

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 1994 to June 30, 1995

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 29, 1995

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
1995

Revised Statutes, Title 1, chapter 13, subchapter I; except that information obtained about individual Aid to Families with Dependent Children cases will remain confidential in accordance with rules of the Department of Human Services.

Sec. D-5. Staffing. The Department of Human Services shall provide staffing and may, within existing resources, obtain technical assistance by organizations with expertise in economics, business, job creation and welfare-to-work programs.

Sec. D-6. Compensation; reimbursement. The members of the commission are not entitled to compensation or reimbursement for expenses related to attendance at meetings of the commission.

Sec. D-7. Report. The commission shall submit its report and recommendations regarding time-limited Aid to Families with Dependent Children benefits to the joint standing committee of the Legislature having jurisdiction over human resources matters no later than February 1, 1996. The committee may submit legislation relating to the report to the Second Regular Session of the 117th Legislature.

See title page for effective date.

CHAPTER 419

S.P. 556 - L.D. 1516

An Act to Amend the Laws Governing Child Support

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

Whereas, enactment of this legislation provides the Department of Human Services with more tools to collect child support payments from responsible parents;

Whereas, collecting more child support reduces the Aid to Families with Dependent Children costs to the State; 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:

Sec. 1. 4 MRSA §807, sub-§3, ¶G, as amended by PL 1991, c. 885, Pt. E, §4 and affected by §47, is further amended to read:

G. A person who is not an attorney, but is representing a party in any hearing, action or proceeding before the Workers' Compensation Board as provided in Title 39-A, section 317; ~~or~~

Sec. 2. 4 MRSA §807, sub-§3, ¶H, as repealed and replaced by PL 1989, c. 858, §1, is amended to read:

H. A person who is not an attorney, but has been designated to represent either the Department of Human Services, under Title 22, section 3473, subsection 3, or the Department of Mental Health and Mental Retardation, under Title 34-B, section 1204, subsection 7, in Probate Court proceedings; ~~or~~

Sec. 3. 4 MRSA §807, sub-§3, ¶I is enacted to read:

I. A person who is not an attorney, but is representing the Department of Human Services in a child support enforcement matter as provided by Title 14, section 3128-A, subsection 7 and Title 19, section 504-C, subsection 10. This paragraph is repealed October 1, 1998.

Sec. 4. 9-B MRSA §161, sub-§2, ¶D, as amended by PL 1981, c. 501, §28, is further amended to read:

D. The making of reports or returns required under the United States Internal Revenue Code, chapter 61, ~~and including the submission of information concerning interest earned on accounts,~~ investigatory activity authorized by the United States Internal Revenue Code and any use to which the reports or returns would be subjected once submitted;

Sec. 5. 9-B MRSA §161, sub-§2, ¶I, as amended by PL 1995, c. 86, §1, is further amended to read:

I. Any disclosure of records made pursuant to Title 22, section 16, 17 or 4314;

Sec. 6. 14 MRSA §3121, sub-§3, as enacted by PL 1971, c. 408, §1, is amended to read:

3. Judgment creditor. "Judgment creditor" means any person, corporation, partnership or other entity who or which is the owner of any judgment unsatisfied in whole or in part, and the Department of Human Services when it is collecting child support.

Sec. 7. 14 MRSA §3121-A, sub-§1, as amended by PL 1989, c. 655, is further amended to read:

1. Commencement of proceedings. Notwithstanding Title 4, section 155, and any provisions set forth elsewhere, and except as provided in subsection 2 and Title 19, section 504-C, subsection 2, any proceeding under this chapter ~~shall~~ must be commenced in a division of the District Court as follows.

A. Except as provided in paragraph D, if the judgment debtor is an individual who resides within this State, the proceeding ~~shall~~ must be commenced in the division in which the judgment debtor resides.

B. Except as provided in paragraph D, if the judgment debtor is a nonresident individual, the proceeding ~~shall~~ must be commenced in the division in which the debtor is commorant.

C. Except as provided in paragraph D, if the judgment debtor is not an individual, the proceeding ~~shall~~ must be commenced in a division in which the debtor maintains a place of business. If the judgment debtor does not maintain a place of business in this State, the proceeding ~~shall~~ must be commenced in a division in which a civil summons could be served upon the debtor or in any division in which the action resulting in the judgment could have been brought.

