

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

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
1997

Forest Fire Control Accounts. ~~This authority does not apply to lands acquired under the authority of paragraph N. Property at the state nursery may be sold for agricultural or forestry purposes if surplus to the needs of the nursery and the proceeds are retained by the Maine Forest Service. The bureau shall transfer the low-level radioactive waste site on the state nursery property, along with appropriate buffers and access, to the University of Maine and the University of Maine shall accept the transfer. At least 60 days prior to offering any surplus property for sale under this paragraph, the director shall notify the Executive Director of the Legislative Council and the joint standing committee of the Legislature having jurisdiction over natural forest resources of the director's intent to sell the property.~~

Sec. 2. 12 MRSA §8003, sub-§3, ¶M-1 is enacted to read:

M-1. The proceeds under paragraph M may be used only to upgrade existing structures owned by the Division of Forest Fire Control, to consolidate operations of that division through the improvement, repair, replacement, purchase or construction of structures and to purchase land upon which to build structures. Ownership of any land purchased under this paragraph or structures purchased or constructed under this paragraph must be held in the name of the division. Ownership of land or property purchased under this paragraph may also be held in the name of the Bureau of General Services when the division participates in the consolidation of facilities with other state agencies. Any purchase of land or a structure pursuant to this paragraph must be approved by the Director of the Bureau of General Services.

Sec. 3. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1997-98	1998-99
CONSERVATION, DEPARTMENT OF		
Forest Fire Control - Division of		
All Other	\$105,000	\$105,000
Allocates funds to reflect an increase in dedicated revenues from the sale or		

lease of certain state-owned properties.

See title page for effective date.

CHAPTER 537

H.P. 1290 - L.D. 1835

An Act to Implement Federal Welfare Reform Mandates for State Child Support Enforcement Laws

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

Sec. 1. 9-B MRSA §162, as enacted by PL 1977, c. 416, is amended to read:

§162. Disclosure of financial records prohibited; exceptions

A fiduciary institution may not disclose to any person, except to the customer or ~~his~~ the customer's duly authorized agent, any financial records relating to that customer of that fiduciary institution unless:

1. Authorized disclosure. The customer has authorized disclosure to the person; ~~or~~

2. Disclosure in response to legal process. The financial records are disclosed in response to a lawful subpoena, summons, warrant or court order ~~which that~~ meets the requirements of section 163; or

3. Disclosure in response to a request by the Department of Human Services. The financial records are disclosed in response to a request for information by the Department of Human Services for purposes related to establishing, modifying or enforcing a child support order.

Sec. 2. 9-B MRSA §163, as amended by PL 1997, c. 16, §1, is further amended to read:

§163. Subpoena, summons, warrant or court order

1. Service. A fiduciary institution shall disclose financial records under section 162 pursuant to a subpoena, summons, warrant or court order that on its face appears to have been issued upon lawful authority only if the subpoena, summons, warrant or court order is served upon the customer prior to disclosure by the fiduciary institution. The agency or person requesting the disclosure of financial records shall certify in writing to the fiduciary institution the fact that the subpoena, summons, warrant or court order has been served upon the customer. The court for good cause shown may delay or dispense with service of the subpoena, summons, warrant or court order upon the customer. The court shall delay or dispense with

service of the subpoena, summons, warrant or court order upon the customer upon notice by the Attorney General, the Attorney General's designee or the District Attorney that service upon the customer would not be in the public interest. A subpoena, summons or warrant issued in connection with a criminal proceeding or federal grand jury proceeding, a request for information by the Department of Human Services for purposes related to establishing, modifying or enforcing a child support order or a trustee process lawfully issued need not be served upon the customer.

Sec. 3. 10 MRSA §8003, sub-§4-A is enacted to read:

4-A. Disclosure and recording of social security numbers. An individual who applies for a license shall provide that individual's social security number on the application, which must be recorded.

Sec. 4. 12 MRSA §6308, as amended by PL 1995, c. 694, Pt. D, §9 and affected by Pt. E, §2, is further amended to read:

§6308. Compliance with support orders; license qualifications and conditions

In addition to other qualifications for licensure or registration and conditions for continuing eligibility to hold a license as prescribed by the various acts of the department, applicants for licensure or registration, licensees renewing their licenses and existing licensees must also comply with the requirements of Title 19-A, section 2201, ~~but only if the license is for commercial use.~~

Sec. 5. 12 MRSA §6309, sub-§2, as amended by PL 1995, c. 694, Pt. D, §10 and affected by Pt. E, §2, is further amended to read:

2. Noncompliance with a court order of support. An applicant for the issuance or renewal of a license or an existing licensee regulated by the department under this subpart who is not in compliance with a court order of support is subject to the requirements of Title 19-A, section 2201, ~~but only if the license is for commercial use.~~

Sec. 6. 12 MRSA §7079-A, as amended by PL 1995, c. 694, Pt. D, §11 and affected by Pt. E, §2, is further amended to read:

