

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**LAWS**  
**OF THE**  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR  
NON-EMERGENCY LAWS IS  
OCTOBER 9, 1991

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  
1991

---

---

**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FIFTEENTH LEGISLATURE**

**1991**

---

---

**CHAPTER 256**

S.P. 310 - L.D. 819

**An Act to Provide an Expedited Process  
for the Commencement of Paternity Actions**

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

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

**SUBCHAPTER VI****EXPEDITED PROCESS FOR THE COMMENCEMENT  
OF PATERNITY ACTIONS****§517. Definitions**

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

**1. Alleged father.** "Alleged father" means:

**A.** A man who is alleged to have engaged in sexual intercourse with a child's mother during a possible time of conception of the child; or

**B.** A man who is presumed to be a child's father under the Maine Rules of Evidence, Rule 302.

**2. Blood or tissue typing tests.** "Blood or tissue typing tests" means tests that demonstrate through examination of genetic markers the paternity of a child.

**3. Commissioner.** "Commissioner" means the Commissioner of Human Services.

**4. Department.** "Department" means the Department of Human Services.

**5. Paternity proceeding.** "Paternity proceeding" means the administrative proceeding provided in this subchapter for the commencement of an action to establish paternity under chapter 5, subchapter III.

**§518. Additional persons subject to jurisdiction**

**1. Application.** To ensure maximum protection to citizens of this State, the department shall apply this section to assert jurisdiction over nonresident alleged fathers to the fullest extent permitted by the due process clause of the United States Constitution, Amendment XIV.

**2. Cause of action.** A person who engages in sexual intercourse with a resident of this State in this State submits to the jurisdiction of the department for the purpose of commencing a paternity proceeding.

**§519. Limitation on recovery from father**

An alleged father's liability for past expenses incurred is limited to the 6 years preceding service of the notice under section 521.

**§520. Service**

Service of a notice under section 521 must be made by service in hand and may be made by an authorized representative of the commissioner or by a person authorized by the Maine Rules of Civil Procedure.

**§521. Notice of proceeding to commence an action**

**1. Notice of proceeding.** The department may commence a paternity proceeding by serving a notice on an alleged father. The department may not serve such a notice unless it has a sworn statement or affirmation under the penalty for unsworn falsification from the child's mother claiming that the alleged father engaged in sexual intercourse with her during a possible time of conception of the child or is a man who is presumed under state law to be the child's father. If the mother is a minor, the sworn statement or affirmation may be that of the guardian or next friend of the mother.

**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 must include:

**A.** A statement that service of the notice on the alleged father constitutes the commencement of a paternity proceeding for the determination of paternity and any related issues under this subchapter;

**B.** A statement identifying any of the following as the reason for filing the record of the proceeding in court,

**(1)** The alleged father fails to deny paternity.

**(2)** The alleged father refuses to submit to blood or tissue typing tests.

**(3)** The alleged father fails to execute and deliver to the department an acknowledgment of paternity;

**C.** A statement that, if the department files a record of the proceeding, the department may seek relief under section 522;

**D.** The child's name and place and date of birth;

**E.** The name of the child's mother and the name of the person or agency having custody of the child, if other than the mother;

**F.** The probable date on or period during which the child was conceived;

G. An allegation that the alleged father engaged in sexual intercourse with the child's mother during a possible time of conception of the child or is a man who is presumed to be the child's father under state law, and that the alleged father is or may be the natural father of the child;

H. If applicable, an allegation that the child may have been conceived as a result of sexual intercourse in this State and that the alleged father is subject to personal jurisdiction under section 518;

I. A statement that the alleged father may deny the allegation of paternity by filing a written denial of paternity with the department within 20 days after service of the notice; that if the alleged father fails to file a written denial the proceeding will be filed in a court as a paternity proceeding; and that the question of paternity and any related issues under this subchapter may be resolved against him by the court;

J. A statement that if the alleged father files a written denial of paternity:

(1) The department will provide an expert examiner of blood or tissue types to conduct blood or tissue typing tests on the mother, child and alleged father and the tests will be conducted as follows:

(a) The alleged father is required to submit to tests, which may include, but are not limited to, tests of red cell antigens, red cell isoenzymes, human leukocyte antigens and serum proteins;

(b) The department will pay the initial cost of the tests; and

(c) An indigent alleged father is not liable for reimbursement of the cost of the tests;

(2) If the alleged father refuses to submit to tests under subparagraph (1), the proceeding will be filed in a court as a paternity proceeding;

(3) If the alleged father is not excluded by the test results and he does not, within 15 days of the ordinary mailing to him of a report and copy of the blood or tissue typing results, execute and deliver to the department an acknowledgment of paternity of the child in accordance with the laws of the state in which the child was born, the proceeding will be filed in a court as a paternity proceeding; and

(4) If the alleged father is excluded by the test results as the natural father of the child, the proceeding will be filed in a court as a paternity proceeding for disposition under section 280, subsection 1, paragraph A;

K. A statement that if, prior to the filing in a court, the alleged father executes and delivers to the department an acknowledgment of paternity, the proceeding must terminate and the department may proceed against him under subchapter V; and

L. A statement that the alleged father may, within 25 days after notice has been mailed to him that the record has been filed in a court, assert any defense, in law or fact, if the record is filed because the alleged father:

(1) Refuses to submit to blood or tissue typing tests; or

(2) Fails to execute and deliver to the department an acknowledgment of paternity.