D. Any proceeding under this chapter may be commenced in the division where the judgment creditor, if an individual, resides or, if not an individual, has a place of business, except that a consumer debt proceeding must be commenced, at the option of the creditor, in the division where the consumer transaction occurred or where the judgment debtor resides. Consumer debts are limited to debts arising from purchases that are primarily for personal, family or household purposes.

Sec. 8. 14 MRSA §3128-A is enacted to read:

§3128-A. Order to seek employment

1. Order; exceptions. If a child support obligor claims inability to pay in a disclosure proceeding under section 3125 or Title 19, section 504-C, the court may order the obligor to seek employment and make progress reports on that activity to the court or the Department of Human Services unless:

A. The obligor proves by a preponderance of the evidence that the obligor is engaged in diligent, bona fide efforts to seek work; or

B. The obligor proves by a preponderance of the evidence that the obligor does not have the ability to seek work.

2. Contents. The order must contain, but is not limited to, the following directives:

A. That the obligor seek employment within a specified amount of time;

B. That the obligor file weekly with the court or the Department of Human Services, as applicable, a report on any new employment of the obligor or at least 5 new attempts by the obligor to find employment;

C. That the obligor include in the report filed pursuant to paragraph B the name, address and telephone number of the new employer or the names, addresses and telephone numbers of the employers with whom the obligor attempted to seek employment and the names of the individuals the obligor contacted to inquire about or apply for employment; and

D. That failure to comply with the order is evidence, absent good cause, of willful nonpayment of child support for which the obligor may be held in contempt.

3. Duration. The order continues in effect for 6 months or until the obligor finds work, whichever occurs first.

4. Subsequent orders. The court may issue any order or combination of orders under this chapter to enforce an order under this section.

5. Report. If an obligor is ordered to report to the Department of Human Services pursuant to subsection 2, the Department of Human Services shall monitor compliance with the order and may petition the court to enforce the order.

6. Failure to report. Failure to report or otherwise comply with an order under this section, absent good cause, is evidence of willful nonpayment of child support for which the obligor may be held in contempt under section 3136.

7. Representation of the Department of Human Services; training. The Commissioner of Human Services may designate employees of the department who are not attorneys to represent the department in District Court in a proceeding filed under this section. The Commissioner shall ensure that appropriate training is provided to all employees designated to represent the department under this subsection.

8. Rulemaking. The Department of Human Services shall adopt rules to implement its responsibilities under this section.

9. Repeal. This section is repealed October 1, 1998.

Sec. 9. 14 MRSA §3134, sub-§1, as amended by PL 1987, c. 708, §9, is further amended to read:

1. Issuance of civil order of arrest. If the judgment debtor fails to appear after being duly served with a subpoena under section 3123 or with an order to appear and disclose under Title 19, section 504-C, and the judgment creditor appears at the time and place named in that subpoena, the creditor may request the court to issue a civil order of arrest. The court shall issue a civil order of arrest upon the written request of the creditor stating that ~~he~~ the creditor knows of no infirmity, disability or good cause preventing the appearance of the debtor. The request must contain the address and telephone number where the creditor or ~~his~~ the creditor's representative can be reached and the address of the debtor.

Sec. 10. 14 MRSA §3135, last ¶, as amended by PL 1991, c. 498, §1, is further amended to read:

Unless the judgment debtor shows good cause for failure to appear after being duly served with a disclosure subpoena under section 3123 ~~or~~, a contempt subpoena under section 3136 or an order to appear and disclose under Title 19, section 504-C, the debtor must be ordered to pay the costs of issuing and serving the civil order for arrest. The costs of issuing and serving the civil order for arrest are \$25 plus mileage at a rate of 22¢ per mile. The fee payable to sheriffs and their deputies for civil orders for arrest is governed by Title 30-A, section 421, subsection 6.

Sec. 11. 19 MRSA §448-A, sub-§3, as amended by PL 1993, c. 410, Pt. V, §5, is repealed.

Sec. 12. 19 MRSA §448-A, sub-§4-A, as enacted by PL 1993, c. 410, Pt. V, §7, is repealed.