§7079-A. Compliance with support orders; license qualifications and conditions

In addition to other qualifications for licensure or registration and conditions for continuing eligibility to hold a license as prescribed by the various acts of the department, applicants for licensure or registration, licensees renewing their licenses and existing

licensees must also comply with the requirements of Title 19-A, section 2201, ~~but only if the license is for commercial use.~~

Sec. 7. 12 MRSA §7079-B, sub-§2, as amended by PL 1995, c. 694, Pt. D, §12 and affected by Pt. E, §2, is further amended to read:

2. Noncompliance with a court order of support. An applicant for the issuance or renewal of a license or an existing licensee who is not in compliance with a court order of support is subject to the requirements of Title 19-A, section 2201, ~~but only if the license is for commercial use.~~

Sec. 8. 14 MRSA §3128-A, sub-§1, as amended by PL 1995, c. 694, Pt. D, §18 and affected by Pt. E, §2, is further amended to read:

1. Order; exceptions. If a child support obligor claims inability to pay in a disclosure proceeding under section 3125 or Title 19-A, section 2361, the court may order the obligor to seek employment or participate in work activities as defined by section 407(d) of the Social Security Act, 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.

Sec. 9. Effective date. That part of this Act that amends the Maine Revised Statutes, Title 14, section 3128-A, subsection 1 takes effect October 1, 1997.

Sec. 10. 14 MRSA §3128-A, sub-§9, as enacted by PL 1995, c. 419, §8, is repealed.

Sec. 11. 19-A MRSA §101, sub-§9, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

9. Person. "Person" means an individual, trust, estate, partnership, association, company, corporation, political subdivision of the State ~~or~~ instrumentality of the State or other entity.

Sec. 12. 19-A MRSA §651, sub-§2, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

2. Application. The parties wishing to record notice of their intentions of marriage shall submit an application for recording notice of their intentions of marriage. The application must include a signed certification that the information recorded on the

application is correct and that the applicant is free to marry according to the laws of this State. The applicant's signature must be acknowledged before an official authorized to take oaths. Applications recording notice of intentions to marry must be open for public inspection in the office of the clerk. When the application is submitted, the applicant shall provide the clerk with the social security numbers of the parties. The application must include a statement that the social security numbers of the parties have been provided to the clerk. The clerk shall record the social security numbers provided by each applicant. The record of the social security numbers is confidential and is not open for public inspection.

Sec. 13. 19-A MRSA §908 is enacted to read:

§908. Disclosure and recording of social security numbers

An individual who is a party to a divorce action must disclose that individual's social security number to the court. The social security number of any individual who is subject to a divorce decree must be placed in the court records relating to the decree. The record of an individual's social security number is confidential and is not open to the public. The court shall disclose an individual's social security number to the department for child support enforcement purposes.

Sec. 14. 19-A MRSA §1509 is enacted to read:

§1509. Locator information; presumption concerning notice

1. Duty of parties to file and update locator information when a support order is issued. Upon entry of a decision, order or judgment, each party to a paternity action or proceeding involving child support shall file with the tribunal that issued the decision, order or judgment and update as the information changes, the party's full name, social security number, residential and mailing addresses, home telephone number, driver's license number and the names, addresses and telephone numbers of the party's employers.

2. Presumption of adequate notice if mailed to last reported address. In any subsequent child support enforcement action or proceeding involving one or more of the parties, upon sufficient showing that diligent effort has been made to ascertain the location of a party and upon delivery of written notice to the most recent residential or employer address filed with the tribunal, the tribunal may deem that the state due process requirements have been met for notice and service of process with respect to the party.

Sec. 15. 19-A MRSA §1510 is enacted to read:

§1510. Statewide jurisdiction

In child support and paternity cases, the jurisdiction of the District Court, the Superior Court and the department extends to all parts of the State. Once an action has been commenced, a case may be transferred between local jurisdictions in the State without need for an additional filing by the petitioner or service of process on the respondent to retain jurisdiction over the parties.

Sec. 16. 19-A MRSA §1553, first ¶, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

Paternity may be determined upon the complaint of the mother, the alleged father, the child or the public authority chargeable by law with the support of the child. If paternity has been determined or has been acknowledged according to the laws of this State, the liabilities of the father may be enforced in the same or other proceedings by the mother, the child or the public authority that has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, support or funeral expenses, and by other persons, including private agencies, to the extent that they have furnished the reasonable expenses of pregnancy, confinement, education, support or funeral expenses. Bills and records of expenses paid for pregnancy, child birth and genetic testing are admissible as evidence without requiring 3rd-party foundation testimony and are prima facie evidence of amounts incurred for those services or for testing on behalf of the child. Chapter 63 applies to an award of past support, which is calculated by applying the current child support guidelines to the period for which past support is owed.

Sec. 17. 19-A MRSA §1554, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§1554. Limitation on recovery from father

The father's liabilities for past education and support are limited to ~~a period of the 6 years immediately~~ 6-year period preceding the commencement of an action.

