

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
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THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2003

therein, a court of competent jurisdiction holds that paragraph A is unconstitutional; or

(3) to the extent not released from escrow under subparagraph (1) or (2), funds ~~shall~~ must be released from escrow and revert back to such tobacco product manufacturer ~~twenty-five~~ 25 years after the date on which they were placed into escrow.

See title page for effective date.

CHAPTER 436

S.P. 327 - L.D. 986

An Act To Enact the Uniform Interstate Family Support Act Amendments of 1996 and 2001

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

Sec. 1. 19-A MRSA §2802, sub-§7, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

7. Initiating state. "Initiating state" means a state ~~in~~ from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under this chapter or a law or procedure substantially similar to this chapter, ~~the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act is filed for forwarding to a responding state.~~

Sec. 2. 19-A MRSA §2802, sub-§§13-A and 13-B are enacted to read:

13-A. Person. "Person" means an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; government; governmental subdivision, agency or instrumentality; public corporation; or any other legal or commercial entity.

13-B. Record. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Sec. 3. 19-A MRSA §2802, sub-§16, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

16. Responding state. "Responding state" means a state ~~to~~ in which a proceeding is filed or to which a proceeding is forwarded for filing from an

initiating state under this chapter or a law or procedure substantially similar to this chapter, ~~the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act.~~

Sec. 4. 19-A MRSA §2802, sub-§19, as amended by PL 1997, c. 669, §13, is further amended to read:

19. State. "State" means a state of the United States, the District of Columbia, ~~the Commonwealth of Puerto Rico, the United States Virgin Islands~~ 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.:~~

A. An Indian tribe; and

B. A foreign country or political subdivision that:

(1) Has been declared to be a foreign reciprocating country or political subdivision under federal law;

(2) Has established a reciprocal arrangement for child support with this State as provided in section 3008-A; or

(3) Has enacted a law or established procedures for issuance and enforcement of support orders that are substantially similar to the procedures under this chapter.

Sec. 5. 19-A MRSA §2802, sub-§21, ¶¶C and D, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to read:

C. Determination of parentage; or

D. The location of obligors or their assets; or

Sec. 6. 19-A MRSA §2802, sub-§21, ¶E is enacted to read:

E. Determination of the controlling child support order.

Sec. 7. 19-A MRSA §2802, sub-§22, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

22. Support order. "Support order" means a judgment, decree ~~or~~ order or directive, whether temporary, final or subject to modification, issued by a tribunal for the benefit of a child, a spouse or a former spouse, that provides for monetary support, health

care, arrearages or reimbursement. "Support order" may include related costs and fees, interest, income withholding, attorney's fees and other relief.

Sec. 8. 19-A MRSA §2803, 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:

§2803. Remedies cumulative

1. Remedies cumulative. Remedies provided by this chapter are cumulative and do not affect the availability of remedies under other law, including the recognition of a support order of a foreign country or political subdivision on the basis of comity.

2. Not exclusive method; jurisdiction. This chapter does not:

A. Provide the exclusive method of establishing or enforcing a support order under the laws of this State; or

B. Grant a tribunal of this State jurisdiction to render judgment or issue an order relating to parental rights and responsibilities other than child support in a proceeding under this chapter.

Sec. 9. 19-A MRSA c. 67, sub-c. 2, as amended, is repealed.

Sec. 10. 19-A MRSA c. 67, sub-c. 2-A is enacted to read:

SUBCHAPTER 2-A

JURISDICTION

§2961. Bases for jurisdiction over nonresident

1. Exercise of jurisdiction. In a proceeding to establish or enforce a support order or to determine parentage of a child, a tribunal of this State may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

A. The individual is personally served with notice within this State;

B. The individual submits to the jurisdiction of this State by consent, by entering a general appearance or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

C. The individual resided with the child in this State;

D. The individual resided in this State and provided prenatal expenses or support for the child;

E. The child resides in this State as a result of the acts or directives of the individual;

F. The individual engaged in sexual intercourse in this State and the child may have been conceived by that act of intercourse; or

G. There is any other basis consistent with the Constitution of Maine and the United States Constitution for the exercise of personal jurisdiction.