Sec. 13. 19 MRSA §448-A, sub-§4-B is enacted to read:

4-B. Fees and costs. The Department of Human Services shall charge a \$2 per week fee to all obligors whose child support payments are made to the department to reduce the department's costs in providing support enforcement services. The department may collect fees owed by the obligor by using any remedies available for collection of child support. The department shall retain all fees and apply them toward the Aid to Families with Dependent Children or the child support enforcement

programs. The department shall apply amounts collected toward fees only after the amount owed to the family for the current period is paid. The department shall collect the fee from obligors whose child support is paid to the department under an income withholding order by notifying the payor of income to the obligor to increase withholding by \$2 per week. The department or any other person may not be required to issue a new or amended withholding order to collect the fee, but shall notify the obligor in advance of the increase in withholding.

Sec. 14. 19 MRSA §495, sub-§1, ¶A, as amended by PL 1993, c. 607, §4, is further amended to read:

A. When 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 the department establishes a periodic support payment has been established under section 497-A or former section 498 by administrative decision, the debt is limited to the amount stated in the decision.

Sec. 15. 19 MRSA §498-B, sub-§1, as amended by PL 1993, c. 607, §8, is further amended to read:

1. Responsible parent's failure to comply. If a responsible parent fails to ~~acquire the obtain~~ health insurance coverage as required ~~under section 497-A or 497-B~~ by an administrative decision, that parent 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. 16. 19 MRSA §500, sub-§3, as enacted by PL 1975, c. 532, §3, is amended to read:

3. If the commissioner finds that the collection of any support debt accrued or accruing under section 495 is in jeopardy, the commissioner may make demand under subsection 1 for immediate payment of the support debt, and upon failure or refusal immediately to pay, the commissioner may file and serve liens pursuant to section ~~503~~ 503-A. No action under sections 504, 506 and 507 may be taken until the notice requirements of subsection 1 are met.

Sec. 17. 19 MRSA §503, as amended by PL 1993, c. 607, §9, is repealed.

Sec. 18. 19 MRSA §503-A is enacted to read:

§503-A. Liens

1. Judgment. Twenty-one days after receipt by a responsible parent of a notice of debt under section 500 or 30 days after the date of mailing to the responsible parent of a decision of the department that requires the responsible parent to pay child support, the amount stated in the notice of debt or in the decision is a judgment in favor of the department, the obligee, or both. The judgment is a lien against all property of the responsible parent. The lien is separate from and in addition to a lien filed under this section.

2. Filing. For real property, a lien is perfected when a notice of support lien is filed in the registry of deeds of the county or counties in which the real property is located. For personal property, including motor vehicles or other items for which a certificate of ownership is issued by the Secretary of State, the lien is perfected when a notice of support lien is delivered to the Secretary of State. The Secretary of State shall mark, hold and index the notice of support lien as if it were a financing statement within the meaning of Title 11, section 9-402. The notice of support lien must state the name and address of the responsible parent, the amount of the child support debt accrued, the date of the decision or notice of debt by which the debt was assessed and the name and address of the authorized agent of the department who issued the notice.

3. Effect. A person who knows of a support lien may not pay over, release, sell, transfer, encumber or convey property that may be subject to the lien, unless:

A. The commissioner waives or releases the lien in writing; or

B. A court of competent jurisdiction orders a release.

4. Order to seize and sell. A lien under this section may be enforced or collected through an order to seize and sell under section 774-B.

This subsection is repealed October 1, 1998.

Sec. 19. 19 MRSA §504, sub-§1, ¶A, as enacted by PL 1975, c. 532, §3, is amended to read:

A. A lien has been filed pursuant to former section 503 or section 503-A; or

Sec. 20. 19 MRSA §504, sub-§1, ¶B, as amended by PL 1993, c. 607, §10, is further amended to read:

B. Twenty-one days have elapsed from the date of receipt of ~~the~~ a notice of debt under section 500 or 30 days after the date of mailing to a responsible parent of a decision has been received under section 497-A or 497-B of the department that requires the responsible parent to pay child support.

Sec. 21. 19 MRSA §504, sub-§3, as enacted by PL 1975, c. 532, §3, is amended to read:

3. Order; contents. The order to withhold and deliver ~~shall~~ must state the amount of the support debt accrued and accruing and the terms of ~~sections former section 503 or sections 503-A and 509 and shall~~ demand a listing of property, including wages, ~~which~~ that is due or belongs to the responsible parent.