A complainant may commence an action at any time prior to the child's 18th birthday. Notwithstanding the effective date of this paragraph, an action may be commenced for the benefit of a child whose paternity has not been established or to establish paternity of a child for whom an action had been commenced but dismissed because a statute of limitations of less than 18 years was then in effect.

Sec. 18. 19-A MRSA §1561, sub-§1, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

1. Effect of results. The results of the tests required pursuant to section 1558 are evidence to be used in determining paternity as follows.

A. If the court finds that the conclusion of all the experts, as disclosed by the evidence based upon the tests, is that the alleged father is not the parent of the child, the question of paternity must be resolved accordingly.

B. If the experts disagree in their findings or conclusions, the question must be submitted upon all the evidence.

C. If the experts conclude that the blood or tissue tests show that the alleged father is not excluded and that the probability of the alleged father's paternity is less than 97%, this evidence must be admitted by the court and weighed with other competent evidence of paternity.

D. If the experts conclude that the blood or tissue tests show that the alleged father is not excluded and that the probability of the alleged father's paternity is 97% or higher, the alleged father is presumed to be the father, and this evidence must be admitted.

The court shall admit as evidence the results of any genetic test that is of a type generally acknowledged as reliable by accreditation bodies designated by the federal Secretary of the Department of Health and Human Services and performed by a laboratory approved by such an accredited body.

Sec. 19. 19-A MRSA §1565, sub-§§3 and 4 are enacted to read:

3. Temporary support order. Upon motion by a party to a contested paternity action, the court shall issue a temporary child support order if the alleged father is presumed to be the father as a result of genetic testing, as provided by Title 19-A, section 1561, subsection 1, paragraph D. The order must be determined according to the child support guidelines as provided under chapter 63.

4. Disclosure and recording of social security numbers. A person who is a party to a paternity action shall disclose that person's social security number to the court. The social security number of a person who is subject to a judgment of paternity must be placed in the court records relating to the judgment of paternity. The record of a person's social security number is confidential and is not open to the public. The court shall disclose a person's social security

number to the department for child support enforcement purposes.

Sec. 20. 19-A MRSA §1610, sub-§4 is enacted to read:

4. Additional genetic testing. If additional samples are needed to complete genetic testing, the department may require the mother, alleged father and child to submit to additional testing. If a person refuses to submit to additional testing, the court, upon motion by the department, may resolve the question of paternity against that person or order the person to submit to testing. If an original test result is contested, upon request and advance payment by the contestant, the department shall obtain additional test results.

Sec. 21. 19-A MRSA §1615 is enacted to read:

§1615. Voluntary acknowledgment of paternity

1. Legal finding of paternity. A signed voluntary acknowledgment of paternity is a legal finding of paternity, subject to the right of a signatory to rescind the acknowledgment within the earlier of 60 days or the date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a support order, in which the signatory is a party. After the right to rescind ends, the acknowledgment may be challenged in court only on the basis of fraud, duress or material mistake of fact with the burden of proof on the challenger and under which the legal responsibilities of a signatory arising from the acknowledgment, including child support obligations, may not be suspended during the challenge except for good cause shown.

2. Notice. Before a mother and putative father may sign an acknowledgment of paternity, the mother and the putative father must be given oral and written notice of the alternatives to, the legal consequences of and the rights and responsibilities that arise from signing the acknowledgment.

3. Full faith and credit. The State shall give full faith and credit to an acknowledgment of paternity signed in any other state according to that state's procedures.

4. Bar on acknowledgment ratification proceedings. Legal proceedings are not required or permitted to ratify an unchallenged acknowledgment of paternity.

Sec. 22. 19-A MRSA §2006, sub-§9, as enacted by PL 1995, c. 694, Pt. B, §2 and as affected by Pt. E, §2, is amended to read:

9. Notice of right to review. A 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 the issuing authority~~ to review ~~the amount of and, if appropriate, modify the child support order pursuant to section 2010 if there is a substantial change of circumstances according to the State's child support guidelines.~~

Sec. 23. 19-A MRSA §2006, sub-§10 is enacted to read:

10. Disclosure and recording of social security numbers. A person who is a party to an action to establish or modify a support order shall disclose that person's social security number to the court or the department, whichever conducts the proceeding. The social security number of a person who is subject to a support order must be placed in the records relating to the support order. The record of a person's social security number is confidential and is not open to the public. The court shall disclose a person's social security number to the department for child support enforcement purposes.

Sec. 24. 19-A MRSA §2009, sub-§3, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

3. Substantial change of circumstances because of variance. If a child support order varies more than 15% from a parental support obligation determined under section 2006, the court or hearing officer shall consider the variation a substantial change of circumstances and if it has been less than 3 years since the order was issued or modified, the court or hearing officer shall modify the order according to the child support guidelines under chapter 63. This section does not apply to an existing order issued under section 2007 that deviated from the presumptive amount determined pursuant to section 2006. If it has been 3 years or longer since the order was issued or modified, the court or hearing officer shall review the order without requiring proof or showing of a change of circumstances and shall modify the order if the amount of the child support award under the order differs from the amount that would be awarded under the guidelines. If a child support order was established under section 2007, a 15% variation between the amount of the order and the parental support obligation determined under section 2006 does not constitute a substantial change of circumstances.

