

# 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 electronic originals  
(may include minor formatting differences from printed original)

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

**AS PASSED BY THE**  
**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**SECOND REGULAR SESSION**

**January 5, 1994 to April 14, 1994**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 14, 1994**

**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**  
**1993**

review of schematic designs and preliminary and final plans;

E. Assist the owner in securing the necessary governmental permits or approvals;

F. Assist the owner in reviewing bid responses;

G. Assist the owner in contract negotiations; and

H. Meet with the owner regularly to review and discuss project progress.

The owner may expand or reduce the scope of the owner's representative's responsibilities through a contract, so long as that contract conforms to the overall relationship established in subsection 1.

**4. Owner's representative an allowable cost.**

For purposes of this section, the owner's representative is a subsidizable cost eligible for subsidy in accordance with Title 20-A, sections 15603 and 15901, only if the local unit pays 50% of the costs of the employment of an owner's representative.

**5. Report required.** A school unit employing an owner's representative under this section shall provide a report to the Bureau of General Services describing the effectiveness of an owner's representative to a project and the recommendations for continuation or discontinuation beyond the date of repeal of this section. The Bureau of General Services shall provide the joint standing committee of the Legislature having jurisdiction over state and local government matters with an annual report on the employment of an owner's representative, including the written comments from each school unit that has chosen to employ an owner's representative under this section.

**6. Sunset.** This section is repealed on July 1, 1998. In its final report, the Bureau of General Services shall provide its recommendations to the Legislature concerning the need for extending authorization for this section no later than March 1, 1998.

See title page for effective date.

---



---

**CHAPTER 607**

**S.P. 488 - L.D. 1499**

**An Act to Expedite the Establishment  
of Administrative Child  
Support Orders**

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

**Sec. 1. 19 MRSA §320, sub-§§1 to 3,** as enacted by PL 1991, c. 840, §5, are amended to read:

**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 current support 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 section 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 ~~497-A~~ or ~~498-A~~ ~~497-B~~. Following a review of a court order of child support, the department may file a motion to modify support pursuant to section 319.

**Sec. 2. 19 MRSA §492-A, sub-§3,** as enacted by PL 1985, c. 652, §20, is amended to read:

**3. Personal service.** Service of any notice sent pursuant to section 498 ~~497-A~~ or ~~498-A~~ ~~497-B~~ upon any person who is subject to the jurisdiction of this subchapter, as provided in this section, ~~shall~~ must 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~~ is governed by section 494.

**Sec. 3. 19 MRSA §493, sub-§2-A** is enacted to read:

**2-A. Custodial parent.** "Custodial parent" means a natural or adoptive parent, caretaker relative or legal custodian of a dependent child who is the child's primary residential care provider.

**Sec. 4. 19 MRSA §495, sub-§1, ¶A,** as amended by PL 1991, c. 673, §7, is further amended to read:

A. When ~~no~~ a court order of support has not been established, a payment of public assistance for the benefit of the dependent child creates a debt due the department from the responsible parent for past necessary support. The amount of debt due the department is established by application of the most current child support scale to the responsible parent's income for the time period in which the department was entitled to support payments. In the absence of sufficient reliable information to calculate a responsible parent's past income, it is presumed that the responsible parent had an earning capacity equal to the average weekly wage of a worker within this State as determined by the Department of Labor statistics for the applicable years. A different annual income may be used if there is sufficient reliable evidence to conclude reasonably that the responsible parent earned a greater or lesser actual income. A present disability to pay child support, legal or otherwise, does not operate to bar a determination of past debt due the department for any relevant period in which the disability did not exist. When a periodic support payment has been established under section 497-A or former section 498, the debt is limited to the amount stated in the decision.

**Sec. 5. 19 MRSA §§497-A and 497-B** are enacted to read:

**§497-A. Expedited administration; establishment of parental support obligation; debt for past necessary support; obligation to provide health insurance coverage**

When a court order of support has not been established, the department, by hearing, may establish the responsible parent's parental support obligation pursuant to subchapter I-A, the debt for past necessary support including medical expenses and the obligation to maintain health insurance coverage for the dependent child or children. The department may proceed on its own behalf or on behalf of another state, another state's instrumentality, an individual or governmental applicant for services under section 448-A or a person entitled by federal law to support enforcement services as a former recipient of public assistance. The department acting on behalf of another state, another state's instrumentality or a person

residing in another state constitutes good cause within the meaning of Title 5, section 9057, subsection 5. Notwithstanding any other provision of law, a parental support obligation established under this section continues 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, is expelled or attains 19 years of age, whichever occurs first. For purposes of this subchapter, "debt for past necessary support" includes a debt owed to the department under section 495, subsection 1, paragraph A, a debt owed under section 448-A and a debt that accrues under sections 273 and 443-A.