2. Use of bases to establish personal jurisdiction. The bases of personal jurisdiction set forth in subsection 1 or in any other law of this State may not be used to acquire personal jurisdiction for a tribunal of the State to modify a child support order of another state unless the requirements of section 3253 or 3257 are met.

§2962. Duration of personal jurisdiction

Personal jurisdiction acquired by a tribunal of this State in a proceeding under this chapter or other law of this State relating to a support order continues as long as a tribunal of this State has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction to enforce its order as provided by sections 2965, 2966 and 2971.

§2963. Initiating and responding tribunal of this State

Under this chapter, a tribunal of this State may serve as an initiating tribunal to forward proceedings to another state and as a responding tribunal for proceedings initiated in another state.

§2964. Simultaneous proceedings

1. Exercise of jurisdiction when filed in another state. A tribunal of this State may exercise jurisdiction to establish a support order when the petition or comparable pleading is filed after a petition or comparable pleading is filed in another state only if:

A. The petition or comparable pleading in this State is filed before the expiration of the time allowed in the other state for filing a responsive pleading challenging the exercise of jurisdiction by the other state;

B. The contesting party timely challenges the exercise of jurisdiction in the other state; and

C. When relevant, this State is the home state of the child.

2. Jurisdiction may not be exercised when filed in another state. A tribunal of this State may not exercise jurisdiction to establish a support order when the petition or comparable pleading is filed

before a petition or comparable pleading is filed in another state if:

A. The petition or comparable pleading in the other state is filed before the expiration of the time allowed in this State for filing a responsive pleading challenging the exercise of jurisdiction by this State;

B. The contesting party timely challenges the exercise of jurisdiction in this State; and

C. When relevant, the other state is the home state of the child.

§2965. Continuing, exclusive jurisdiction to modify child support order

1. Tribunal has continuing, exclusive jurisdiction. A tribunal of this State that has issued a support order consistent with the laws of this State has and shall exercise continuing, exclusive jurisdiction to modify its child support order if the order is the controlling order and:

A. At the time of the filing of a request for modification this State is the residence of the obligor, the individual obligee or the child for whose benefit the support order is issued; or

B. Even if this State is not the residence of the obligor, the individual obligee or the child for whose benefit the support order is issued, the parties consent in a record or in open court that the tribunal of this State may continue to exercise jurisdiction to modify its order.

2. Tribunal may not exercise continuing, exclusive jurisdiction. A tribunal of this State that has issued a child support order consistent with the laws of this State may not exercise its continuing, exclusive jurisdiction to modify the order if:

A. All of the parties who are individuals file consent in a record with the tribunal of this State that a tribunal of another state that has jurisdiction over at least one of the parties who is an individual or that is located in the state of residence of the child may modify the order and assume continuing, exclusive jurisdiction; or

B. The tribunal's order is not the controlling order.

3. Recognition of jurisdiction of another state's tribunal. If a tribunal of another state that has issued a child support order pursuant to the Uniform Interstate Family Support Act or a law substantially similar to this chapter that modifies a child support order of a tribunal of this State, tribunals of this State

shall recognize the continuing, exclusive jurisdiction of the tribunal of the other state.

4. Initiating tribunal to request modification.

A tribunal of this State that lacks continuing, exclusive jurisdiction to modify a child support order may serve as an initiating tribunal to request a tribunal of another state to modify a support order issued in that state.

5. Temporary support order. A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

§2966. Continuing jurisdiction to enforce child support order

1. Initiating tribunal to enforce. A tribunal of this State that has issued a child support order consistent with the laws of this State may serve as an initiating tribunal to request a tribunal of another state to enforce:

A. The order if the order is the controlling order and has not been modified by a tribunal of another state that assumed jurisdiction pursuant to the Uniform Interstate Family Support Act; or

B. A money judgment for arrears of support and interest on the order accrued before a determination that an order of another state is the controlling order.

