

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST SPECIAL SESSION

August 21, 1989 to August 22, 1989

and

SECOND REGULAR SESSION

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
July 14, 1990

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

J.S. McCarthy Company
Augusta, Maine
1990

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

January 3, 1990 to April 14, 1990

§1058. Reports, qualifications for filing

Any political action committee that expends is registered with the commission or that accepts contributions, incurs obligations or makes expenditures in an aggregate amount in excess of \$50 on any one or more campaigns for the office of Governor, for state or county office or for the support or defeat of a referendum or initiated petition shall file a report on its activities in that campaign with the commission on forms as prescribed by the commission. Any political action committee required under this section to file a report shall file the report for each filing period under section 1059, whether or not the expenditures are in excess of \$50 in any one period.

Sec. 16. 21-A MRSA §1059, sub-§1, ¶B, as repealed and replaced by PL 1989, c. 504, §§28 and 31, is amended to read:

B. Aggregate expenditures, listed by candidate or political committee, for the periods between the filing dates specified reporting period for which the report is filed; and

Sec. 17. 21-A MRSA §1059, sub-§1, ¶B-1 is enacted to read:

B-1. Cumulative expenditures, listed by candidate or political committee, aggregating the expenditures made during preceding reporting periods in the same calendar year and during the reporting period for which the report is filed;

Sec. 18. 21-A MRSA §1059, sub-§1, ¶C, as repealed and replaced by PL 1989, c. 504, §§28 and 31, is repealed and the following enacted in its place:

C. The total cumulative balance from all preceding reporting periods; and

Sec. 19. 21-A MRSA §1059, sub-§1, ¶D is enacted to read:

D. In the report required to be filed under subsection 2, paragraph B, subparagraph 2, a summary of all expenditures made during the calendar year in which the election was held.

Sec. 20. 21-A MRSA §1059, sub-§2, ¶E, as repealed and replaced by PL 1989, c. 504, §§28 and 31, is repealed and the following enacted in its place:

E. A committee shall report any expenditure of \$500 or more, made after the 12th day before the election and more than 48 hours before 5 p.m. on the day of the election, within 48 hours of that expenditure or by noon of the first business day after the expenditure, whichever is later.

Sec. 21. Retroactivity. Sections 3, 5, 6, 8, 9, 10, 11 and 13 of this Act are effective retroactively to November 1, 1989.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved, except as otherwise indicated.

Effective April 17, 1990, unless otherwise indicated.

CHAPTER 834

H.P. 1704 - L.D. 2353

An Act Concerning Child Support Guidelines

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, federal law requires the State to adopt child support guidelines to avoid losing federal Aid to Families with Dependent Children funds; and

Whereas, the guidelines adopted by court rule may not survive constitutional challenges unless codified by the Legislature; and

Whereas, existing statutory provisions conflict with the child support guidelines; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

PART A

19 MRSA c. 7, sub-c. I-A is enacted to read:

SUBCHAPTER I-A**CHILD SUPPORT GUIDELINES****§311. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Basic support entitlement. "Basic support entitlement" means the sum derived from the child support table appropriate to the age of the child or children and the parties' gross income.

2. Child care costs. "Child care costs" means the actual child care costs incurred by the parties for the children for whom support is being established that are related to that party's employment, education or training and are reasonable or customary in the area in which that party resides.

3. Child support table. “Child support table” means the schedule that reflects the percentage of combined gross income parents living in the same household in this State ordinarily spend on their children that has been adopted by the Department of Human Services under former section 303-A.

4. Extraordinary medical expenses. “Extraordinary medical expenses” means uninsured expenses over \$150 in the aggregate per child or group of children supported for each calendar year and includes, but is not limited to, reasonable and necessary costs for orthodontia, dental treatment, asthma treatment, physical therapy, chronic health problems and professional counseling or psychiatric therapy for diagnosed mental disorders.