**1. Notice of hearing.** The department shall serve the responsible parent with a notice of hearing and a blank income affidavit at least 30 days before the date of the hearing.

**2. Contents of notice.** In addition to conforming with Title 5, section 9052, subsection 4, the notice must state:

A. The names of both parents and the names of the dependent child or children;

B. The date, time and place of the hearing;

C. That the department is authorized or required by law to initiate a proceeding to establish or modify the responsible parent's support obligation;

D. The periods for which past necessary support is alleged to be owed;

E. The responsible parent's basic hearing rights as provided for in the Maine Administrative Procedure Act;

F. That whether or not the responsible parent appears at the hearing, the department may establish a current parental support obligation, a debt for past necessary support including medical expenses and an obligation to provide health insurance coverage if available at reasonable cost;

G. That the responsible parent must submit a completed income affidavit to the department within 30 days;

H. That the department calculates a proposed support order based on the State's child support guidelines using all available information and, if there is a lack of sufficient reliable information about a parent's actual earnings for a current or past period, the department presumes for the purpose of establishing a current support obligation or a debt for past necessary support that the responsible parent has or had an earning capac-

ity equal to the average weekly wage as determined by Department of Labor statistics for the applicable years;

I. That if the department establishes a support obligation, the responsible parent's property may be subject to immediate income withholding, lien and foreclosure, administrative seizure and disposition, order to withhold and deliver and other collection actions and that, if a debt for past necessary support is established, the department may report the responsible parent and the amount of the debt to a consumer credit reporting agency;

J. That the department intends to establish an obligation on the part of the responsible parent to provide health insurance coverage for the dependent child or children and that the obligation is effective immediately if it is determined that health insurance coverage is available to the responsible parent at reasonable cost; that health insurance coverage is considered reasonable in cost when it is employer-related or other group health insurance; that, if it is determined that health insurance coverage is not available at reasonable cost at the time of hearing, the department intends to establish that obligation on the part of the responsible parent, effective immediately when health insurance coverage is available at reasonable cost; and that the department may take whatever legal action is available to enforce an obligation to provide health insurance coverage; and

K. That if the responsible parent does not maintain health insurance coverage when required to do so by the department, the responsible parent may be held liable for all medical expenditures made by the department or the custodial parent on behalf of the dependent child or children.

**3. Failure to appear.** If the responsible parent does not appear at the hearing on the date specified in the notice of hearing, the department shall enter a decision pursuant to subsection 4, paragraph B. Within one year of service of the decision, the responsible parent may petition the department to vacate the decision for good cause shown.

**4. Hearing.** The department shall conduct the hearing in accordance with rules adopted by the commissioner.

A. At the hearing, the responsible parent may present testimony, cross-examine witnesses and be represented by an attorney or other person. In rendering a decision, the department may not consider evidence not presented at the hearing.

B. The decision must state the responsible parent's duty to provide support, the amount of the responsible parent's current parental support obligation, the amount of any debt for past necessary support, the obligation of the responsible parent to maintain health insurance coverage for the dependent child or children and that the responsible parent must provide written proof to the department of health insurance coverage that is required within 15 days of the responsible parent's receipt of the decision. The department shall serve a copy of the decision upon the responsible parent and send a copy of the decision to the other parent by regular mail at the other parent's most recent address of record. The decision must inform the responsible parent that the responsible parent may appeal the decision within 30 days of the date of service of the decision by requesting the department to hold an administrative review hearing. An administrative review hearing held by the department, except if held pursuant to subsection 3, is limited to a review of the record of the original hearing.

C. When deciding the amount of the current parental support obligation, the debt for past necessary support and the availability of health insurance coverage, the official conducting the hearing shall consider at least the following criteria:

- (1) The child's or children's needs;
- (2) The responsible parent's income and real and personal property;
- (3) The responsible parent's ability to borrow;
- (4) The responsible parent's ability to earn;
- (5) The responsible parent's needs;
- (6) Whether the responsible parent has a duty to support other dependents. In any case, the child or children for whom support is sought must benefit as much as any other dependent from the income and resources of the responsible parent;
- (7) Whether the responsible parent has voluntarily incurred subsequent obligations that have reduced that parent's ability to pay support. This condition does not relieve the responsible parent of the duty to provide support;
- (8) Whether employer-related or other group health insurance coverage is available to the responsible parent; and

(9) Whether the responsible parent's existing health insurance coverage may be extended to include the dependent child or children.