2. Responding tribunal to enforce. A tribunal of this State having continuing jurisdiction over a support order may act as a responding tribunal to enforce the order.

§2967. Determination of controlling child support orders

1. Recognition of orders; one tribunal. If a proceeding is brought under this chapter and only one tribunal has issued a child support order, the order of that tribunal controls and must be so recognized.

2. Recognition of orders; 2 or more tribunals. If a proceeding is brought under this chapter and 2 or more child support orders have been issued by tribunals of this State or another state with regard to the same obligor and same child, a tribunal of this State having personal jurisdiction over both the obligor and individual obligee shall apply the following rules and by order shall determine which order controls.

A. If only one of the tribunals has continuing, exclusive jurisdiction under this chapter, the order of that tribunal controls and must be so recognized.

B. If more than one of the tribunals has continuing, exclusive jurisdiction under this chapter:

(1) An order issued by a tribunal in the current home state of the child controls; or

(2) If an order has not been issued in the current home state of the child, the order most recently issued controls.

C. If none of the tribunals have continuing, exclusive jurisdiction under this chapter, the tribunal of this State shall issue a child support order, which controls.

3. Request for order. If 2 or more child support orders have been issued for the same obligor and same child, upon request of a party who is an individual or a support enforcement agency, a tribunal of this State having personal jurisdiction over both the obligor and the obligee who is an individual shall determine which order controls under subsection 2. The request may be filed with a registration for enforcement or registration for modification pursuant to subchapter 6 or may be filed as a separate proceeding.

4. Copy of orders required. A request to determine which is the controlling order must be accompanied by a copy of every child support order in effect and the applicable record of payments. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

5. Tribunal having continuing, exclusive jurisdiction. The tribunal that issued the controlling order under subsection 1, 2 or 3 has continuing jurisdiction to the extent provided in section 2965 or 2966.

6. Basis for order. A tribunal of this State that determines by order which is the controlling order under subsection 2, paragraph A or B or subsection 3, or that issues a new controlling order under subsection 2, paragraph C, shall state in that order:

A. The basis upon which the tribunal made its determination;

B. The amount of prospective support, if any; and

C. The total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made are credited as provided by section 2969.

7. Filing certified copy of order. Within 30 days after issuance of an order determining which order is the controlling order, the party obtaining the

order shall file a certified copy of it in each tribunal that issued or registered an earlier order of child support. A party or support enforcement agency obtaining the order that fails to file a certified copy is subject to appropriate sanctions by a 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.

8. Controlling order or judgment must be recognized. An order that has been determined to be the controlling order, or a judgment for consolidated arrears of support and interest, if any, made pursuant to this section must be recognized in proceedings under this chapter.

§2968. Child support orders for 2 or more obligees

In responding to registrations or petitions for enforcement of 2 or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state, a tribunal of this State shall enforce those orders in the same manner as if the orders had been issued by a tribunal of this State.

§2969. Credit for payments

A tribunal of this State shall credit amounts collected for a particular period pursuant to any child support order against the amounts owed for the same period under any other child support order for support of the same child issued by a tribunal of this State or another state.

§2970. Application of chapter to nonresident subject to personal jurisdiction

A tribunal of this State exercising personal jurisdiction over a nonresident in a proceeding under this chapter or under other laws of this State relating to a support order or recognizing a support order of a foreign country or political subdivision on the basis of comity may receive evidence from another state pursuant to section 3016, communicate with a tribunal of another state pursuant to section 3017 and obtain discovery through a tribunal of another state pursuant to section 3018. In all other respects, subchapters 3 to 7 do not apply and the tribunal shall apply the procedural and substantive law of this State.

§2971. Continuing, exclusive jurisdiction to modify spousal support order

1. Tribunal of this State; continuing, exclusive jurisdiction. A tribunal of this State issuing a spousal support order consistent with the law of this State has continuing, exclusive jurisdiction to modify the spousal support order throughout the existence of the support obligation.