5. Gross income. “Gross income” means gross income of a party as follows.

A. Gross income includes income from any ongoing source including, but not limited to, salaries, wages, commissions, royalties, bonuses, dividends, severance pay, pensions, interest, trust funds, annuities, capital gains, social security benefits, disability insurance benefits, prizes, workers' compensation benefits, spousal support actually received pursuant to a preexisting order, and educational grants, fellowships or subsidies that are available for personal living expenses. Gross income does not include child support received by either party for children other than children for whom support is being determined.

B. Gross income includes expense reimbursements or in-kind payments received by a party in the course of employment or self-employment or operation of a business if the expense reimbursements or in-kind payments reduce personal living expenses.

C. Gross income includes gross receipts minus ordinary and necessary expenses when a party is self-employed or derives income from proprietorship of a business, joint ownership of a partnership or a closely held business operation, and rents minus ordinary and necessary expenses. At the discretion of the court, amounts allowable by the United States Internal Revenue Service for the accelerated component of depreciation expenses or investment tax credits may or may not be treated as ordinary and necessary expenses. The court may also determine that other business expenses, including, but not limited to, business losses, are inappropriate for determining gross income for purposes of calculating child support.

D. Gross income may include the difference between the amount a party is earning and that party's earning capacity when the party voluntarily becomes or remains unemployed or underemployed, if sufficient evidence is introduced concerning a party's current earning capacity. In the absence of

evidence in the record to the contrary, a party that is personally providing primary care for a child under the age of 3 years is deemed not available for employment. The court shall consider anticipated child care and other work-related expenses in determining whether to impute income, or how much income to impute, to a party providing primary care to a child between the ages of 3 and 12 years. A party who is incarcerated in a correctional or penal institution is deemed available only for employment that is available through such institutions.

E. Gross income does not include the amount of preexisting spousal maintenance or child support obligation actually paid pursuant to court or administrative order, or an appropriate amount of child support being voluntarily paid by a party who has a legal obligation to support that child.

F. Gross income does not include the actual incremental cost to a party for the provision of adequate health insurance coverage for the involved children.

G. Gross income does not include the amount of money received from means-tested public assistance programs, including, but not limited to, aid to families with dependent children, supplemental security income, food stamps and general assistance.

6. Parental support obligation. “Parental support obligation” means the portion of total support obligation a party is ordered to pay in money as child support.

7. Primary residence. “Primary residence” means the residence of a child where that child receives residential care for more than 50% of the time on an annual basis.

8. Primary residential care provider. “Primary residential care provider” means the party who provides residential care for a child for more than 50% of the time on an annual basis.

9. Support guidelines. “Support guidelines” means the child support table and the criteria for application of the table set forth in section 316.

10. Total support obligation. “Total support obligation” means the sum of money determined by adding the basic support entitlement, child care costs and extraordinary medical expenses.

11. Twelve through 17 years; between the ages of 12 and 18 years. The age categories “12 through 17 years” and “between the ages of 12 and 18 years” as used in the child support table and elsewhere in the support guidelines are deemed to include children between the ages of 18 and 19 years who are attending a secondary school for whom an obligation of support is established or deemed to remain in force pursuant to Public Law 1989, chapter 156.

§312. Application

Notwithstanding any other provisions of law, this subchapter applies to any court action or administrative proceeding in which a child support order is issued or modified under this Title or Title 22.

§313. Forms

For the purposes of this subchapter, the Supreme Judicial Court is authorized to prescribe or revise forms by administrative order or rule.

§314. Income information and child support worksheets

1. Court actions. This subsection governs the exchange and filing of income affidavits, child support worksheets and supporting documentation in court actions.

A. In any court action to determine or modify support of a minor child or children, the plaintiff and defendant shall exchange, prior to mediation, affidavits regarding income and assets. These affidavits must conform with the forms provided by the court and must be accompanied by supporting documentation of current income, such as pay stubs, tax returns, employer statements or, if the plaintiff or defendant is self-employed, receipts and expenses.

B. The parties shall exchange prior to the commencement of any mediation a completed child support worksheet. The worksheet must be completed in accordance with the support guidelines.

C. At least 3 days prior to any court hearing, whether contested or uncontested, the parties shall file with the court and exchange, if they have not already done so, the completed affidavits and child support worksheets. The parties are not required to file with the court the supporting documentation.