Sec. 22. 19 MRSA §504-C is enacted to read:

§504-C. Order to appear and disclose

1. Order. The commissioner may commence an action under Title 14, chapter 502 by directing a responsible parent to appear before the department to disclose under oath information that relates to the responsible parent's ability to pay child support. The commissioner may require a responsible parent who is directed to appear to provide documents, papers and other evidence about the responsible parent's income and assets for the purpose of enforcing a court or administrative order for child support. An order to appear and disclose must be served on the responsible parent as provided by the Maine Rules of Civil Procedure, Rule 4.

2. Venue. The Department of Human Services may commence the action by ordering the obligor to appear at an office of the department, provided the distance to be travelled by the obligor is no more than 100 miles from the obligor's place of residence. If the department files the action in court, the department shall file the action in the division of the District Court where the obligor resides or in the division that has ordered the obligor to pay child support, if any.

3. Notice to responsible parent. The department shall include a notice to the responsible parent with each order to appear and disclose. The notice must include the following information:

A. The date, time and place of the disclosure proceeding;

B. The amount of child support the responsible parent owes;

C. That the department may file a record of the proceeding in court to collect the debt;

D. That, if the department files a record of the proceeding in court, the court will notify the responsible parent by regular mail of the date, time and place of the court hearing;

E. That, if a record of the proceeding is filed in court, the court may issue any lawful order, including a sale or turnover order, an order to seek employment or a civil order of arrest;

F. That, if a record of the proceeding is filed in court and the responsible parent is not making regular child support payments, the burden of proof is on the responsible parent to show why regular payments can not be made; and

G. The penalties as provided by this section that could be incurred by the responsible parent for failure to appear, failure to provide documents, papers and other evidence as required or intentionally providing false information.

The notice must be accompanied by a copy of the support order under which the responsible parent owes child support.

4. Notice to obligee. The department shall provide notice to the obligee of the time and place of the disclosure proceeding and the nature of the proceeding.

5. Limitation of action. The department may issue an order to appear and disclose only if the responsible parent owes \$500 or more in overdue child support, the amount has been owed for at least 60 days and the responsible parent is not making reasonable, regular payments to reduce the debt.

6. Continuance. The department may grant a continuance of the proceeding for good cause.

7. Transcribable record. The department shall prepare an official, transcribable record of all proceedings held under this section.

8. Failure to appear. If the responsible parent fails to appear after being served with an order to appear and disclose, the department may request a

civil order of arrest pursuant to Title 14, sections 3134 and 3135 for violating the order to appear and disclose by filing a copy of the order to appear and disclose, proof of service of the order and an affidavit attesting that the responsible parent failed to appear for the administrative disclosure proceeding.

9. Court action. The commissioner may file the record of a proceeding in the District Court to ask the court for any appropriate relief under Title 14, chapter 502, including an order requiring the responsible parent to seek employment and report that activity to the department. The record must be accompanied by a motion. The department shall notify the responsible parent by regular mail upon filing the record in court. The notice to the responsible parent must include a copy of the department's motion. The filing of the record, along with proof of service of the order to appear and disclose, constitutes a filing under the Maine Rules of Civil Procedure, Rule 3(1) and further service is not required.

10. Representation of the Department of Human Services. The commissioner may designate employees of the department who are not attorneys to represent the department in District Court in a proceeding filed under this section. A designated employee may prepare and sign the motion as required under subsection 9. The Commissioner shall ensure that appropriate training is provided to all employees designated to represent the department under this subsection.

11. Employee protection. An employer who discharges, refuses to employ or takes disciplinary action against a responsible parent, or who otherwise discriminates against the parent because the parent must appear before the department pursuant to this section is liable in an action by the responsible parent for compensatory and punitive damages, plus attorney's fees and court costs.

12. Penalties. Failure to appear before the department, absent good cause, is a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged. Failure to provide documents, papers and other evidence as required, absent good cause, is a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged. Intentionally providing false information is a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged for each violation.

