

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

**SECOND SPECIAL SESSION**

December 12, 1991 to January 7, 1992

**SECOND REGULAR SESSION**

January 8, 1992 to March 31, 1992

THE GENERAL EFFECTIVE DATE FOR  
SECOND REGULAR SESSION  
NON-EMERGENCY LAWS IS  
JUNE 30, 1992

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

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J.S. McCarthy Company  
Augusta, Maine  
1992

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

**AS PASSED AT THE**  
**SECOND REGULAR SESSION**

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

**1991**

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**Sec. 29. 21-A MRSA §1059, sub-§2, ¶D**, as enacted by PL 1989, c. 504, §§28 and 31, is repealed and the following enacted in its place:

D. A committee that files an election report under paragraph B or C is not required to file a quarterly report when the deadline for that quarterly report falls within 10 days of the filing deadline established in paragraph B or C.

**Sec. 30. 21-A MRSA §1060, sub-§§5 and 6**, as enacted by PL 1985, c. 161, §6, are amended to read:

**5. Aggregate expenditures.** An aggregation of expenditures and cumulative aggregation of expenditures to a candidate, campaign, political committee, political action committee, referendum or initiated petition; ~~and~~

**6. Identification of contributors.** Names and mailing addresses of contributors who have given more than \$50 to the political committee after the committee has registered under section 1053, the amount contributed by each donor and the date of the contribution. The information already reported as required by section 1053, subsection 7; should not be duplicated: ; ~~and~~

**Sec. 31. 21-A MRSA §1060, sub-§7** is enacted to read:

**7. Other expenditures.** Operational expenses and other expenditures in cash or in kind that are not made on behalf of a candidate, committee or campaign.

**Sec. 32. 21-A MRSA §1062, sub-§1**, as repealed and replaced by PL 1989, c. 504, §§29 and 31, is further amended to read:

**1. Registration.** ~~Any A political action committee required to register under section 1053 that fails to do so within 5 business days after making expenditures in excess of \$50; in accordance with section 1053 or which that fails to provide the information required by the commission for registration; shall must be assessed a penalty forfeiture of \$250.~~

**Sec. 33. Application; retroactivity.** Those sections of this Act that enact the Maine Revised Statutes, Title 21-A, section 1017-A; section 1052, subsection 5, paragraph A, subparagraph (4); and section 1060, subsection 7 and amend Title 21-A, section 1051 apply retroactively to activities during the entire reporting period for which a report is first due under the laws as enacted or amended by this Act.

**Sec. 34. Effective date.** The following sections of this Act are effective January 1, 1993: sections 1 to 7; section 11; section 13, except that part of section 13 that amends the Maine Revised Statutes, Title 21-A, section 1016, subsection 3; sections 14 and 15, except that part of section 15 that amends Title 21-A, section 1017, subsection 3-A, paragraph C; and sections 18 to 21, except that

part of section 21 that enacts Title 21-A, section 1017, subsection 8, paragraph G.

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

Effective April 9, 1992,  
unless otherwise indicated.

## CHAPTER 840

S.P. 893 - L.D. 2293

### An Act to Provide for Periodic Review and Modification of Child Support Orders

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

**Sec. 1. 19 MRSA §311, sub-§3-A** is enacted to read:

**3-A. Department.** “Department” means the Department of Human Services and its agents and authorized representatives.

**Sec. 2. 19 MRSA §314, sub-§1, ¶E** is enacted to read:

E. The court may admit Department of Labor statistics into evidence for purposes of computing a parental support obligation.

**Sec. 3. 19 MRSA §316, sub-§8** is enacted to read:

**8. Notice of right to review.** Each judicial order or administrative order issued or modified in this State that includes an order for child support must include a statement that advises parents of the right to request the department to review the amount of the support order pursuant to section 320 if there is a substantial change of circumstances.

**Sec. 4. 19 MRSA §319**, as enacted by PL 1989, c. 834, Pt. A, is repealed and the following enacted in its place:

#### **§319. Modification of existing support orders**

**1. Motion to modify support.** A party, including the department, may file a motion to modify support. Unless a party also files a motion to amend the divorce judgment, a motion to amend under section 214 or a motion for judicial review under Title 22, section 4038, the child support obligation is the sole issue to be determined by the court on a motion to modify support. The court, in its discretion, may bifurcate the support issue from other issues presented by the party's pleadings.

**2. Substantial change of circumstances.** 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.

**3. Service.** Except as provided in this section, a motion to modify support is governed by the Maine Rules of Civil Procedure.

**A. Service in hand must be made upon the responding party, as follows:**

**(1) Service within the State must be made:**

(a) By mailing a copy of the motion and accompanying documents by first class mail, postage prepaid, to the responding party, together with 2 copies of a notice and acknowledgement form and a return envelope, postage prepaid. If no acknowledgement of service under this paragraph is received by the sender within 20 days after the date of mailing, service of the summons and complaint may be made under division (b); or

(b) By a sheriff or a deputy within the sheriff's county, or other person authorized by law, or by a person specially appointed by the court for that purpose;

**(2) Service outside the State must be made:**

(a) By registered mail or certified mail, restricted delivery and return receipt requested; or

(b) By any person authorized to serve civil process by the laws of the place of service, or by a person specially appointed to serve the motion and accompanying documents; or

**(3) Service by any other method specifically approved by the court.**

**B. The motion must be accompanied by:**

(1) A notice that the court may enter an order without hearing if the party does not request a hearing;

(2) A notice of the right to request a hearing;

(3) A notice of the requirement of mediation prior to a hearing;

(4) The income affidavit of the moving party or the party receiving the assistance of the department, as well as the responding party's affidavit, if available;

(5) A proposed order, incorporating the child support worksheet; and

(6) Any stipulation entered into by the parties.