2. Spousal support issued by another state. A tribunal of this State may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.

3. Tribunal of this State; initiating or responding tribunal. A tribunal of this State that has continuing, exclusive jurisdiction over a spousal support order may serve as:

A. An initiating tribunal to request a tribunal of another state to enforce the spousal support order issued in this State; or

B. A responding tribunal to enforce or modify its own spousal support order.

Sec. 11. 19-A MRSA §3001, 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:

§3001. Proceedings under this chapter

1. Application of subchapter. Except as otherwise provided in this chapter, this subchapter applies to all proceedings under this chapter.

1-A. Initiation of proceedings. An individual petitioner or a support enforcement agency may initiate a proceeding authorized under this chapter by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state that has or can obtain personal jurisdiction over the respondent.

Sec. 12. 19-A MRSA §§3002 and 3003, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to read:

§3002. Proceeding by minor parent

A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

§3003. Application of law of this State

Except as otherwise provided by ~~in~~ this chapter, a responding tribunal of this State shall:

1. Procedural and substantive law; powers and remedies. Apply the procedural and substantive law, ~~including the rules on choice of law~~, generally applicable to similar proceedings originating in this State and may exercise all powers and provide all remedies available in those proceedings; and

2. Determine duty and amount of support. Determine the duty of support and the amount payable

in accordance with the law and support guidelines of this State.

Sec. 13. 19-A MRSA §3004, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed.

Sec. 14. 19-A MRSA §3004-A is enacted to read:

§3004-A. Duties of initiating tribunal

1. Forward petition and accompanying documents. Upon the filing of a petition authorized by this chapter, an initiating tribunal of this State shall forward the petition and its accompanying documents:

A. To the responding tribunal or appropriate support enforcement agency in the responding state; or

B. If the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

2. Issue certificate or document; make findings; specify amount. If requested by the responding tribunal, a tribunal of this State shall issue a certificate or other document and make findings required by the law of the responding state. If the responding state is a foreign country or political subdivision, upon request the tribunal shall specify the amount of support sought, convert that amount into the equivalent amount in the foreign currency under the applicable official or market exchange rate as publicly reported and provide any other documents necessary to satisfy the requirements of the responding state.

Sec. 15. 19-A MRSA §3005, sub-§2, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

2. Powers of responding tribunal. A responding tribunal of this State, to the extent ~~otherwise authorized~~ not prohibited by other law, may:

A. Issue or enforce a support order, modify a child support order, determine the controlling child support order or render a judgment to determine parentage;

B. Order an obligor to comply with a support order, specifying the amount and the manner of compliance;

C. Order income withholding;

D. Determine the amount of any arrearages and specify a method of payment;

- E. Enforce orders by civil or criminal contempt, or both;
- F. Set aside property for satisfaction of the support order;
- G. Place liens and order execution on the obligor's property;
- H. Order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment and telephone number at the place of employment;
- I. Issue a writ of habeas corpus for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the writ in any local and state computer systems for criminal warrants;
- J. Order the obligor to seek appropriate employment by specified methods;
- K. Award reasonable attorney's fees and other fees and costs; or
- L. Grant any other available remedy.

Sec. 16. 19-A MRSA §3005, sub-§6 is enacted to read:

6. Convert foreign currency amount to dollar amount. If requested to enforce a support order, arrears or judgment or modify a support order stated in a foreign currency, a responding tribunal of this State shall convert the amount stated in the foreign currency to the equivalent amount in dollars under the applicable official or market exchange rate as publicly reported.