D. Failure to comply with this subsection may result in the imposition of economic sanctions upon a party and empowers the court to determine a parental support obligation based on available information and reasonable inferences drawn from the failure to comply.

2. Administrative proceedings. The Department of Human Services shall adopt rules regarding the provision of information necessary to apply the child support guidelines in administrative proceedings.

§315. Rebuttable presumption

In any proceeding to establish or modify child support, there is a rebuttable presumption that the parental support obligation derived from the support guidelines is the amount ordered to be paid, unless support is

established under section 317. The court shall review the adequacy of a child support amount agreed to by the parties with reference to the parental support obligation.

§316. Support guidelines

1. Determination of basic support entitlement. After the court or hearing officer determines the annual gross income of both parties, the 2 incomes must be added together to provide a combined annual gross income and applied to the child support table to determine the basic support entitlement for the child or group of children.

When there are children within each age category, the court or hearing officer shall refer to the table and locate the figure in the left-hand column that is closest to the parents' combined annual gross income. In each age category the court or hearing officer shall determine the dollar figure for the total number of children for whom support is being determined, multiply the dollar figure in each age category by the number of children in that category and add the 2 products. The resulting dollar amount represents the basic support entitlement.

2. Total support obligation. The total support obligation is determined by adding to the basic support entitlement the child care costs and extraordinary medical expenses as follows.

A. When the children are under the age of 12 years, the sums actually being expended for child care costs must be added to the basic support entitlement to determine the total support obligation.

B. If a child is incurring extraordinary medical expenses, the future incidence of which is determinable because of the permanent, chronic or recurring nature of the illness or disorder, the sums actually being expended for the medical expenses must be added to the basic support entitlement to determine the total support obligation.

3. Computation of parental support obligation. The total support obligation must be divided between the parties in proportion to their respective gross incomes. The court or hearing officer shall order the party not providing primary residential care to pay, in money, that party's share of the total support obligation to the party providing primary residential care. The primary residential care provider is presumed to spend the primary care provider's share directly on the child or children.

4. Special circumstances. The court or hearing officer shall consider the following special circumstances in determining child support.

A. When the nonprimary residential care provider is legally obligated to support children in that party's household other than the children for whom a support order is being sought, an adjustment must be made to that party's parental support obligation. The adjustment is made by using the nonprimary

residential care provider's annual gross income to compute a theoretical support obligation under the support guidelines for the children in that household. Neither the child support received by nor the financial contributions of the other parent of the children in the household are considered in the theoretical support calculation. The obligation is then subtracted from the annual gross income, and the adjusted income is the amount used to calculate support. The adjustment is used in all appropriate cases, except that it is not applied when the result would be a reduction in an award previously established.

B. When the combined annual gross income exceeds \$126,600, the child support table is not applicable, except that the basic weekly child support entitlement of a child is presumed to be not less than that set forth in the table for a combined annual gross income of \$126,600.

C. The subsistence needs of the nonprimary care provider must be taken into account when establishing the parental support obligation. If the annual gross income of a nonprimary care provider is less than the federal poverty guideline, or if the nonprimary care provider's income is insufficient to meet work-related expenses and other basic necessities as defined in Title 22, section 4301, subsection 1, that nonprimary care provider's weekly parental support obligation for all the children for whom a support award is being established or modified may not exceed 10% of that nonprimary care provider's weekly gross income, regardless of the amount of the parties' combined annual income.

D. When the parties have equal annual gross incomes and provide residential care equally for all children for whom support is being determined, neither party is required to pay the other a parental support obligation. The parties shall share equally the child care costs, health insurance premiums and uninsured medical expenses.

E. When each party is the primary residential care provider for at least one of the children involved, a child support obligation must first be computed separately for each party for the child or children residing primarily with the other party, based on a calculation pursuant to the support guidelines, and using as input in each calculation the number of children in each household, rather than the total number of children. The amounts determined in this manner represent the theoretical support obligation due each party for support of the child or children for whom the party has primary residential responsibility. Each party's proportionate share of child care costs is added to the amounts calculated, and the party owing the greater amount of child support shall pay the difference between the 2 amounts as a parental support obligation.