**4. Request for hearing.** A request for hearing must be made in writing within 21 days of receipt of service and be accompanied by the requesting party's income affidavit and child support worksheet. If a party requests a hearing, the matter must be referred for mediation prior to trial. This subchapter applies to all proceedings to modify an order of child support.

**5. Order without hearing.** If a party does not request a hearing within 21 days after service, the court may enter an order modifying support without hearing using the proposed order, provided that the proposed modified support obligation is equal to or greater than the obligation resulting from the application of section 315. If a downward deviation is proposed, the court shall hold a hearing prior to entering an order. The court may apply the presumptions set out in section 314, subsection 1, paragraph D.

**6. Motion to set aside.** An order entered without hearing pursuant to this section may not be set aside except on motion in which the moving party demonstrates good cause for the failure to request a hearing and a meritorious defense to the proposed order. The Chief Justice may establish costs to be paid by a party moving to set aside an order modifying child support after an order has been entered following that party's failure to file a timely written response.

**Sec. 5. 19 MRSA §320** is enacted to read:

**§320. Periodic review of support orders**

**1. Support obligations.** In all cases in which the department is responsible for enforcement of a support obligation assigned to the department under section 512, the department shall review, for compliance with the State's child support guidelines pursuant to this subchapter, child support obligations established by orders issued by the courts of this State or by administrative decisions issued by the department pursuant to section 498. Reviews of child support orders in which the obligation is assigned to the department must occur no less often than every 3 years, except as provided by rule.

**2. Request for support order reviews.** In cases in which the department provides services pursuant to sec-

tion 448-A and in which a child support obligation was established by an order issued by a court of this State or by an administrative decision issued by the department pursuant to section 498-A, an obligor or an obligee may request the department to review the support order for compliance with the State's child support guidelines pursuant to this subchapter. In cases in which a support obligation is not assigned to the department under section 512 and the department does not provide services pursuant to section 448-A, a request to review a support order is made by applying to the department for child support services and indicating on the application for services a desire to have a child support order reviewed.

**3. Administrative order modification; support modification.** Following a review of an administrative child support order, the department may take action to modify the administrative order pursuant to section 498 or 498-A. Following a review of a court order of child support, the department may file a motion to modify support pursuant to section 319.

**4. Adoption of rules.** The department shall adopt rules governing the review of support orders consistent with this subchapter and shall comply with the federal Family Support Act of 1988, 42 United States Code, Chapter 7, Part D.

**5. Schedule of fees.** The department may adopt by rule a schedule of fees for the services it provides under this section.

**Sec. 6. 22 MRSA §4007, sub-§6** is enacted to read:

**6. Child support guidelines.** Prior to a hearing under section 4035, each parent shall file income affidavits as required by Title 19, sections 312 and 314. If a child is placed in the custody of the department, the court shall order child support from each parent according to the guidelines pursuant to Title 19, chapter 7, subchapter I-A, designate each parent as a nonprimary care provider and apportion the obligation accordingly.

Income affidavits and instructions must be provided to each parent by the department at the time of service of the petition. The court may order a deviation pursuant to Title 19, section 317. Support ordered pursuant to this section must be paid directly to the department pursuant to Title 19, section 777-A, subsection 3. The failure of a parent to file an affidavit does not prevent the entry of a final protection order. A parent may be subject to Title 19, section 314, subsection 1, paragraph D for failure to complete and file income affidavits.

See title page for effective date.

## CHAPTER 841

H.P. 1629 - L.D. 2292

### An Act Concerning the Bureau of Intergovernmental Drug Enforcement

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

**Sec. 1. 2 MRSA §6, sub-§5**, as amended by PL 1989, c. 612, is further amended to read:

**5. Range 86.** The salaries of the following state officials and employees ~~shall be~~ are within salary range 86:

Director of Labor Standards;

Deputy Chief of the State Police;

Director of State Lotteries;

State Archivist;

Director of Maine Geological Survey;

Executive Director, Maine Land Use Regulation Commission;

Director of the Risk Management Division;

~~Chairman~~ Chair, Maine Unemployment Insurance Commission;

Director of the Bureau of State Employee Health;

Child Welfare Services Ombudsman;

Director of the ~~Bureau of Intergovernmental Drug Enforcement~~ Maine Drug Enforcement Agency;

Deputy Director, Operations, Retirement System;

Deputy Director, Investments, Retirement System;

Deputy Director, Administrative and Legal Affairs, Retirement System; and

Executive Director, Maine Science and Technology Commission.

**Sec. 2. 5 MRSA §7-B**, as amended by PL 1991, c. 618, §1 and affected by §7, is further amended to read:

#### §7-B. Use of state vehicles for commuting

No state-owned or state-leased vehicle may be used by any employee to commute between home and work,