Sec. 25. 19-A MRSA §2010, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed.

Sec. 26. 19-A MRSA §2101, sub-§§1 and 7, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to read:

1. Board. "Board" means a bureau, board or commission listed in Title 10, section 8001 or 8001-A, other licenser that is affiliated with or is a part of the Department of Professional and Financial Regulation, the Board of Overseers of the Bar or any other state agency or municipality that issues a license authorizing a person to engage in a business, occupation, profession or industry and any state agency, bureau, board, commission or municipality that issues a license or permit to hunt, fish, operate a boat or engage in any other sporting or recreational activity.

7. License. "License" means a license, certification, registration, permit, approval or other similar document evidencing admission to or granting authority to engage in a profession, occupation, business or industry, and a license or permit to hunt, fish, operate a boat or engage in any other sporting or recreational activity, but does not mean a registration, permit, approval or similar document evidencing the granting of authority to engage in the business of banking pursuant to Title 9-B.

Sec. 27. 19-A MRSA §2101, sub-§9, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed and the following enacted in its place:

9. Support order. "Support order" means a judgment, decree or order, whether temporary, final or subject to modification, issued by a court or an administrative agency of competent jurisdiction for the support and maintenance of a child including a child who has attained the age of majority under the law of the issuing state or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages or reimbursement and which may include related costs and fees, interest and penalties, income withholding attorney's fees and other relief.

Sec. 28. 19-A MRSA §2101, sub-§10, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed.

Sec. 29. 19-A MRSA §§2104 to 2106 are enacted to read:

§2104. State registry of support orders

1. Record of all support orders. On or before October 1, 1998, the department shall maintain a record of each support order established or modified in the State. The record must include standardized data elements, including the names, social security numbers and dates of birth of the parties. The department shall update and monitor the record relating to each support order in all cases in which support rights are assigned to the department or for which the department otherwise provides support enforcement services. The department and the judicial

branch shall work cooperatively to develop efficient procedures for implementing the requirements of this subsection.

2. Automated data matching. The department shall compare by automated data processing the record of each support order maintained by the department with the records of the Federal Government, other states and other state agencies for the purposes of matching, receiving and disclosing information as required by 42 United States Code, Chapter 7, Subchapter IV, Part D (1996). All state agencies shall work cooperatively with the department to develop automated procedures for providing the department with information the department is permitted access to for purposes of carrying out its responsibilities under the Social Security Act, Chapter 7, Subchapter IV, Part D.

§2105. Duty of department to recognize and enforce actions of other states

The department shall recognize and enforce the authority of agencies of other states that are responsible for administering the Social Security Act, 42 United States Code, Chapter 7, Subchapter IV (1996) to take actions under Section 325(a)(2) of the Personal Responsibility and Work Opportunity Act of 1996, Public Law 104-193, 110 Stat. 2105. The department shall enforce the actions of other states as necessary by filing a civil action in the District Court.

§2106. Dependent health care coverage

1. Enrollment of dependent children in employer health plans. If a parent is required by a support order to provide health care coverage for a child and the parent is eligible for family health care coverage through an employer doing business in the State, upon application by either parent, the employer shall enroll the child, if otherwise eligible, in the employer health plan without regard to any enrollment season restrictions, except as provided by subsection 2. If the employer offers more than one plan, the employer shall enroll the child in the plan in which the employee is enrolled or, if the employee is not enrolled, in the least costly plan otherwise available, if the plan's services are available where the child resides. If the services of the employee's plan or the least costly plan are not available where the child resides, the employer shall enroll the child in the least costly plan that is available where the child resides.

2. Employer duty to withhold premiums from employee and pay insurer. An employer who enrolls a dependent child under this section shall withhold from the employee's compensation the employee's share, if any, of the cost of the health care coverage for the child enrolled and pay that amount to the insurer, except that the amount of compensation withheld by the employer may not exceed the limits

provided for in section 2356. If withholding the maximum amount of the employee's disposable earnings under section 2356 does not cover the employee's initial share of the cost, the employer may elect not to enroll the employee's dependent child.

3. Duty to maintain coverage. An employer may not disenroll or eliminate coverage for a child enrolled under this section unless:

A. The employer is provided with satisfactory written evidence that the court or administrative order is no longer in effect;

B. The employer is provided with satisfactory written evidence that the child is or will be enrolled in comparable health coverage that will take effect no later than the date when the child is disenrolled;

C. The employer has eliminated family health care coverage for all of its employees; or

D. The parent who is ordered to provide health care coverage for the child terminates employment.

4. Answer. The employer shall respond to a parent who requests enrollment within 30 days and confirm:

A. That the child has been enrolled in the employer's health plan;

B. The date when the child will be enrolled, if enrollment is pending; or

C. That coverage can not be provided, stating the reasons why coverage can not be provided.

5. Notice of coverage and plan changes. If a child is enrolled under this section, the employer shall provide information to the custodial parent that includes the name of the insurer and the extent of the coverage provided and make available any necessary claim forms or enrollment membership cards. The employer shall inform the custodial parent of a change in coverage, change in insurer or if the plan is terminated. The employer shall provide the custodial parent with any information about the plan that the employer provides to covered employees.