5. Prospective child support award. An order establishing a child support award for any child or children who have attained the age of 10 years must also establish an award for the child or children as if the child or children were 12 years old. The prospective award becomes effective on each child's 12th birthday without further order or decision of the court or hearing officer, and the order establishing or modifying the prospective award must state this fact.

6. Incorporated findings. As part of its current child support order, the court or hearing officer shall make the following findings:

A. The names and dates of birth of the children for whom support is being sought;

B. The annual gross income of each party and the combined annual income of both parties;

C. The amount of the basic weekly support entitlement attributable to children under 12 years of age, as indicated per child per week on the child support table;

D. The amount of the basic weekly support entitlement attributable to children 12 years of age and over, as indicated per child per week on the child support table;

E. The names and dates of birth of the children for whom work-related day care expenses are paid and the amount of those expenses;

F. The names and dates of birth of the children for whom extraordinary medical expenses are paid and the amount of those expenses; and

G. The parental support obligation of the nonprimary care provider.

These findings are made by incorporating the completed child support worksheet into the order for current support.

7. Requirements of support provisions. To assist in any formal review proceeding, and to enable the parties to reduce the incidence of formal modification procedures, any order establishing parental support obligation must include:

A. The names of the children;

B. A beginning date for the parental support obligation;

C. A breakdown of the parental support obligation, including:

(1) The amount for basic support entitlements;

(2) The amount for child care costs;

(3) The amount for extraordinary medical expenses; and

(4) The percentage of the total child care costs and extraordinary medical expenses included in the parental support obligation;

D. For any child or children who have attained the age of 10 years, a prospective award under subsection 5;

E. If all the children for whom a parental support obligation is being established have attained the age of 12 years, a specific sum to be paid depending on the number of minor children remaining with the primary care provider. Because the support guidelines are based on the actual costs of raising a given number of children in a household, the order must provide a specific dollar amount for every combination of minor children. The court or hearing officer may not apportion support between the parents by determining the parental support obligation amount and dividing by the total number of children; and

F. If the court or hearing officer ultimately determines that the order for current support is to be set under section 317, the court or hearing officer shall incorporate into the order its written findings in support of the deviation.

§317. Deviation from child support guidelines

1. Rebutting presumption. If the court or hearing officer finds that a child support order based on the support guidelines would be inequitable or unjust due to one or more of the considerations listed under subsection 3, that finding is sufficient to rebut the presumption established in section 315.

2. Proposed findings. A party in a court action proposing deviation from the application of the support guidelines shall provide the court with written proposed findings showing that the application of the presumptive amount would be inequitable or unjust.

3. Criteria for deviating from support guidelines. Criteria that may justify deviation from the support guidelines are as follows.

A. The nonprimary residential care provider is in fact providing primary residential care for more than 30% of the time on an annual basis;

B. The number of children for whom support is being determined is greater than 6;

C. The interrelation of the total support obligation established under the support guidelines for child support, the division of property and any award of spousal support made in the same proceeding for which a parental support obligation is being determined;

D. The financial resources of the child or children;

E. The financial resources and needs of a party, including nonrecurring income not included in the definition of gross income;

F. The standard of living the child or children would have enjoyed had the marital relationship continued;

G. The physical and emotional conditions of the child or children;

H. The educational needs of the child or children;

I. Inflation with relation to the cost of living;

J. Available income and financial contributions of the domestic associate or current spouse of each party;

K. The existence of other persons who are actually financially dependent on either party, including, but not limited to, elderly, disabled or infirm relatives, or adult children pursuing post-secondary education. If the primary care provider is legally responsible for other minor children who reside in the household and if the computation of a theoretical support obligation on behalf of the primary care provider would result in a significantly greater parental support obligation on the part of the nonprimary care provider, that factor may be considered;

L. The tax consequences of a support award, including the substantial monetary benefit that a party may derive from any federal tax credit for child care expenses;

M. The fact that the incremental cost of health insurance premiums required to be paid by a party, notwithstanding the deduction of these premiums from gross income, exceeds 15% of that party's share of the total support obligation;

