

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

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J.S. McCarthy Company
Augusta, Maine
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CHAPTER 669

H.P. 1510 - L.D. 2132

**An Act to Repeal the Sunsets on
Certain Child Support Enforcement
Remedies**

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

Whereas, federal law requires compliance with the Uniform Interstate Family Support Act in order for the State to remain eligible for federal funding of child support enforcement; and

Whereas, compliance with the Uniform Interstate Family Support Act is required immediately; 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, ¶I, as corrected by RR 1997, c. 1, §2, is amended 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-A, section 2361, subsection 10. ~~This paragraph is repealed October 1, 1998;~~

Sec. 2. 19-A MRSA §2154, sub-§1, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

1. Employment information. Upon notice by the department, ~~and except as provided in subsection 2;~~ an employer doing business in this State shall report to the department the:

A. Hiring of a person who resides or works in this State to whom the employer anticipates paying earnings; and

B. Rehiring or return to work of an employee who was laid off, furloughed, separated, granted a leave without pay or terminated from employment.

Sec. 3. 19-A MRSA §2154, sub-§2, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed.

Sec. 4. 19-A MRSA §2203, sub-§16, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed.

Sec. 5. 19-A MRSA §2306, sub-§1, ¶A, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

A. The decision must provide for the withholding of amounts payable as child support, effective from the date of the decision, from the responsible parent's earnings, regardless of whether support payments by the responsible parent are in arrears. The withholding order must:

- (1) Specify the amount of earnings to be withheld. The amount must include \$2 per week in addition to the amount to be withheld for child support;
- (2) Specify the support enforcement case number; and
- (3) Direct that, upon receipt of a copy of the withholding order, a payor of earnings to the responsible parent shall:

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

(b) 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 of earnings.

Sec. 6. 19-A MRSA §2306, sub-§3, ¶C, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

C. The payor may combine amounts withheld for transmittal to the department from more than one responsible parent if the portion attributable to each responsible parent is separately designated, except that the payor may not combine amounts if that action would result in a responsible parent's withheld earnings being sent to the department more than ~~40~~ 7 business days from the withholding date.

Sec. 7. 19-A MRSA §2306, sub-§7, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

7. Liability of payor; violations. A payor is liable, after service of the withholding order, for any earnings the payor fails to withhold and send to the department within ~~40~~ 7 business days of the day the payee is usually paid. The department may maintain an action against the payor for the earnings the payor

did not withhold and send to the department or for the imposition of any of the following civil penalties, or both, plus attorney's fees and court costs.

A. A payor who knowingly fails to withhold earnings on the day earnings are usually paid to the responsible parent commits a civil violation for which a forfeiture of not more than \$100 may be adjudged for each failure to withhold.

B. A payor who knowingly fails to send withheld earnings to the department within ~~40~~ 7 business days of the withholding commits a civil violation for which a forfeiture of not more than \$100 may be adjudged for each failure to timely send withheld earnings.

C. A payor who knowingly fails to send the notification required by subsection 6 commits a civil violation for which a forfeiture of not more than \$100 may be adjudged.

D. A payor who discharges from employment or refuses to employ a responsible parent, or who takes disciplinary action against a responsible parent employed by the payor, or who otherwise discriminates against the responsible parent because of the existence of the withholding order or the obligations imposed upon the payor by the order, is subject to a civil penalty of not more than \$5,000, payable to the State, to be recovered in a civil action. The payor is also subject to an action by the responsible parent for compensatory and punitive damages for those actions, plus attorney's fees and court costs.

Sec. 8. 19-A MRSA §2357, sub-§4, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

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 2203.

~~This subsection is repealed October 1, 1998.~~

Sec. 9. 19-A MRSA §2361, sub-§13, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed.

Sec. 10. 19-A MRSA §2654, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§2654. Payor duty

A payor of income to an obligor named in a withholding order issued under this subchapter ~~must~~ shall comply with the provisions of the withholding order upon receipt of a copy of the order. The balance of income due an obligor after withholding must be paid to the obligor on the day the obligor is usually

paid. A payor may combine amounts withheld for transmittal to the department from more than one obligor if the portion attributable to each obligor is separately designated, except that the payor may not combine amounts if that action would result in an obligor's withheld income being sent to the department more than ~~40~~ 7 business days from the date of withholding.

Sec. 11. 19-A MRSA §2662, first ¶, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

Upon service of an immediate income withholding order, a payor is liable for any income that the payor knowingly fails to withhold and send to the department within ~~40~~ 7 business days of the day on which the obligor is usually paid. The department, or obligee if the obligee implemented the withholding order as a private action, may maintain a civil action against the payor for the income the payor does not withhold and send to the department as required by the withholding order and for the imposition of any of the civil penalties provided for in this section, plus attorney's fees and court costs.