### §522. Court orders; relief

The department may request that the court:

1. Establish as natural father. Establish the alleged father as the natural father of the child;

2. Weekly support. Order the alleged father to pay such sums per week in child support as required under the child support guidelines;

3. To whom payments made. Order the alleged father to make support payments directly to the department whenever the mother is receiving aid to families with dependent children from the department for the child or is a support enforcement client of the department and at all other times directly to the mother;

4. Reimbursement. Order the alleged father to reimburse the mother or the department or other payor of public assistance, as applicable, for the past support, birth expenses and medical expenses incurred on behalf of the child to the time of trial and grant judgment to the mother or the department or other payor of public assistance, as applicable, in the amount of those expenses, with execution to issue immediately;

5. Medical expenses. Order the alleged father to pay all reasonable medical, dental, hospital and optical expenses for the child, to provide medical and health insurance coverage for the child and to provide evidence of that coverage to the department under section 776;

6. Attorney's fees. Order the alleged father to pay reasonable attorney's fees under section 271 and costs for prosecution of the action, including, but not limited to, pre-judgment interest;

7. Income withholding period. Order income withholding as available under or required by law; and

8. Other relief. Grant such other relief as the court determines just and proper.

**§523. Applicability; Maine Rules of Civil Procedure, Rule 5(b)**

The Maine Rules of Civil Procedure, Rule 5(b), applies to a proceeding under this subchapter.

**§524. Multiple alleged fathers**

When it appears to the department that there may be more than one alleged father, the department may maintain proceedings against each alleged father, simultaneously or successively. Failure to serve a notice on an alleged father does not bar the department from maintaining a proceeding under this subchapter against any other alleged father.

**§525. Failure of alleged father to deny paternity**

If the alleged father fails to file a written denial of paternity with the department within 20 days after service of notice upon him, the department's attorney may file the record of the proceeding in a court as a paternity proceeding. This filing constitutes a filing under the Maine Rules of Civil Procedure, Rule 3.

**§526. Blood or tissue typing tests**

**1. Requirement of tests.** If the alleged father files a written denial of paternity with the department within 20 days after service of the notice upon him, the department shall schedule blood or tissue typing tests for the mother, the child and the alleged father, which may include, but not be limited to, tests of red cell antigens, red cell isoenzymes, human leukocyte antigens and serum proteins. The tests must be performed by an expert examiner in a laboratory that is accredited for parentage testing by the American Association of Blood Banks.

**2. Scheduling of tests.** The department shall notify the alleged father in writing by ordinary mail of the date, time and place of his blood or tissue typing tests. The tests must be conducted no earlier than 15 days following the mailing of the department's notice, except with the consent of the alleged father. The test must be conducted in an office of the department, when practicable. The department shall take into account the alleged father's place of residence or employment in selecting the location of the test.

**3. Rescheduling of tests.** If the alleged father does not submit to the tests, the department shall notify him in writing by ordinary mail that if he does not, within 15 days, request the department to reschedule the tests, his failure to appear constitutes a refusal to submit to the tests. If the alleged father timely requests rescheduling, the department shall reschedule the tests. The rescheduled tests must be conducted no earlier than 15 days following the mailing of the notice of rescheduling. The notice must also advise the alleged father that, if he fails to submit to the rescheduled tests, the failure constitutes a refusal to submit to the tests.

**§527. Refusal of alleged father to submit to blood or tissue tests**

If an alleged father refuses to submit to blood or tissue typing tests, the department may file the record of the proceeding in a court as a paternity proceeding. The alleged father's refusal to submit to a test constitutes a refusal to submit under section 277.

**§528. Procedures after blood tests**

**1. Transmittal of test results.** Upon receipt of the results of the tests, the department shall send copies of the results by ordinary mail to the alleged father and to the child's mother or to the mother's guardian or next friend if the mother is a minor.

**2. Exclusion of alleged father.** If the alleged father is excluded by the test results as the natural father of the child, the department may file the record of the proceeding in a court as a paternity proceeding for disposition under section 280, subsection 1, paragraph A.

**3. Nonexclusion of alleged father.** If the alleged father is not excluded by the test results and he does not, within 15 days of the mailing to him of a copy of the blood or tissue typing results and report, execute and deliver to the department by ordinary mail an acknowledgment of paternity of the child in accordance with the laws of the state in which the child was born, the department may file the record of the proceeding, inclusive of the blood or tissue typing test results, in a court as a paternity proceeding. Section 280 applies to the action even though the tests were performed and the results prepared as part of an administrative proceeding. The alleged father's participation in the tests may not prejudice any application by the alleged father under section 278 for an order appointing an additional examiner of blood or tissue types.

**§529. Applicability; Maine Rules of Civil Procedure, Rule 12(b)**

If a record of the proceeding is filed under section 527 or section 528, subsection 3, the alleged father is not required to file an additional denial of paternity. He may assert any defense, in law or fact. Any defense must be asserted within 25 days after the mailing by ordinary mail of a notice to the alleged father that the record has been filed in court. The notice must contain the substance of this section.

**§530. Acknowledgment of paternity**

If, prior to the filing in a court the alleged father executes and delivers to the department an acknowledgment of paternity of the child in accordance with the laws of the state in which the child was born, the proceeding must be terminated and the department may proceed against the father under subchapter V with respect to any remedy provided under that section.

See title page for effective date.