N. The fact that income at a reasonable rate of return may be imputed to nonincome-producing assets with an aggregate fair market value of \$10,000 or more, other than an ordinary residence or other asset from which the children derive a substantial benefit;

O. The existence of special circumstances regarding a child 12 years of age or over that, for the child's best interest, requires that the primary residential care provider continue to provide for employment-related day care;

P. An obligor party's substantial financial obligation regarding the costs of transportation of the child or children for purposes of parent and child contact. To be considered substantial, the trans-

portation costs must exceed 15% of the yearly support obligation; and

Q. A finding by the court or hearing officer that the application of the support guidelines would be unjust, inappropriate or not in the child's best interest.

§318. Stipulation

A stipulation of the parties establishing child support must be reviewed by the court or hearing officer to determine if the amount stipulated is in substantial compliance with the presumptive application of the guidelines and, if a deviation is proposed, whether it is justified and appropriate under section 317. The court or hearing officer shall review a proposed order that gives the stipulation effect to determine its compliance with this section.

§319. Modification of existing support orders

If a child support order, including an order in effect before the effective date of this section, varies more than 15% from a parental support obligation determined under section 316, the court or hearing officer shall consider the variation a substantial change of circumstances. This section does not apply to an existing order issued under section 317 that deviated from the presumptive amount determined pursuant to section 316.

PART B

Sec. B-1. 19 MRSA §214, sub-§9, as amended by PL 1989, c. 156, §1 and c. 337, §1, is further amended to read:

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~~ must 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 chapter 7, subchapter V. If such an order exists, the court shall consider its terms in establishing a child support obligation. A determination or modification of child support under this section must comply with chapter 7, subchapter I-A.

After January 1, 1990, the court may order either parent to provide child support beyond the child's 18th birthday if the child is attending secondary school as defined in Title 20-A, section 1, until the child graduates, withdraws or is expelled from secondary school or attains the age of 19, whichever first occurs.

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. The court order ~~shall~~ must include a provision requiring the obligated parent to obtain and maintain health insurance

coverage for medical, hospitalization and dental expenses, if health insurance is available to the obligated parent at reasonable cost. The court order ~~shall~~ must also require the obligated parent to furnish proof of coverage to the obligee within 15 days of receipt of a copy of the court order. For the purposes of this section, health insurance ~~shall be~~ is considered reasonable in cost if it is employment-related or other group health insurance. If health insurance is not available at reasonable cost at the time of the hearing, the court order ~~shall~~ must establish the obligation to provide health insurance on the part of the obligated parent effective immediately upon insurance being available at reasonable cost. The court may enforce a support order as provided in chapter 14-A.

Sec. B-2. 19 MRSA §272, 2nd ¶, as amended by PL 1985, c. 652, §4, is further amended to read:

In execution of the powers given the court under this subchapter, the court may employ any compulsory process ~~which that it deems~~ determines proper, by execution, attachment or other effectual form, on which costs ~~shall be~~ are taxed as in other actions. The court may enforce any support order established under this subchapter as provided in chapter 14-A. A determination or modification of child support under this section must comply with chapter 7, subchapter I-A.

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

3. Court action. If the court finds that the non-supporting parent or spouse is of sufficient ability or is able to labor and provide for ~~his spouse that parent's~~ or spouse's children or the other spouse, and that ~~he~~ the parent or spouse has willfully and without reasonable cause, refused or neglected to so provide, then it may order ~~him~~ the parent or spouse to contribute to the support of ~~his that parent's or spouse's children or the other spouse or child~~ in regular amounts that it deems determines reasonable and just. ~~The court shall consider the relative financial resources and abilities of both parents or spouses in determining the amount of the contribution.~~ Child support must be determined or modified in accordance with subchapter I-A.

Sec. B-4. 19 MRSA §302, as amended by PL 1985, c. 652, §11, 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~~ Juvenile Court, to custody other than that of ~~its~~ the child's parent, ~~such that~~ commitment shall be is 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~~ the parent shall pay, in such manner as the court may direct ~~such~~ a sum ~~as will cover that covers~~ in whole or in part the support of ~~such that~~ that child, and if ~~such that~~ that parent ~~shall fail~~ fails to pay ~~such that~~ that sum, ~~he~~ that parent may be pro-

ceeded against as provided in chapter 14-A. A determination or modification of child support under this section must comply with subchapter I-A.