Sec. 12. 19-A MRSA §2662, sub-§2, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

2. Failure to send income withheld. A payor who knowingly fails to send income withheld to the department within ~~40~~ 7 business days of its withholding commits a civil violation for which a forfeiture not to exceed \$100 for each failure to timely send income withheld from an obligor may be adjudged.

Sec. 13. 19-A MRSA §2802, sub-§19, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

19. State. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any territory or insular possession subject to the jurisdiction of the United States. The term "state" includes an Indian tribe and includes a foreign jurisdiction that has established procedures for issuance and enforcement of support orders that are substantially similar to the procedures under this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.

Sec. 14. 19-A MRSA c. 67, sub-c. II, art. 3, first 2 lines, as enacted, are repealed and the following enacted in their place:

Article 3

Reconciliations of Multiple Orders

Sec. 15. 19-A MRSA §2951, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§2951. Recognition of controlling child support orders

1. Recognition of orders. If a proceeding is brought under this chapter, and one or more child support orders have been issued in this State or another state with regard to an obligor and a child, a tribunal of this State shall apply the following rules in determining which order ~~to recognize~~ controls and must be recognized for purposes of continuing, exclusive jurisdiction.

A. If only one tribunal has issued a child support order, the order of that tribunal controls and must be recognized.

B. If 2 or more tribunals have issued child support orders for the same obligor and child, and only one of the tribunals has continuing, exclusive jurisdiction under this chapter, the order of that tribunal controls and must be recognized.

C. If 2 or more tribunals have issued child support orders for the same obligor and child, and more than one of the tribunals would have continuing, exclusive jurisdiction under this chapter, an order issued by a tribunal in the current home state of the child controls and must be recognized, but if an order has not been issued in the current home state of the child, the order most recently issued controls and must be recognized.

D. If 2 or more tribunals have issued child support orders for the same obligor and child, and none of the tribunals would have continuing, exclusive jurisdiction under this chapter, the tribunal of this State may issue a child support order, which controls and must be recognized.

2. Tribunal having continuing, exclusive jurisdiction. The tribunal that has issued an order recognized under subsection 1 is the tribunal having continuing, exclusive jurisdiction.

3. Request for order. If 2 or more child support orders have been issued for the same obligor and child and if the obligor or the individual obligee resides in this State, a party may request a tribunal of this State to determine which order controls and must be recognized under subsection 1, paragraph C. The request must be accompanied by a certified copy of every child support order in effect. The requesting

party shall give notice of the request to each party whose rights may be affected by the determination.

4. Basis for order. A tribunal of this State that determines by order the identity of the controlling order under subsection 1, paragraph C or that issues a new controlling order under subsection 1, paragraph D shall state in that order the basis upon which the tribunal made its determination.

5. Filing certified copy of order. Within 30 days after the issuance of an order determining the identity of the controlling order, the party obtaining the order shall file a certified copy of it with each tribunal that issued or registered an earlier child support order. A party who obtains an order and fails to file a certified copy is subject to appropriate sanctions by the tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

Sec. 16. 19-A MRSA §3006, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§3006. Inappropriate tribunal

If a petition or comparable pleading is received by an inappropriate tribunal of this State, the inappropriate tribunal shall forward the petition or pleading and accompanying documents to an appropriate tribunal or to the state information agency in this State or another state and notify the petitioner where and when the pleading was sent.

Sec. 17. 19-A MRSA §3008, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed.

Sec. 18. 19-A MRSA §3008-A is enacted to read:

§3008-A. Duty of commissioner

If the commissioner determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the commissioner may order the agency to perform its duties under this chapter or may otherwise provide those services directly to the individual.

Sec. 19. 19-A MRSA c. 67, sub-c. V, first 3 lines, as enacted, are repealed and the following enacted in their place:

SUBCHAPTER V

ENFORCEMENT OF ORDER OF ANOTHER STATE WITHOUT REGISTRATION

Sec. 20. 19-A MRSA §3101, 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:

§3101. Employer's receipt of out-of-state income-withholding order

An income-withholding order issued in another state may be sent to the obligor's employer, described as a payor of income under chapter 65, subchapter IV, without first filing a petition or comparable pleading or registering the order with a tribunal of this State.

Sec. 21. 19-A MRSA §§3101-A to 3101-F are enacted to read:

§3101-A. Employer's compliance with out-of-state income-withholding order

1. Copy of order to obligor. Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

2. Recognition of out-of-state order. The employer shall treat an income-withholding order issued in another state that appears regular on its face as if it had been issued by a tribunal of this State.