Sec. 30. 19-A MRSA §2151, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§2151. Locating those liable for support of dependents

~~At the request of the department~~ To assist in locating parents who have deserted their children and other persons liable for support of dependents, the

department may request information from the records of all departments, boards, bureaus and other agencies of this State ~~shall and those departments, boards, bureaus and other agencies shall~~ provide the necessary information from their records to assist the department in locating parents who have deserted their children and other persons liable for support of dependents. Only information directly bearing on the identity and whereabouts of a person owing or asserted to be owing an obligation of support may be requested and used or transmitted by the department pursuant to the authority conferred by this section. The department may make such information available only to public officials and agencies of this State, other states and the political subdivisions of this State and other states seeking to locate parents who have deserted their children and other persons liable for support of dependents for the purpose of enforcing their liability for support. The department may make information available to federal agencies conducting activities under 42 United States Code, Chapter 7, Subchapter IV, Part D (1996). The department must be provided automated access to records it is permitted access to under this section if the records are maintained in an automated data base.

Sec. 31. 19-A MRSA §2152, sub-§2, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

2. Request for information concerning responsible parents. Except as provided in subsection 5, the department may request of any person information ~~relating to the following matters concerning~~ needed to establish, modify or enforce a support order, including a responsible ~~parent~~ parent's or alleged responsible ~~parent~~ parent's:

- A. Complete name;
- B. Social security number;
- C. Date and place of birth;
- D. Present and past employment status;
- E. Earnings;
- F. Current or last known address;
- G. Assets and liabilities;
- H. Availability and description of present or previous health insurance coverage for a dependent child; and
- I. Health insurance benefits paid or applied for under a policy of health insurance for a dependent child.

Sec. 32. 19-A MRSA §2152, sub-§4, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed.

Sec. 33. 19-A MRSA §2152, sub-§5, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

5. If paternity has not been established. If an alleged responsible parent is a putative father of a child conceived and born out of wedlock, a request ~~or demand~~ is for information must be limited to information relating to the following matters concerning the alleged responsible parent:

- A. Complete name;
- B. Date and place of birth;
- C. Present and past employment status;
- D. Social security number; and
- E. Current or last known address.

Sec. 34. 19-A MRSA §2152, sub-§5-A is enacted to read:

5-A. Duty to disclose. All persons, as defined in section 101, subsection 9, shall respond fully and promptly to a request for information made by the department under this section and to a request for similar information made by another state's child support enforcement agency, except that information that is privileged under the Maine Rules of Evidence need not be disclosed.

Sec. 35. 19-A MRSA §2152, sub-§6, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed and the following enacted in its place:

6. Immunity from liability. A person who discloses information requested by the department under this section or who discloses similar information requested by another state's child support enforcement agency is immune from liability to any other person because of the disclosure, unless the information is privileged under the Maine Rules of Evidence.

Sec. 36. 19-A MRSA §2152, sub-§7, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

7. Affirmation of responses. The department may require that a response to a request ~~or demand~~ for information be affirmed under the penalties for unsworn falsification under Title 17-A, section 453.

Sec. 37. 19-A MRSA §2152, sub-§§8 to 10, as enacted by PL 1995, c. 694, Pt. B, §2 and

affected by Pt. E, §2, are repealed and the following enacted in their place:

8. Facilitation of responses. The department or other requesting agency shall provide a prepaid, preaddressed envelope with each request for information.

9. Notice to responsible parent or alleged responsible parent. When requesting information as provided by this section, the department shall send a copy of the request to the responsible parent or alleged responsible parent by regular mail to the responsible parent or alleged responsible parent's last known address.

10. Penalties for nondisclosure. A person who knowingly fails to respond to a request for information, who knowingly fails to disclose information requested or who knowingly refuses to disclose, commits a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged.

Sec. 38. 19-A MRSA §2154, sub-§5, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed.

Sec. 39. 19-A MRSA §2154, sub-§§7 to 9 are enacted to read:

7. Transmissions to the National Directory of New Hires. Within 3 business days after the date information regarding a newly hired or rehired employee is entered into the department's computer system, the department shall transmit the information to the National Directory of New Hires maintained by the federal Department of Health and Human Services. After obtaining the information from the Department of Labor, the department shall send the National Directory of New Hires quarterly reports of wages and unemployment compensation benefits paid to persons who are reported to the department under this section as specified by federal regulations.