13. Repeal. This section is repealed October 1, 1998.

Sec. 23. 19 MRSA §506, sub-§1, as enacted by PL 1975, c. 532, §3, is amended to read:

1. Seizure and surrender. Whenever a lien has been filed pursuant to former section 503 or section

503-A, the commissioner may collect the debt stated in the lien by seizing, if this can be done without breach of the peace, or demanding surrender of, any property subject to the lien and disposing of it.

Sec. 24. 19 MRSA §507, sub-§§1 and 2, as amended by PL 1985, c. 652, §35, are further amended to read:

1. Liens on real property. Actions to foreclose liens on real property filed under former section 503 or section 503-A may be brought in the county where the lien is filed pursuant to the procedures of Title 14, chapter 403, subchapter II.

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

Sec. 25. 19 MRSA §774-B is enacted to read:

§774-B. Order to seize and sell

1. Execution of support liens. The Department of Human Services may issue an order to seize and sell to execute a support lien established under former section 503 or section 503-A or to enforce and collect any money judgment assessed under this chapter, chapter 5 or chapter 7. An order to seize and sell has the same effect as a writ of execution issued by the District Court or the Superior Court.

2. Issuance of order. An order to seize and sell is an order, under official seal of the Department of Human Services, directed to a county sheriff or a levying officer authorized by law to enforce a District Court or Superior Court judgment. The order must command the recipient of the order to seize and sell specific nonexempt real and personal property of an obligor to satisfy the support lien upon which the order is based. The department must know or have reason to believe the obligor has a substantial ownership interest in the property identified in the order. Before issuing the order, the department must search the records of the applicable registry of deeds for real property and the records of the Secretary of State for personal property to determine if there are other persons who have an ownership interest in the property.

3. Content of order. An order to seize and sell must be signed by the Commissioner of Human Services or the commissioner's designee. The order must be for the amount of the support lien or the amount of any other money obligation determined under this chapter, plus fees and costs, if any. The order must identify the specific property that is the subject of the order. The order must include notice that tells the obligor and other persons who are known

to have an ownership interest in the property how to contest the seizure and sale of the property, including notice of the right to an administrative hearing within 5 business days. The order must list the type and value of property that is exempt as provided in subsection 15.

4. Order limited. The county sheriff or levying officer may not seize property not specifically identified in the order.

5. Sheriff or levying officer. An order to seize and sell may be sent by the Department of Human Services to a county sheriff or levying officer. When the order is issued, the department shall serve a copy of the order on all persons other than the obligor who the department knows have an ownership interest in the property identified in the order. If personal service is unsuccessful, the department shall mail the order to the person's last known address by regular mail. Upon receipt of the order, the sheriff or levying officer shall proceed to execute the order in the same manner as prescribed for execution of a judgment. A sheriff or levying officer shall return the order, along with any funds collected, to the department within 90 days of the receipt of the order. Funds resulting from execution of the order must first be applied to the sheriff's or levying officer's costs, then to any superior liens and then to the support lien or other money obligation and any inferior liens of which the department has notice. Any amounts in excess of this distribution must be paid to the obligor. If the order is returned not fully satisfied, the department has the same remedies to collect the deficiency as are available for any civil judgment.

6. Right to hearing. Before the sale, the obligor and any other persons who claim an ownership interest in the property seized under an order to seize and sell have a right to an administrative hearing to contest the seizure and sale of the property and to establish the value of their relative interest in the property. A request for a hearing must be in writing and must be received by the Department of Human Services within 10 calendar days of the seizure. Upon receiving a request for a hearing, the department shall notify all persons who the department has reason to believe have an ownership interest in the property of the time, place and nature of the hearing.

A. Anyone requesting a hearing has the right to a preliminary hearing within 5 business days of the hearing request. At the preliminary hearing, if the hearing officer determines there is reasonable ground to believe that the seizure was lawful and that the obligor owes a support debt that could be satisfied in whole or in part by nonexempt property that has been seized, the hearing officer shall require the seizure to remain in force and shall schedule a final hearing, allowing

all parties reasonable time to collect evidence and prepare for the final hearing. If the hearing officer determines that the seizure was not lawful or that the obligor does not owe a support debt that could be satisfied in whole or in part by nonexempt property that has been seized, the hearing officer shall declare the order to seize and sell void.