Sec. B-5. 19 MRSA §303, sub-§1, as enacted by PL 1989, c. 156, §2, is repealed.

Sec. B-6. 19 MRSA §303, sub-§3 is enacted to read:

3. Automatic adjustments. Notwithstanding subsection 2, the decree of the court or order of the hearing officer may include automatic adjustments to the amount of money paid for the support of a child when the child attains the age of 12 or 18 years; or when the child graduates, withdraws or is expelled from secondary school, attains the age of 19 or is otherwise emancipated, whichever occurs first.

Sec. B-7. 19 MRSA §303-A, as repealed and replaced by PL 1989, c. 365, §1, is repealed.

Sec. B-8. 19 MRSA §481, first ¶, as amended by PL 1975, c. 740, §125, is further amended to read:

~~Whoever, being~~ Any person who is able by means of his or her property or capacity for labor to provide for the necessary support and maintenance of his or her that person's minor child or children under the age of 18 years and who, without lawful excuse, willfully neglects or refuses to provide such that support and maintenance, and such the neglect or refusal results in such the child or children being in destitute or necessitous circumstances, or whoever is guilty of failure to support minor children. Any person who, without lawful excuse, being is able by means of his or her property or capacity for labor to provide for the necessary support and maintenance of that person's minor child or children under the age of 18 years, and who willfully neglects or refuses to comply with any existing order made by any court in this or another state pertaining to the support of a minor child or children, which order is in full force and effect, and such the neglect or refusal results in said the child or children being in destitute or necessitous circumstances, is guilty of failure to support minor children. Any person convicted of this offense, when it is not of a high and aggravated nature, ~~shall must~~ be punished by a fine of not more than \$300 or by imprisonment for not more than 11 months, or by both. When the offense is of a high and aggravated nature, the person convicted of such an offense ~~shall must~~ be punished by a fine of not more than \$500 or by imprisonment for not more than 2 years, or by both. After conviction, if the court in its discretion either continues the case for sentencing or imposes punishment as provided and suspends its execution, the court may place the defendant on probation to the Department of Human Services for a specified period of time but in no case ~~to~~ may that period extend beyond the time ~~that~~ when the youngest child ~~shall attain~~ attains the age of 18 years. As a condition of the defendant's probation, the court may make an order ~~which shall be~~, subject to change by the court from time to time as circumstances may require, directing the defendant to pay to the Department of

Human Services for the use of ~~such~~ the child or children a certain sum of money weekly. A determination or modification of child support under this section must comply with subchapter I-A. Such an order issued as a condition of probation ~~shall does~~ 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 must~~ be credited against amounts accruing or accrued for the same period under both. Violation of such probation ~~shall must~~ be dealt with in the same manner as provided in Title 17-A, sections 1205 and 1206, and discharge from probation may be obtained in the same manner as provided in Title 17-A, section 1202. When the defendant is released from custody on probation, the court in its discretion may order ~~said the~~ defendant to enter into recognizance with sureties in such sum as the court may direct. The condition of the recognizance ~~shall must~~ be such that if the defendant ~~shall make his or her~~ makes a personal appearance in court whenever ordered to do so within ~~said the~~ appropriate period, and ~~shall further comply~~ complies with the terms of the order and of any subsequent modification ~~thereof of the order~~, then the recognizance ~~shall be is~~ void, otherwise the recognizance is in full force and effect.

Sec. B-9. 19 MRSA §581, sub-§9, as amended by PL 1989, c. 156, §6, and as repealed and replaced by PL 1989, c. 337, §7, is amended to read:

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. The court shall inquire of the parties concerning the existence of a child support order entered pursuant to chapter 7, subchapter V. If such an order exists, the court shall consider its terms in establishing a child support obligation. A determination or modification of child support under this section must comply with chapter 7, subchapter I-A.