**5. Collection action.** The department's decision after hearing establishes the responsible parent's debt for past necessary support. The department may collect the debt after service of the decision.

**6. Subsequent court order.** An administrative decision under this section remains in effect until superseded by a subsequent court order or administrative decision.

**7. Amendment.** A responsible parent may request an administrative hearing to amend a decision issued under this section prospectively based on a substantial change of circumstances. The department may seek to amend a decision issued under this section prospectively based on a substantial change of circumstances by using the same process permitted by this section for establishing a support obligation. When proceeding to amend a decision issued under this section, the department shall state in its notice of hearing that the purpose of the proceeding is to amend the responsible parent's support obligation based on a substantial change of circumstances.

**8. Enforcement.** An administrative decision under this section creates a support obligation for purposes of enforcement under section 448-A.

**9. Effect.** This section applies to hearings of which the responsible parent is served notice after the effective date of this section. Prior law applies to hearings of which the responsible parent is served notice before the effective date of this section.

**10. Repeal.** This section is repealed April 1, 1995.

**§497-B. Administrative establishment of parental support obligation; debt for past necessary support; obligation to provide health insurance coverage**

When a court order of support has not been established, the department may establish the responsible parent's current parental support obligation pursuant to subchapter I-A, establish the responsible parent's debt for past necessary support including medical expenses and establish the responsible parent's obligation to maintain health insurance coverage for the dependent child or children. The department may proceed on its own behalf or on behalf of another state or another state's instrumentality, an individual or governmental applicant for services under section 448-A or a person entitled by federal law to support enforcement services as a former recipient of public assistance. The department acting on behalf of an-

other state, another state's instrumentality or a person residing in another state constitutes good cause within the meaning of Title 5, section 9057, subsection 5. Notwithstanding any other provision of law, a parental support obligation established under this section continues 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, is expelled or attains 19 years of age, whichever occurs first. For purposes of this subchapter, "debt for past necessary support" includes a debt owed to the department under section 495, subsection 1, paragraph A, a debt owed under section 448-A and a debt that accrues under sections 273 and 443-A.

**1. Notice of support order.** The department shall serve the responsible parent with a notice that it intends to establish a support order and a blank income affidavit. The notice must state the following:

A. The names of both parents and the names of the dependent child or children;

B. The department's intention to establish a support order, which may include a periodic payment for current support, a debt for past necessary support including medical expenses and an obligation to provide health insurance coverage;

C. That the responsible parent must submit a completed income affidavit to the department within 30 days;

D. That the department calculates a proposed support order based on the State's child support guidelines using all available information and, if there is a lack of sufficient reliable information about a parent's actual earnings for a current or past period, the department presumes for the purpose of establishing a current support obligation or a debt for past necessary support that the responsible parent has or had an earning capacity equal to the average weekly wage as determined by Department of Labor statistics for the applicable years;

E. That the department sends to the responsible parent by regular mail a copy of the proposed support order and the department's child support worksheets;

F. That the responsible parent may request a hearing in writing within 30 days of the date of mailing of the proposed support order;

G. That if the department does not receive a timely request for hearing, it issues a decision that incorporates the findings of the proposed support order and sends a copy of the decision to both parents by regular mail; and

H. That after a decision is issued, the department may enforce the decision by any lawful means, including immediate income withholding, lien and foreclosure, administrative seizure and disposition, order to withhold and deliver and tax refund intercept. If a debt for past necessary support is established, the department may report the responsible parent and the amount of the debt to a consumer credit reporting agency.

**2. Proposed support order.** After serving notice upon the responsible parent in accordance with subsection 1 and after more than 30 days have elapsed, the department shall calculate the responsible parent's parental support obligation and debt for past necessary support pursuant to subchapter I-A. Based on its calculations under the support guidelines, the department shall issue a proposed support order. The proposed support order must include the department's calculations and state the amount of the responsible parent's current parental support obligation and debt for past necessary support, including medical expenses, and must state the responsible parent's obligation to provide health insurance coverage for the dependent child or children and to pay a proportionate share of uninsured medical expenses. The department shall send a copy of the proposed support order to the responsible parent by regular mail along with a copy of the department's child support worksheet. The proposed order must be accompanied by a notice that states:

A. That the responsible parent has the right to request a hearing within 30 days of the date of mailing of the proposed support order and that if a hearing is requested, the department will send the responsible parent a notice of hearing by regular mail at least 30 days before the date of the hearing, along with a statement of the hearing rights described in subsection 3, paragraph A;

B. That if the department does not receive a timely request for hearing, the department will issue a decision that incorporates the findings of the proposed support order into the department's decision and send a copy of the decision to both parents by regular mail;

C. That if the department issues a decision that establishes a responsible parent's support obligation, the department may enforce the decision by any lawful means, including immediate income withholding, lien and foreclosure, administrative seizure and disposition, order to withhold and deliver and tax refund intercept; and

D. That if the department establishes a debt for past necessary support, the department may report the responsible parent and the amount of that debt to a consumer credit reporting agency.

