of Human Services has contracted to collect, pursuant to Title 19, section 448-A or 495, subsection 2, shall be eligible, under the provisions of this section, for setoff against any refund due the obligated individual. The State Tax Assessor shall provide the creditor agency with the name, address and social security number of each debtor whose refund will be subject to offset.

Sec. 54. 39 MRSA §67, as amended by PL 1975, c. 59, §3, is further amended to read:

§67. Invalidity of waiver of rights; claims not assignable

No agreement by an employee unless approved by the commission or by the Director of the Bureau of Labor, to waive his rights to compensation under this Act ~~shall~~ may be valid. No claims for compensation under this Act ~~shall~~ may be assignable or subject to attachment or liable in any way for debt, except for the enforcement of a current support obligation or

support arrears pursuant to Title 19, chapter 7, subchapter V or Title 19, chapter 14-A.

Effective July 16, 1986.

CHAPTER 653

H.P. 1596 - L.D. 2247

AN ACT Permitting Municipalities to Require
that a Payment on Taxes be Applied
Toward the Oldest Outstanding Taxes.

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

36 MRSA §906 is enacted to read:

§906. Application of payments to unpaid taxes

The municipal officers of a municipality may, upon request of the municipal treasurer or the tax collector, require that any tax payment received from an individual as payment for any property tax be applied against outstanding or delinquent taxes due on that property in chronological order beginning with the oldest unpaid tax bill. Taxes may not be applied to a period for which an abatement request or appeal has not been resolved unless approved in writing by the taxpayer.

Effective July 16, 1986.

CHAPTER 654

H.P. 872 - L.D. 1229

AN ACT to Bring into Conformity Municipal and
State Subdivision Laws.

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

38 MRSA §482, sub-§5, as amended by PL 1983, c. 788, §§1 to 3, is further amended to read:

5. Subdivision. A "subdivision" is the division of a parcel of land into 5 or more lots to be offered