8. Use of new hire information. The department shall use the information it receives under this section to locate persons and identify sources of income for purposes of:

A. Establishing, enforcing and modifying child support obligations;

B. Collecting overpayments of public assistance and overissue of food stamps when benefits are no longer being paid; and

C. Determining eligibility and enforcing eligibility rules for cash assistance, food stamps, Medicaid and other benefit programs funded or administered by the department.

9. Access to information. The Department of Labor, the Workers' Compensation Board and the State Tax Assessor may have access to the information reported to the department for purposes of program administration.

Sec. 40. 19-A MRSA §2157 is enacted to read:

§2157. Notice of right to have support order reviewed

Not less than once every 3 years, the department shall send written notice to parents who are subject to a support order being enforced by the department of the right to have the order reviewed and, if appropriate, modified according to the applicable child support guidelines.

Sec. 41. 19-A MRSA §2306, sub-§3, ¶A, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

A. Upon receipt of a copy of a withholding order, a payor of earnings to the responsible parent shall:

(1) Immediately begin to withhold earnings of the responsible parent when earnings are usually paid to the responsible parent; and

(2) Send each amount of earnings withheld to the department at the address set forth in the withholding order within ~~40~~ 7 business days after each withholding.

Sec. 42. 19-A MRSA §2308, sub-§1, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

1. Issuance of order. The department, on its own behalf, on behalf of a custodial parent who applies for the department's support enforcement services or on behalf of another state's Title IV-D agency, political subdivision or agent, may issue to a responsible parent's employer or other payor of income a health insurance withholding order to enforce a responsible parent's obligation to obtain or maintain health insurance coverage or other health care services for each dependent child of the responsible parent. ~~A health insurance withholding order must be accompanied by a sworn statement issued by an authorized representative of the commissioner that states that the responsible parent is required by a court order or administrative decision to obtain or maintain health insurance coverage or other health care services for each dependent child named in the health insurance withholding order and has failed to provide the department with proof of coverage as required by law.~~

Sec. 43. 19-A MRSA §2308, sub-§3, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

3. Duty to enroll. An employer or other payor of income served with a health insurance withholding order shall enroll each dependent child of the employee named in the withholding order as a covered person in a group health insurance plan or other similar plan providing health care services or coverage offered by the employer, without regard to any enrollment season restrictions, if the child is eligible for such coverage under the employer's enrollment provisions, and deduct any required premiums from the employee's earnings to pay for the insurance.

Sec. 44. 19-A MRSA §2309 is enacted to read:

§2309. Recovery of health care benefits

1. Remedies available. After notice and opportunity for hearing, the department may use any remedies available for collection of child support to recover money from a responsible parent who:

A. Is required by a court or administrative order to provide health care coverage for a dependent child;

B. Has received payment from a 3rd party for health care costs incurred by the dependent child and paid for by the custodial parent, the department or another payor of public assistance; and

C. Has not reimbursed the custodial parent, department or another payor of public assistance who has paid for the dependent child's care.

A claim for current or past-due child support takes priority over a claim under this section.

2. Notice to responsible parent. An action to recover health care benefits under this section may be commenced by serving notice on the responsible parent. The notice must:

A. Explain the nature of the proceeding;

B. Explain to the responsible parent that the responsible parent may contest the claim set forth in the notice at a department administrative hearing;

C. State the responsible parent's basic hearing rights;

D. Inform the responsible parent of what the department may do to collect the claim if the responsible parent does not contest it; and

E. Explain to the responsible parent about the stay of collection provided for by subsection 7.

3. Service. The department shall attach a copy of the responsible parent's support order to the notice. Service of the notice must be made by certified mail, return receipt requested, or by personal service as specified in the Maine Rules of Civil Procedure, Rule 4. For purposes of this section, authorized representatives of the commissioner may serve the notice.

4. Notice to custodial parent. If the department commences an action under this section for the benefit of a custodial parent, the department shall mail a copy of the notice to the custodial parent by regular mail. The notice to the custodial parent must state the custodial parent's basic hearing rights. If the custodial parent's rights are at issue, the department shall send to the custodial parent by regular mail notice of the date, time and place of the hearing if one is requested.

5. Administrative hearing. A responsible parent may request an administrative hearing upon service of the notice described in subsection 2. The request for hearing must be made in writing and must be received by the department within 20 days of service. The department shall conduct hearings under this subsection in accordance with the requirements of Title 5, chapter 375, subchapter IV. The issues that may be considered at the hearing are limited to whether the responsible parent is required to provide health care coverage for each dependent child, whether the responsible parent has received payment from a 3rd party for health care costs incurred by each dependent child and paid for by the custodial parent, the department or another payor of public assistance and whether the responsible parent has reimbursed the custodial parent, the department or another payor of public assistance for the cost of care provided.