Sec. 17. 19-A MRSA §3007, sub-§2, ¶¶D and E, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to read:

- D. Within 2 days, exclusive of Saturdays, Sundays and legal holidays, after receipt of a written notice in a record from an initiating, responding or registering tribunal, send a copy of the notice ~~by first class mail~~ to the petitioner;
- E. Within 2 days, exclusive of Saturdays, Sundays and legal holidays, after receipt of a written communication in a record from the respondent or the respondent's attorney, send a copy of the communication ~~by first class mail~~ to the petitioner; and

Sec. 18. 19-A MRSA §3007, sub-§§2-A to 2-C are enacted to read:

2-A. Registration; reasonable efforts. If the department requests registration of a child support order in this State for enforcement or for modification, the department shall make reasonable efforts:

A. To ensure that the order to be registered is the controlling order; or

B. If 2 or more child support orders exist and the identity of the controlling order has not been determined, to ensure that a request for such a determination is made in a tribunal having jurisdiction to do so.

2-B. Conversion of amounts to dollars. If the department requests registration and enforcement of a support order, arrears or judgment stated in a foreign currency, the department shall convert the amounts stated in the foreign currency into the equivalent amounts in dollars under the applicable official or market exchange rate as publicly reported.

2-C. Issuance upon request. The department shall issue or request a tribunal of this State to issue a child support order and an income-withholding order that redirect payment of current support, arrears and interest if requested to do so by a support enforcement agency of another state pursuant to Section 319 of the Uniform Interstate Family Support Act.

Sec. 19. 19-A MRSA §3008-A, as enacted by PL 1997, c. 669, §18, is amended by adding a new 2nd paragraph to read:

The Attorney General may determine that a foreign country or political subdivision has established a reciprocal arrangement for child support with this State and take appropriate action for notification of the determination.

Sec. 20. 19-A MRSA §3010, sub-§1, ¶B, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

B. Maintain a register of the ~~lists of~~ names and addresses of tribunals and support enforcement agencies received from other states;

Sec. 21. 19-A MRSA §3011, sub-§1, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

1. Petition; contents. ~~A- In a proceeding under this chapter, a petitioner seeking to establish or modify a support order or, to determine parentage in a proceeding under this chapter or to register and modify a support order of another state must verify the file a petition.~~ Unless otherwise ordered under section 3012, the petition or accompanying documents must provide, so far as known, the names, residential addresses and social security numbers of the obligor

and the obligee or the parent and alleged parent, and the name, sex, residential address, social security number and date of birth of each child for ~~whom~~ whose benefit support is sought or whose parentage is to be determined. ~~The~~ Unless filed at the time of registration, the petition must be accompanied by a ~~certified~~ certified copy of any support order ~~in effect~~ known to have been issued by another tribunal. The petition may include any other information that may assist in locating or identifying the respondent.

Sec. 22. 19-A MRSA §3012, 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:

§3012. Nondisclosure of information in exceptional circumstances

If a party alleges in an affidavit or a pleading under oath that the health, safety or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information must be sealed and may not be disclosed to the other party or the public. After a hearing in which a tribunal takes into consideration the health, safety or liberty of the party or child, the tribunal may order disclosure of information that the tribunal determines to be in the interest of justice.

Sec. 23. 19-A MRSA §3014, sub-§1, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

1. Personal jurisdiction in another proceeding. Participation by a petitioner in a proceeding under this chapter before a responding tribunal, whether in person, by private attorney or through services provided by the department, does not confer personal jurisdiction over the petitioner in another proceeding.

Sec. 24. 19-A MRSA §3016, sub-§§1, 2, 5 and 6, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to read:

1. Physical presence not required. The physical presence of ~~the petitioner~~ a nonresident party who is an individual in a responding tribunal of this State is not required for the establishment, enforcement or modification of a support order or the rendition of a judgment determining parentage.

2. Admissible evidence. ~~A verified petition, an~~ An affidavit, a document substantially complying with federally mandated forms and or a document incorporated by reference in any of them, that would not be excluded under the hearsay rule if given in person, are is admissible in evidence if given under ~~oath~~ penalty of perjury by a party or witness residing in another state.

5. No objection based on means of transmission. Documentary evidence transmitted from another state to a tribunal of this State by telephone, telecopier or other means that does not provide an original ~~writing~~ record may not be excluded from evidence on an objection based on the means of transmission.