**3. Hearing.** The hearing must be conducted according to rules adopted by the commissioner.

A. At the hearing, the responsible parent may present testimony, cross-examine witnesses and be represented by an attorney or other person. In rendering a decision, the department may not consider evidence that was not presented at the hearing.

B. When deciding the amount of the current parental support obligation, the debt for past necessary support and the availability of health insurance coverage, the official conducting the hearing shall consider at least the following criteria:

- (1) The child's or children's needs;
- (2) The responsible parent's income and real and personal property;
- (3) The responsible parent's ability to borrow;
- (4) The responsible parent's ability to earn;
- (5) The responsible parent's needs;
- (6) Whether the responsible parent has a duty to support other dependents. In any case, the child or children for whom support is sought must benefit as much as any other dependent from the income and resources of the responsible parent;
- (7) Whether the responsible parent has voluntarily incurred subsequent obligations that have reduced that parent's ability to pay support. This condition does not relieve the responsible parent of the duty to provide support;
- (8) Whether employer-related or other group health insurance coverage is available to the responsible parent; and
- (9) Whether the responsible parent's existing health insurance coverage may be extended to include the dependent child or children.

**4. Decision.** If a hearing is held, the department shall render a decision based on the hearing record and applicable state laws and rulemaking. If a request for hearing is not made in a timely manner or if the responsible parent does not appear at the hear-

ing, the department shall issue a decision that incorporates the findings of the department's proposed support order. The department shall send a copy of the decision to both parents by regular mail. The decision must establish and state:

A. The responsible parent's duty to provide support, the amount of the current parental support obligation, the amount of any debt for past necessary support including medical expenses, the obligation of the responsible parent to maintain health insurance coverage for the dependent child or children and pay a proportionate share of uninsured medical expenses, and that the responsible parent must provide written proof to the department of health insurance coverage that is required by the decision within 15 days of the responsible parent's receipt of the decision;

B. If an obligation for current support is established, an order for immediate income withholding is issued and made a part of the decision;

C. Thirty days after the decision is issued, the department may enforce the decision by any lawful means, including immediate income withholding, lien and foreclosure, administrative seizure and disposition, order to withhold and deliver and tax refund intercept. If a debt for past necessary support is established, the department may report the responsible parent and the amount of the debt to a consumer credit reporting agency;

D. That if the responsible parent does not maintain health insurance coverage when required to do so by the department, the responsible parent may be held liable for all medical expenditures made by the department or the custodial parent on behalf of the dependent child or children; and

E. The decision must inform the responsible parent that that parent may appeal the decision within 30 days of the date of mailing of the decision by requesting the department to hold an administrative review hearing.

5. Collection action. The department may initiate collection action 30 days after the date of mailing of a decision. If a decision includes an immediate income withholding order, the department may implement the withholding order to collect current support immediately after the decision is issued.

6. Subsequent court order. A decision under this section remains in effect until superseded by a subsequent court order or administrative decision.

7. Request to set aside. Within one year of the mailing of a decision, the responsible parent may request the department to set aside the decision if the responsible parent shows good cause why the responsible parent did not request a hearing or did not appear at a hearing and presents a meritorious defense to the decision.

8. Amendment. A responsible parent may request an administrative hearing to amend a decision issued under this section prospectively based on a substantial change of circumstances. The department may seek to amend a decision issued under this section prospectively based on a substantial change of circumstances by using the same process permitted by this section for establishing a support obligation. When proceeding to amend a decision issued under this section, the department shall state in its notice of hearing that the purpose of the proceeding is to amend the responsible parent's support obligation based on a substantial change of circumstances.

9. Enforcement. A decision under this section establishes a support obligation for purposes of enforcement under section 448-A.

10. Provisions supplemental. The provisions of this chapter are in addition to other laws and rules that enable the department to establish child support obligations. The provisions in section 497-A that enable the department to establish child support obligations remain in effect until April 1, 1995 and may be used as an alternative to the provisions of this section.