3. Employer to withhold and distribute funds. Except as otherwise provided in subsection 4 and section 3101-B, the employer shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order that specify:

A. The duration and amount of periodic payments of current child support, stated as an exact sum;

B. The person or support enforcement agency designated to receive payments and the address to which payments are to be forwarded;

C. Medical support, whether in the form of periodic cash payments stated as an exact sum or an order that the obligor provide health insurance coverage for the child under a policy available through the obligor's employment;

D. The amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal and the obligee's attorney, stated as exact sums; and

E. The amount of periodic payments of arrearages and interest on arrearages, stated as exact sums.

4. Compliance with state laws. An employer shall comply with the laws of the state of the obligor's principal place of employment with respect to:

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

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

C. The times within which the employer must implement the income-withholding order and forward the child support payment.

§3101-B. Compliance with multiple income-withholding orders

If an employer receives multiple income-withholding orders for the same obligor, the employer satisfies the terms of the multiple orders if the employer complies with the laws of the state of the obligor's principal place of employment when establishing the priorities for withholding and allocating income for multiple child support obligees.

§3101-C. Immunity from civil liability

An employer who complies with an income-withholding order issued in another state in accordance with this subchapter is not subject to civil liability to an individual or support enforcement agency with regard to the employer's withholding of child support payments from the obligor's income.

§3101-D. Penalties for noncompliance

An employer who willfully fails to comply with an income-withholding order issued by another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this State.

§3101-E. Option to appoint department as payment agent

An employer who is required to comply with an income-withholding order for child support payments under this subchapter may designate the department as the payment agent and forward withheld wages to the department instead of to the out-of-state jurisdiction as long as the payments are received by the department within 5 working days after wages are withheld.

§3101-F. Contest by obligor

1. Contesting the validity or enforcement of an order. An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this State in the same manner as if the order had been issued by a tribunal of this State. Section 3153 applies to the contest.

2. Notice of the contest. The obligor shall give notice of the contest to:

A. The support enforcement agency providing services to the obligee;

B. Each employer that has directly received an income-withholding order; and

C. The person or agency designated to receive payments in the income-withholding order or, if a person or agency is not designated, to the obligee.

Sec. 22. 19-A MRSA §3253, sub-§§1, 3 and 5, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to read:

1. Modification of order issued in another state. After a child support order issued in another state has been registered in this State, the responding tribunal of this State may modify that order only if, after notice and hearing, it finds that:

A. The following requirements are met:

(1) The child, the individual obligee and the obligor do not reside in the issuing state;

(2) A petitioner, who is either a resident or a nonresident of this State, seeks modification; and

(3) The respondent is subject to the personal jurisdiction of the tribunal of this State; ~~or~~

B. An individual party or the child is subject to the personal jurisdiction of the tribunal and all of the individual parties have filed a written consent in the issuing tribunal providing that a tribunal of this State may modify the support order and assume continuing, exclusive jurisdiction over the order. If the issuing state is a foreign jurisdiction that has not established procedures substantially similar to the procedures under this chapter, the consent otherwise required of an individual residing in this State is not required for the tribunal to assume jurisdiction to modify the child support order; or

C. If all individual parties reside in this State and the child does not reside in the issuing state, a tribunal of this State has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order. A tribunal of this State exercising jurisdiction under this section shall apply the provisions of subchapters I and II, this subchapter, and the procedural and substantive law of this State to the proceeding for enforcement or modification. Subchapters III, IV, V, VII and VIII do not apply.

3. No modification. A tribunal of this State may not modify any aspect of a child support order that may not be modified under the law of the issuing state. If 2 or more tribunals have issued child support orders for the same obligor and child, the order that controls and must be recognized under section 2951 establishes the aspects of the child support order that are nonmodifiable.

5. Filing of modified order. Within 30 days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order and with each tribunal in which the party knows that the earlier order has been registered. A party who obtains an order and fails to file a certified copy is subject to appropriate sanctions by the tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

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

Effective April 2, 1998.

CHAPTER 670

H.P. 1511 - L.D. 2133

An Act to Establish and Maintain an Immunization Information System

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

Sec. 1. 22 MRSA §1064 is enacted to read:

§1064. Immunization information system

The department shall establish an immunization information system and require all immunization providers who participate in the department's immunization distribution system to submit to the department a record of each immunization administered.

The department shall adopt rules to implement this section. The rules must include, but are not limited to, provisions for: permitting a person or the parent or guardian of that person to choose not to be included in the system; the format for reporting information; the confidentiality of information in the system; penalties for unauthorized disclosure of information; immunity for good-faith disclosure of information; data transmission; and the confidentiality of information of persons who have chosen not to be included in the system, except that the department