6. Decision after hearing. The department shall issue a decision after hearing without undue delay as to whether the responsible parent is required to provide health care coverage for each dependent child, whether the responsible parent has received payment from a 3rd party for health care costs incurred by each dependent child and paid for by the custodial parent, the department or another payor of public assistance and whether the responsible parent has reimbursed the custodial parent, the department or another payor of public assistance, as applicable, for the cost of care provided. The decision must be based on the hearing record and rules adopted by the commissioner. The responsible parent must be informed of the right to file a petition for judicial review of the decision in Superior Court within 30 days of the date of the decision. The department shall send an attested copy of the decision to the responsible parent by regular mail to the responsible parent's most recent address of record. If the decision affects the

rights of the custodial parent, the department shall send the custodial parent a copy of the decision, which must state the custodial parent's right to judicial review.

7. Stay; collection. If a responsible parent requests a hearing in a timely manner, the department may not take collection action until a decision after hearing is issued or until the responsible parent abandons the request for a hearing. If a decision establishes that the custodial parent, the department or another payor of public assistance is entitled to reimbursement by the responsible parent, the department may begin collection 30 days after the decision is mailed to the responsible parent. If a responsible parent who is served notice under subsection 2 does not request a hearing in a timely manner, the department may begin collection of the amount claimed in the notice 30 days after the date of service.

Sec. 45. 19-A MRSA §2351, sub-§1, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

1. Subrogation of support rights. If an order of support or a spousal support order exists, the department is subrogated to the right of a dependent child, or person having custody of the child named in the order, to pursue any support action or administrative remedy to secure payment of the debt accrued or accruing under section 2301 and to enforce the order. The department is not required to seek an amendment to the order of support or to the spousal support order in order to subrogate itself to the rights of the payee. The department is not required to file a motion to intervene or join in any court proceeding in order to subrogate itself to the rights of the payee and to be treated as a party in any further proceedings regarding the support order. Upon notice to the parties, the department may order an obligor or other payor of child support to redirect payments to the department if payments are owed to the department or another state pursuant to an assignment of support rights or if payments are otherwise required to be made through the department. A person who knowingly violates the department's order commits a civil violation for which the court may adjudge a forfeiture not to exceed \$500 plus interest, attorney's fees and costs.

Sec. 46. 19-A MRSA §2361, sub-§3, ¶¶F and G, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to read:

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; ~~and~~

Sec. 47. 19-A MRSA §2361, sub-§3, ¶H is enacted to read:

H. That failure to comply with the order to appear and disclose may result in revocation of the obligor's driver's license, occupational licenses or other licenses as defined in section 2101, subsection 7.

Sec. 48. 19-A MRSA §2361, sub-§14 is enacted to read:

14. License revocation. If an obligor who is served with a support order under subsection 1 fails to appear without good cause or fails to provide documents, papers and other evidence as required by the order without good cause, the department may certify the obligor's noncompliance to the Secretary of State for suspension of the obligor's driver's license and right to operate a motor vehicle and to any board or other entity in the State that issues a license as defined in section 2101, subsection 7. Upon receipt of a certification of noncompliance from the department, the Secretary of State, board or other entity shall cause any licenses held by the obligor to be suspended or revoked and may not issue or renew a license to the obligor until the department issues a written statement that the obligor has complied with the order. A suspension, revocation or refusal by a board or other licensing entity to reissue, renew or otherwise extend a license or permit of an obligor certified by the department is a final determination within the meaning of Title 5, section 10002.

Sec. 49. 19-A MRSA §2609 is enacted to read:

§2609. Definition

As used in this subchapter, "order of support or costs" or "judgment of spousal support, support or costs" means a judgment or order for spousal support or payment of money instead of spousal support, for support of children, for support pending a divorce action, for payment of related costs and attorney's fees or for alteration of an existing judgment or order for the custody or support of a child.

Sec. 50. 19-A MRSA §2652, sub-§3, ¶B, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

B. Send each amount withheld to the department at the address set forth in the order within ~~40~~ 7 business days of the withholding; and

Sec. 51. 19-A MRSA §2670 is enacted to read:

§2670. Income withholding orders issued by other states

1. Use of other state's income withholding law. When a payor receives an income withholding order issued by another state, the payor shall apply the income withholding law of the state of the obligor's principal place of employment when determining:

A. The payor's fee for processing an income withholding order;

B. The maximum amount permitted to be withheld from the obligor's income;

C. The time in which the payor must implement the income withholding order and forward the child support payment;

D. The priorities for withholding and allocating income withheld for multiple child support obligees; and

E. Any withholding terms or conditions not specified in the order.

2. Compliance. A payor who complies with an income withholding order or notice that is regular on its face is not subject to civil liability to any individual or agency for conduct in compliance with the order or notice.

Sec. 52. 19-A MRSA §§2671, 2672 and 2673 are enacted to read:

§2671. Standard format of orders and notices

An income withholding order must conform with standard formats prescribed by the federal Secretary of Health and Human Services.

§2672. Automated issuance of income withholding orders

The department may issue an income withholding order electronically if the payor of income has the ability to receive the order in that manner.

§2673. Definition of income

For purposes of this subchapter, "income" means any periodic form of payment due to a person, regardless of source, including wages, salaries, commissions, bonuses, workers' compensation, disability benefits, payments pursuant to a pension or retirement program and interest.