B. The Department of Human Services shall notify any person who the department has reason to believe has an ownership interest in the seized property of the time and place of the final hearing. At the final hearing, the hearing officer shall determine:

- (1) Whether the obligor owes a support debt;
- (2) Whether the support debt could be satisfied in whole or in part by the property seized; and
- (3) The value of the interests of all persons with an ownership interest in the property.

7. Commercially reasonable sale. The sheriff or levying officer may sell the property seized as a unit or in parcels and at any time and place and on any terms not otherwise prohibited by this section, but every aspect of the disposition including the method, manner, time, place and terms must be commercially reasonable. The property may not be sold for less than the debtor's interest in the property that is exempt. The property may not be sold for less than the full value of the interest in the property owned by the nonobligor parties with an interest superior to that of the Department of Human Services. The property may not be sold for less than the debtor's interest in the property that is exempt. The Department of Human Services reserves the right to reject any and all bids.

8. Notice of sale. Within 30 days of receiving notice of a sale from the county sheriff or levying officer, the Department of Human Services shall send by regular mail an accounting and proposed distribution of the net proceeds of the sale to the obligor, all joint owners of the property sold and any known lienholders with an interest in the property. The accounting and proposed distribution must include notice of the right to challenge the proposed distribution at an administrative hearing within 30 days. The department may not distribute the proceeds of the sale until the appeal period has run and all appeals have been decided.

9. Release. Upon receiving payment in full of the order amount plus fees and costs, if any, the Department of Human Services shall release the order to seize and sell. Upon receiving partial payment of

the order amount or if the department determines that a release or partial release of the order will facilitate the collection of the unpaid amount, fees and costs, the department may release or may partially release the order to seize and sell. The department shall release the order if it determines the order is unenforceable.

10. Right to redeem. An obligor or other person or entity having an interest in real or personal property seized under an order to seize and sell at any time prior to sale of the property may pay the amount of the support lien or other money obligation and any costs incurred by the county sheriff or levying officer serving the order. Upon payment in full, the property must be restored to the obligor or other person or entity having an interest in that property and all proceedings on the order must cease.

11. Right to redeem after sale. An obligor or other person or entity having an interest in real property seized and sold by a county sheriff or levying officer pursuant to an order to seize and sell may, within 240 days after sale of the property, redeem the property by making payment to the purchaser in the amount paid by the purchaser plus interest at the statutory interest rate payable on judgments recovered in the District Court and the Superior Court.

12. Release not a bar to other action. At any time after seizure and sale of property under an order to seize and sell, the Department of Human Services may release all or part of the seized property without liability if payment of the support lien or other money obligation is ensured or if the release will facilitate collection of the support lien or money obligation. The release or return of the property does not prevent future action to collect the order amount from that property or other property.

13. Statute of limitations. The Department of Human Services may issue an order to seize and sell to collect a support lien or other money obligation under this chapter, chapter 5 or chapter 7 at any time within the statutory limitation period for enforcing and collecting child support amounts.

14. Additional remedies. The use of an order to seize and sell is not exclusive and the Department of Human Services may use any other remedy provided by law for the collection of child support.

15. Exempt property. The following property is exempt from seizure and sale, except to the extent that it has been fraudulently conveyed by the obligor:

A. The obligor's aggregate interest, not to exceed \$12,500 in value, in real or personal property that the obligor uses as a residence;

B. The obligor's interest, not to exceed \$2,500 in value, in one motor vehicle;

C. The obligor's interest, not to exceed \$200 in value in any particular item, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops or musical instruments that are held primarily for the personal, family or household use of the obligor or a dependent of the obligor;

D. The obligor's aggregate interest, not to exceed \$5,000 in value, in any implements, professional books or tools of the trade of the obligor or the trade of a dependent of the obligor, including, but not limited to, power tools, materials and stock designed and procured by the obligor and necessary for carrying on the obligor's trade or business and intended to be used or wrought in that trade or business;

E. The obligor's interest in the following items held primarily for the personal, family or household use of the obligor or a dependent of the obligor:

(1) One cooking stove;

(2) All furnaces or stoves used for heating; and

(3) All cooking and heating fuel not to exceed 10 cords of wood, 5 tons of coal or 1,000 gallons of petroleum products or the equivalent amount of another type of fuel;

F. The obligor's interest in the following items held primarily for the personal, family or household use of the obligor or a dependent of the obligor:

(1) All food provisions, whether raised or purchased, reasonably necessary for 6 months;

(2) All seeds, fertilizers, feed and other material reasonably necessary to raise and harvest food through one growing season; and

(3) All tools and equipment reasonably necessary for raising and harvesting food;

G. The obligor's interest in one of every type of farm implement reasonably necessary for the obligor to raise and harvest agricultural products commercially, including any personal property incidental to the maintenance and operation of the farm implements;

H. The obligor's interest in one boat, not exceeding 5 tons burden, used by the debtor primarily for commercial fishing; and

I. Professionally prescribed health aids for the obligor or a dependent of the obligor.

16. Repeal. This section is repealed October 1, 1998.

Sec. 26. 19 MRSA §777-E is enacted to read:

§777-E. Annual statement

The Department of Human Services shall send an annual statement of arrearages to all obligors who owe past-due child support that the department is authorized to collect. The statement must include notice to the obligor that the department may collect the amount owed by issuing an order to seize and sell property. The statement may include such other notices that the department considers appropriate. The department shall send the statement to the obligor by regular mail to the obligor's last known address. If the obligor disagrees with the department's statement of arrearages, the obligor must immediately notify the department.

Sec. 27. 19 MRSA §780-A, sub-§6 is enacted to read:

6. Fees. A notice to the obligor and payor of income that the payor of income must withhold and send to the Department of Human Services a fee of \$2 per week in addition to the amount withheld for child support.

Sec. 28. 22 MRSA §17 is enacted to read:

§17. Access to financial records of deposit accounts of individuals who owe overdue child support

1. Definitions. For the purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Depositor" has the same meaning as used in Title 9-B, and includes "share account holders" of credit unions.

B. "Financial institution" means a trust company, savings bank, industrial bank, commercial bank, savings and loan association or credit union organized under the laws of this State or otherwise authorized to do business in this State.

C. "Match" means an automated comparison by name and social security number of a list of obligors provided to a financial institution by the department and a list of depositors of any financial institution.

D. "Obligor" means a person who owes overdue support.

E. "Overdue support" means a debt of \$500 or more for maintenance and support of a child or children that has been owed for a least 60 days, if the obligor had prior notice of the debt and a prior opportunity to contest the amount owed. "Overdue support" includes spousal support or alimony being collected in conjunction with child support.

2. Computer match. Upon written request from the commissioner to a financial institution in this State with the technological capacity to perform a match, the financial institution shall perform a match using the list of obligors' social security numbers provided by the department. The department is responsible for making its computer data compatible with the data of the financial institution with which a match is sought. The department's data, at a minimum, must include the full name and social security number of and the amount of overdue support owed by each obligor. The department may not request a financial institution to perform a match under this section more often than once every calendar year.

3. Compilation of match list. After completing a match requested by the department under subsection 2, a financial institution shall compile for the department a list of those depositors whose social security numbers match the list of social security numbers of obligors provided by the department. The list must contain the following information, if available to the financial institution through its matching procedure, for each account identified:

- A. The obligor's full name;
- B. The obligor's social security number;
- C. The financial institution account number; and
- D. The amount of deposits contained in the account, if available.

4. Notice to department. A financial institution that has compiled a match list under subsection 3 shall send the list to the department at the address designated by the department.

5. Notice to customer. The financial institution may not provide notice in any form to a depositor contained in a match list submitted to the department under subsection 4. Failure to provide notice to a depositor does not constitute a violation of the financial institution's duty of good faith to its customers.

6. Reasonable fee. To cover the costs of carrying out the requirements of this section, a financial institution may assess a reasonable fee to the department not to exceed the actual costs incurred by the financial institution.

7. Confidentiality. The list of obligors, with their social security numbers and the amount of the overdue support provided by the department to a financial institution is confidential. The information may be used only for the purpose of carrying out the requirements of this section. Knowing or intentional use of the information, without authorization from the department, is a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged.

8. Immunity from liability; hold harmless. A financial institution is immune from any liability for its good faith actions to comply with this section. The department shall defend and hold harmless, including compensation for attorney's fees, a financial institution that acts in good faith to carry out the requirements of this section.