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. The court order ~~shall must~~ include a provision requiring an obligated parent to obtain and maintain health insurance coverage for medical, hospitalization and dental expenses, if health insurance is available to the obligated parent at reasonable cost. The court order ~~shall must~~ also require the obligated parent to furnish proof of such coverage to the obligee within 15 days of receipt of a copy of the court order. For the purposes of this section, health insurance ~~shall be is~~ considered reasonable in cost if it is employment-related or other group health insurance. If health insurance is not available at reasonable cost at the time of the hearing, the court order ~~shall must~~ establish the obligation to provide health insurance on the part of the obligated parent effective immediately upon the insurance being available at reasonable cost.

Sec. B-10. 19 MRSA §693, as amended by PL 1985, c. 53, §3, is further amended to read:

§693. Orders pending divorce

In accordance with section 752, subsection 4, pending a divorce action, the court may order either spouse to pay to the other spouse, or to the attorney for the other spouse, sufficient money for the defense or prosecution thereof; ~~may~~ make reasonable provision for either spouse's separate support, on a motion for which costs and counsel fees may be ordered; enter ~~such~~ a decree for the ~~care, custody~~ parental rights and responsibilities and support of the minor children ~~as the court deems proper~~ in accordance with chapter 7, subchapter I-A; and in all cases enforce obedience by appropriate processes on which costs and counsel fees ~~shall be~~ are taxed as in other actions. 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 children or an order to provide a policy or contract for coverage of ~~such~~ those expenses. Availability of public welfare benefits to the family ~~shall~~ must not affect the decision of the court as to the responsibility of a parent to provide child support.

Sec. B-11. 19 MRSA §752, sub-§10, as amended by PL 1989, c. 156, §7 and c. 337, §8, is further 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. For divorces ordered after January 1, 1990, the order for child support may run until the child graduates, withdraws or is expelled from secondary school as defined in Title 20-A, section 1, or attains the age of 19 years, whichever first occurs after the child attains the age of 18 years. 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 chapter 7, subchapter V. If such an order exists, the court shall consider its terms in establishing a child support obligation. A determination or modification of child support under this section must comply with chapter 7, subchapter I-A.

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. The court order ~~shall~~ must include a provision requiring an obligated parent to obtain and maintain health insurance coverage for medical, hospitalization and dental expenses, if health insurance is available to the obligated parent at reasonable cost. The court order ~~shall~~ must also require the obligated parent to furnish proof of such coverage to the obligee within 15 days of receipt of a copy of the court order. For the purposes of this section, health insurance ~~shall be~~ is considered reasonable in cost if it is employment-related or other group health insurance. If health insurance is not available at reasonable cost at the time of the hearing, the court order ~~shall~~ must establish the obligation to provide health insurance on the part of the obligated parent effective immediately upon the insurance being available at reasonable cost.

Availability of public welfare benefits to the family ~~shall~~ must 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. B-12. 19 MRSA §766, sub-§1, ¶G, as enacted by PL 1979, c. 578, §§5 and 7, is amended to read:

G. Ordering the payment of temporary support for the dependent party, or any child in ~~his~~ the dependent party's custody in accordance with chapter 7, subchapter I-A, or both, when there is a legal obligation to support that person, that child, or both;

Sec. B-13. 19 MRSA §778, as enacted by PL 1989, c. 337, §11, is amended to read:

§778. Modification of support order

Any order for support with respect to a minor child may be modified or terminated in accordance with chapter 7, subchapter I-A as circumstances require upon the petition or motion of a party. Child support orders may be modified retroactively, but only from the date that notice of a petition for modification ~~has been~~ was served upon the opposing party pursuant to the Maine Rules of Civil Procedure.