6. Testimony not in person. In a proceeding under this chapter, a tribunal of this State ~~may~~ shall permit a party or witness residing in another state to be deposed or to testify by telephone, audiovisual means or other electronic means at a designated tribunal or other location in that state. A tribunal of this State shall cooperate with tribunals of other states in designating an appropriate location for the deposition or testimony.

Sec. 25. 19-A MRSA §3016, sub-§10 is enacted to read:

10. Voluntary acknowledgment admissible. A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child.

Sec. 26. 19-A MRSA §3017, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§3017. Communications between tribunals

A tribunal of this State may communicate with a tribunal of another state or foreign country or political subdivision in ~~writing~~ a record or by telephone or other means to obtain information concerning the laws ~~of that state~~; the legal effect of a judgment, decree or order of that tribunal; and the status of a proceeding in the other state or foreign country or political subdivision. A tribunal of this State may furnish similar information by similar means to a tribunal of another state or foreign country or political subdivision.

Sec. 27. 19-A MRSA §3019, 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:

§3019. Receipt and disbursement of payments

1. Disburse promptly. The department shall disburse promptly any amounts received pursuant to a support order as directed by the order. The department shall furnish to a requesting party or tribunal of another state a certified statement by the custodian of the record of the amounts and dates of all payments received.

2. Direct payment; issue withholding order or administrative notice. If neither the obligor, nor the obligee who is an individual, nor the child resides in this State, upon request from the department or the

support enforcement agency of another state, the department or a tribunal of this State shall:

A. Direct that the support payment be made to the support enforcement agency in the state in which the obligee is receiving services; and

B. Issue and send to the obligor's employer a conforming income-withholding order or an administrative notice of change of payee, reflecting the redirected payments.

3. Statement of record of payments. If the department receives redirected payments from another state pursuant to a law similar to subsection 2, the department shall furnish to a requesting party or tribunal of the other state a certified statement by the custodian of the record of the amount and dates of all payments received.

Sec. 28. 19-A MRSA §3051, sub-§2, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

2. Responding tribunal may issue temporary support order. A responding tribunal of this State may issue a temporary support order pursuant to the laws of this State; if the tribunal determines that such an order is appropriate and the individual ordered to pay is:

A. The presumed father of the child;

B. Petitioning to have his paternity of the child adjudicated;

C. Identified as the father of the child through genetic testing;

D. An alleged father of the child who has declined to submit to genetic testing;

E. Shown by clear and convincing evidence to be the father of the child;

F. An acknowledged father of the child as provided in Title 19-A, section 1616;

G. The mother of the child; or

H. An individual who has been ordered to pay child support to the child in a previous proceeding and the order has not been reversed or vacated.

Sec. 29. 19-A MRSA §3101, as repealed and replaced by PL 1997, c. 669, §20, is amended to read:

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

An income-withholding order issued in another state may be sent by or on behalf of the obligee or by the support enforcement agency to the obligor's employer, described as a payor of income under chapter 65, subchapter ~~IV~~ 4, without first filing a petition or comparable pleading or registering the order with a tribunal of this State.

Sec. 30. 19-A MRSA §3101-B, as enacted by PL 1997, c. 669, §21, is amended to read:

§3101-B. Employer's compliance with 2 or more income-withholding orders

If an employer receives multiple 2 or more income-withholding orders ~~for~~ with respect to the earnings of 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 withheld for multiple 2 or more child support obligees.

Sec. 31. 19-A MRSA §3101-F, sub-§1, as enacted by PL 1997, c. 669, §21, is amended to read:

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 by registering the order in a tribunal of this State and filing a contest to that order as provided in subchapter 6, or otherwise contesting the order in the same manner as if the order had been issued by a tribunal of this State. Section 3153 applies to the contest.