**Sec. 6. 19 MRSA §498**, as amended by PL 1991, c. 673, §9, is repealed.

**Sec. 7. 19 MRSA §498-A**, as amended by PL 1991, c. 673, §§10 and 11, is repealed.

**Sec. 8. 19 MRSA §498-B, sub-§1**, as enacted by PL 1989, c. 337, §5, is amended to read:

**1. Responsible parent's failure to comply.** If a responsible parent fails to acquire the health insurance coverage as required under section ~~498~~ 497-A or ~~section 498-A~~ 497-B, that parent ~~shall be~~ is liable for any expenses incurred for any dependent children that would have been paid by the insurance coverage, regardless of incurred expenses. Incurred liability may be enforced as a child support debt under this subchapter or by judicial action.

**Sec. 9. 19 MRSA §503, first ¶**, as amended by PL 1985, c. 652, §33, 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~~ 497-A or ~~section 498-A~~ 497-B, the amount stated in the notice of debt or in the decision



~~shall~~ must be a lien in favor of the department against all nonexempt property of the responsible parent. This lien ~~shall~~ must be separate and apart from and in addition to any other lien created by, or provided for in, this Title.

**Sec. 10. 19 MRSA §504, sub-§1, ¶B**, as amended by PL 1977, c. 694, §300, is further amended to read:

B. Twenty-one days have elapsed from the date of receipt of the notice of debt under section 500 or a decision has been received under section ~~498~~ 497-A or 497-B.

See title page for effective date.

## CHAPTER 608

### H.P. 1110 - L.D. 1506

#### An Act to Amend the Laws Governing Municipal Elections

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

**Sec. 1. 20-A MRSA §1202, sub-§5, ¶A**, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

A. Municipalities voting on the questions of district formation under Title 30-A, sections 2528 to ~~2531~~, 2531-A shall open the polls at 10 a.m. and shall close the polls at 7 p.m.

**Sec. 2. 28-A MRSA §121, sub-§1**, as amended by PL 1987, c. 147, §1, is further amended to read:

**1. Petition.** A petition for a local option election must be signed by a number of voters equal to at least 15% of the number of votes cast in that municipality in the last gubernatorial election. All petition signatures must have been signed since the last general election. The petition must be addressed to and received by the municipal officers at least ~~42~~ 45 days before holding any primary, special statewide, general or municipal election or town meeting.

**Sec. 3. 28-A MRSA §121, sub-§3**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**3. Conduct of election.** Except as provided in this section, the petition process and the voting at elections held in towns and plantations ~~shall~~ must be held and conducted in accordance with Title ~~30~~ 30-A, sections ~~2061~~ 2528, ~~2062~~ 2529 and ~~2065~~ 2532, even if the town or plantation has not accepted the provi-

sions of section ~~2064~~ 2528. The voting at elections held in cities must be held and conducted in accordance with Title 21-A. No referendum questions except those set out in section 123 may be printed on the ballot. The municipal clerk shall make a return of the results, certify the results and send it to the office of the Secretary of State. The Secretary of State shall forward the results to the commission.

**Sec. 4. 30-A MRSA §2102, sub-§4, ¶C**, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

C. When an original or supplementary petition has been certified insufficient, the committee, within 2 days after receiving the copy of the clerk's certificate, may file a request with the municipal officers for review.

The municipal officers shall inspect the petitions in substantially the same form, manner and time as a recount hearing under section ~~2531~~ 2531-A and shall make due certificate of that inspection. The municipal officers shall file a copy of that certificate with the municipal clerk and mail a copy to the committee. The certificate of the municipal officers is a final determination of the sufficiency of the petitions.

**Sec. 5. 30-A MRSA §2354, sub-§5**, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

**5. Inspection and recount.** Upon written application of 10% of the persons, or 100 persons, whichever is less, whose names were checked on the voting lists at any quasi-municipal corporation or district referendum held under this chapter, a ballot inspection or a recount hearing ~~shall~~ must be granted. The time limits, rules and all other matters applying to candidates under sections ~~2530~~ 2530-A and ~~2531~~ 2531-A apply equally to applicants for either the inspection or recount.

**Sec. 6. 30-A MRSA §2528, sub-§4, ¶¶C and D**, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, are further amended to read:

C. Completed nomination papers or certificates of political caucus nomination must be filed with the clerk during business hours by the ~~35th~~ 45th day prior to election day. They must be accompanied by the written consent of the person proposed as a candidate agreeing:

- (1) To accept the nomination if nominated;
- (2) Not to withdraw; and