9. Rulemaking. The department shall adopt rules to carry out this section.

10. Repeal. This section is repealed October 1, 1998.

Sec. 29. 22 MRSA §2761-B is enacted to read:

§2761-B. Hospital-based paternity acknowledgment

1. Birthing center. As used in this section, "birthing center" means a hospital or other facility that provides childbirth services.

2. Procedure. A birthing center shall provide an opportunity for all unmarried parents to complete a voluntary acknowledgement of paternity. A birthing center shall provide to each unmarried mother and alleged father, if present, written information about paternity establishment provided by the department, forms needed to voluntarily acknowledge paternity and the opportunity to speak with a person who is trained to clarify information and answer questions about paternity establishment. The birthing center shall forward all completed acknowledgement forms to the department.

3. Written information. The department shall develop an acknowledgement form and written information for use by birthing centers in carrying out the requirements of this section. The information must include a description of the benefits and responsibilities of paternity establishment. The information must include instructions on completing the acknowledgement form.

4. Technical assistance. The department shall provide birthing centers with training and technical assistance as needed to carry out the requirements of this section.

5. Reimbursement. The department may establish by rule a fee to reimburse birthing centers for each voluntary acknowledgement of paternity form completed.

6. Rulemaking. The department shall adopt rules to implement this section that comply with all applicable federal regulations.

Sec. 30. 36 MRSA §191, sub-§2, ¶P, as amended by PL 1995, c. 178, §2, is amended to read:

P. The public disclosure by the State Tax Assessor of the name, last known business address and title of the professional license or certificate of any person whose license or certificate of authority to conduct a profession, trade or business in this State has not been renewed, reissued or otherwise extended by order of the assessor pursuant to section 175. This disclosure may be made only after no further administrative or judicial review of the order is available under section 151 or the Maine Administrative Procedure Act; ~~and~~

Sec. 31. 36 MRSA §191, sub-§2, ¶Q, as enacted by PL 1995, c. 178, §3, is amended to read:

Q. The listing of special fuel suppliers possessing certificates under section 3204-; and

Sec. 32. 36 MRSA §191, sub-§2, ¶R is enacted to read:

R. The disclosure to an authorized representative of the Department of Human Services of information in the possession of the bureau identifying the location of an interest-bearing account in the name and social security number of a delinquent payor of child support as requested by the Department of Human Services.

Sec. 33. 36 MRSA §191, sub-§3, as enacted by PL 1977, c. 668, §2, is amended to read:

3. Additional restrictions for information provided by Internal Revenue Service. Federal returns and federal return information provided to the State by the Internal Revenue Service ~~shall~~ may not be disclosed to other states, districts and territories of the United States or provinces of Canada, to legislative committees or the agents of the committees, to any person retained on an independent contract basis or the employee of that person, or to the Attorney General for the purpose of criminal investigations and prosecutions unrelated to this Title. These restrictions are in addition to those imposed by subsection 1. Upon request by the Department of Human Services under Title 22, section 3755-A, information provided by the Internal Revenue Service concerning the location of interest-bearing accounts in the names and

social security numbers of delinquent payors of child support may be disclosed to an authorized representative of the Department of Human Services in the form of a list or automated computer match list.

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

Effective July 3, 1995.

CHAPTER 420

H.P. 1116 - L.D. 1561

An Act to Exempt Food Banks from Sales Tax

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

Sec. 1. 36 MRSA §1760, sub-§47, as enacted by PL 1983, c. 855, §7, is amended to read:

47. Emergency shelters, feeding organizations and emergency food supply programs. Sales of household and sanitary supplies and food items otherwise subject to tax to incorporated nonprofit organizations ~~which~~ that provide free temporary emergency shelter or food for underprivileged individuals in this State-;

See title page for effective date.

CHAPTER 421

H.P. 1058 - L.D. 1487

An Act Relating to Criminal Forfeitures

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

Whereas, the constitutional legitimacy of civil asset forfeitures has been challenged and the absence of an alternative criminal forfeiture procedure would significantly undermine the drug enforcement effort in the State; and

Whereas, the existing practice in many cases of instituting 2 actions, one criminal against individuals who violate the Maine Revised Statutes, Title 17-A, chapter 45 and one civil against property as a consequence of such violations or intended violations, often results in an unnecessary duplication of effort and a drain on scarce judicial, prosecutorial and law enforcement resources when both actions are actually