Sec. B-14. 22 MRSA §3754, 2nd ¶, as amended by PL 1977, c. 118, §5, is further amended to read:

The department may bring proceedings in the District Court or Superior Court in the county where the child resides or in the county where the parent may be found to compel any person liable under this section to contribute to the support of any child receiving such aid, if after reasonable efforts on the part of the department, voluntary contributions have not been made. The department shall bring the action ~~shall be brought~~ as a petition for support upon not less than 7 days' notice. The court may order either ~~the father or the mother~~ one or both parents of ~~such~~ the child to contribute to the support of ~~such~~ the child ~~such~~ sums payable weekly or monthly as ~~are deemed reasonable and just determined in accordance with Title 19, chapter 7, subchapter I-A~~, and may enforce obedience by appropriate decrees, execution issuing for said sums when payable. 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 children or an order to provide a policy or contract for coverage of ~~such~~ those expenses. When the defendant is committed to jail on execution under this section, the county having jurisdiction of the process shall bear the expense of ~~his~~ the defendant's commitment and support. ~~He~~ The defendant may petition the court issuing such execution for relief, whereupon the judge of ~~such~~ the court, after due notice to the department; and hearing ~~thereon~~ on the petition, may order ~~his~~ the defendant's discharge from

imprisonment on such terms and conditions as justice ~~may require~~ requires.

Sec. B-15. 22 MRSA §4036, sub-§1, ¶G, as amended by PL 1985, c. 739, §8, is further amended to read:

G. Payment by the parents of a reasonable amount of support for the child as determined or modified according to Title 19, chapter 7, subchapter I-A;

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 17, 1990.

CHAPTER 835

H.P. 1633 - L.D. 2260

An Act Requiring Prior Notification and Restricting Cancellation of Health Coverage for Persons With Organic Brain Disease

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

Sec. 1. 24 MRSA sub-c. IV is enacted to read:

SUBCHAPTER IV

NOTIFICATION

§2370. Notification prior to cancellation

The superintendent shall, by January 1, 1991, adopt rules in accordance with the Maine Administrative Procedure Act, to provide for notification of the subscriber and another person, if designated by the subscriber, prior to cancellation of health care coverage for nonpayment of premiums, and to provide restrictions on cancellation of coverage when a subscriber suffers from organic brain disease.

The rules may include, but are not limited to, definitions, minimum disclosure requirements, notice provisions and cancellation restrictions.

Sec. 2. 24-A MRSA §2707-A is enacted to read:

§2707-A. Notification prior to cancellation

The superintendent shall, by January 1, 1991, adopt rules to provide for notification of the insured person and another person, if designated by the insured, prior to cancellation of a health insurance policy for nonpayment of premiums, and to provide restrictions on cancellation when an insured person suffers from organic brain disease.

The rules may include, but are not limited to, definitions, minimum disclosure requirements, notice provisions and cancellation restrictions.

Sec. 3. 24-A MRSA §2849 is enacted to read:

§2849. Notification prior to cancellation

The superintendent shall, by January 1, 1991, adopt rules to provide for notification of the insured person and another person, if designated by the insured, prior to cancellation of a health insurance certificate for nonpayment of premiums, and to provide restrictions on cancellation when an insured person suffers from organic brain disease.

The rules may include, but are not limited to, definitions, minimum disclosure requirements, notice provisions and cancellation restrictions.

The requirements of this section apply to all policies and certificates executed, delivered, issued for delivery, continued or renewed in this State.

See title page for effective date.

CHAPTER 836

H.P. 1575 - L.D. 2182

An Act to Regulate the Handling of Manure

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

Sec. 1. 7 MRSA §2, as amended by PL 1979, c. 731, §5, is further amended by adding at the end a new paragraph to read:

The commissioner shall review proposed laws and rules that affect agricultural activity for their impact on soil tillage and animal grazing practices and their impact on the storage and use of animal manures and chemical fertilizers. The commissioner shall analyze the qualitative and quantitative impacts of proposed laws and rules that affect agricultural activity and present the analysis in public testimony to the Legislature on the proposed laws and rules.

Sec. 2. 17 MRSA §2701-B is enacted to read:

§2701-B. Action against improper manure handling

The Commissioner of Agriculture, Food and Rural Resources shall investigate complaints of improper manure handling including, but not limited to, complaints of improper storage or spreading of manure. If the commissioner is able to identify the source or sources of the manure and has reason to believe that the manure is a nuisance and the nuisance is caused by the use of other than generally accepted manure handling practices, the commissioner shall:

1. Findings. Determine the changes needed in manure handling to comply with generally accepted manure handling practices;