Sec. 53. 22 MRSA §17, sub-§2, as enacted by PL 1995, c. 419, §28, is amended to read:

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 quarter.

Sec. 54. 22 MRSA §17, sub-§10, as enacted by PL 1995, c. 419, §28, is repealed.

Sec. 55. 22 MRSA §2701, sub-§8 is enacted to read:

8. Paternity establishment. The state registrar shall offer voluntary paternity establishment services. The state registrar shall maintain and use a form for voluntary acknowledgment of paternity that meets minimum requirements for the form established by the federal Secretary of Health and Human Services.

Sec. 56. 22 MRSA §2706, sub-§1, as amended by PL 1973, c. 625, §120, is further amended to read:

1. Child not born of marriage. ~~No~~ An official in this State ~~shall~~ may not permit inspection, or issue a certified copy of any certificate or record of birth disclosing ~~illegitimacy~~ that a child was not born of marriage. Such a record may be disclosed or a certified copy issued upon request of the ~~illegitimate~~ himself child, ~~his~~ the child's parent or ~~his~~ the child's legal guardian or counsel or of petitioners for adoption or in response to court process. Such a record may be disclosed as necessary for the department to carry out its responsibilities as the State's child support enforcement agency.

Sec. 57. 22 MRSA §2761, sub-§4, as amended by PL 1995, c. 260, §6, is further amended to read:

4. Child not born of marriage. Except as otherwise provided in this subsection, if the mother was not married at the time of either conception or birth, or between conception and birth, neither the name of the putative father nor any other information about the putative father may be entered on the certificate without his written consent and that of the mother. The signature of the putative father on the written consent must be acknowledged before an official authorized to take oaths. The signature of the mother on her written consent must also be acknowledged

before an official authorized to take oaths. If a determination of paternity has been made by a court of competent jurisdiction, then the name of the father as determined by the court must be entered on the birth certificate without the father's or the mother's consent. If the putative father executes an acknowledgement of paternity with the department and the putative father is either named in writing by the mother as the father or is presumed to be the father based on the results of blood or tissue-typing tests, the name of the father must be entered on the birth certificate without the father's or the mother's consent. All voluntary acknowledgments and adjudications of paternity in this State must be filed with the Office of Vital Statistics for comparison with information in the state registry of support orders as established in Title 19-A, section 2104.

Sec. 58. 26 MRSA §1048-A is enacted to read:

§1048-A. Disclosure of wage and unemployment compensation information to National Directory of New Hires

Notwithstanding any other provision of law, the commissioner shall provide quarterly data, contained in the department's records of wages and unemployment compensation benefits paid to individuals who are reported to the Department of Human Services pursuant to Title 19-A, section 2154, to the Department of Human Services for transmission to the federal Secretary of Health and Human Services as required by Section 313(g)(2) of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 110 Stat. 2105. The cost of complying with the requirements of this section must be paid for by the federal Department of Health and Human Services to the maximum extent permitted by law, with any remaining cost paid for by the Department of Human Services.

Sec. 59. 29-A MRSA §1301, sub-§6 is enacted to read:

6. Social security number. The social security number of an applicant for a commercial license must be recorded on the application.

Sec. 60. 36 MRSA §191, sub-§2, ¶O, as amended by PL 1995, c. 178, §1, is further amended to read:

O. The disclosure to an authorized representative of the Department of Human Services of ~~the most recent address of a delinquent payor of child support~~ an individual's residence, employer, income and assets for child support enforcement purposes as required by the Social Security Act, 47 United States Code, Chapter 7, subchapter IV, Part D (1966), when a written re-

quest containing the payor's ~~Social Security~~ social security number is made by the department;

Sec. 61. Department of Human Services; computer programming costs. The Department of Human Services shall reimburse the Bureau of Taxation \$5,000 annually in fiscal years 1997-98 and 1998-99 for the additional computer programming costs associated with child support enforcement.

Sec. 62. Effective date. This Act takes effect October 1, 1997.

Effective October 1, 1997.

CHAPTER 538

S.P. 150 - L.D. 429

An Act to Protect the Potato Industry from the Spread of Serious Disease

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

Whereas, the need to ensure the proper disposal of cull potatoes and to prevent the importation of potato diseases is immediate; 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. 7 MRSA §1007-A, as enacted by PL 1995, c. 261, §2, is repealed and the following enacted in its place:

§1007-A. Improperly maintaining potato cull piles; public nuisance

1. Declaration of public nuisance. The Legislature declares that the A2 strain of late blight and other potato diseases constitute a clear and present danger to the potato industry in the State, which is a significant part of the State's economy. Control of the A2 strain of potato blight and other potato diseases requires the proper disposal of potato cull piles. The Legislature finds it necessary to exercise the police power of the State to require proper disposal of cull potatoes and potato cull piles and to provide procedures for the disposal of these potatoes by the department when the owner fails to comply with the