Sec. 32. 19-A MRSA §3101-F, sub-§2, ¶B, as enacted by PL 1997, c. 669, §21, is amended to read:

B. Each employer that has directly received an income-withholding order relating to the obligor; and

Sec. 33. 19-A MRSA §3101-F, sub-§2, ¶C, as enacted by PL 1997, c. 669, §21, is amended to read:

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. 34. 19-A MRSA §3102, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§3102. Administrative enforcement of orders

1. Documents to state information agency. A party residing in another state or a support enforcement agency seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state shall send the documents required for registering the order to the department.

2. Consider and enforce. Upon receipt of the documents, the department, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this State to enforce a support order or an income-withholding order, or both. ~~If the order can not be enforced using available administrative procedures, the department may register the support order or the income withholding order with the appropriate court.~~

Sec. 35. 19-A MRSA c. 67, sub-c. 6 is amended by repealing the subchapter headnote and enacting the following in its place:

SUBCHAPTER 6**REGISTRATION, ENFORCEMENT AND MODIFICATION OF SUPPORT ORDER**

Sec. 36. 19-A MRSA §3151, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§3151. Procedure to register order for enforcement

1. Required documents and information. The department may register a support order or an income-withholding order by forwarding the following ~~documents~~ records and information to the appropriate court in this State for registration in this State for enforcement:

- A. A letter of transmittal to the tribunal requesting registration and enforcement;
- B. Two copies, including one certified copy, of ~~all orders~~ the order to be registered, including any modification of an order;
- C. A sworn statement by the ~~party seeking person requesting~~ person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearages;
- D. The name of the obligor and, if known:
 - (1) The obligor's address and social security number;

(2) The name and address of the obligor's employer and any other source of income of the obligor; and

(3) A description and the location of property of the obligor in this State not exempt from execution; and

E. ~~The~~ Except as provided in section 3012, the name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

2. File as foreign judgment. Upon receipt of a request for registration, the registering tribunal shall file the order as a foreign judgment, together with one copy of the documents and information, regardless of their form.

3. Additional petition filed at same time. A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this State may be filed at the same time as the request for registration, or later. The pleading must specify the grounds for the remedy sought.

4. Two or more orders in effect. If 2 or more orders are in effect, the person requesting registration shall:

A. Furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section;

B. Specify the order alleged to be the controlling order, if any; and

C. Specify the amount of consolidated arrears, if any.

5. Request for determination of controlling order. A request for a determination of which order is the controlling order may be filed separately or with a request for registration and enforcement or for registration and modification. The person requesting registration shall give notice of the request to each party whose rights may be affected by the determination.

Sec. 37. 19-A MRSA §3153, 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:

§3153. Choice of law

1. Current payments, other obligations and arrearages under order. Except as otherwise provided in subsection 4, the law of the issuing state governs:

A. The nature, extent, amount and duration of current payments under a registered support order;

B. The computation and payment of arrearages and accrual of interest on the arrearages under the support order; and

C. The existence and satisfaction of other obligations under the support order.

2. Proceeding for arrears. In a proceeding for arrears under a registered support order, the statute of limitation of this State or of the issuing state, whichever is for a longer period of time, applies.

3. Procedures and remedies of this State. A responding tribunal of this State shall apply the procedures and remedies of this State to enforce current support and collect arrears and interest due on a support order of another state registered in this State.

4. Application of law of state issuing controlling order. After a tribunal of this or another state determines which order is the controlling order and issues an order consolidating arrears, if any, a tribunal of this State shall prospectively apply the law of the state issuing the controlling order, including its law on interest on arrears, on current and future support and on consolidated arrears.

Sec. 38. 19-A MRSA §3201, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§3201. Notice of registration of order

1. Time and method of notice. When a support order or income-withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. ~~Notice must be given by first class, certified or registered mail or by any means of personal service authorized by the law of this State.~~ The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

2. Contents of notice. ~~The~~ A notice must inform the nonregistering party:

A. That a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this State;

B. That a hearing to contest the validity or enforcement of the registered order must be requested within 20 days after ~~the date of mailing or personal service of the notice;~~

C. That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order

and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted; and

D. Of the amount of any alleged arrearages.

3. Notice if 2 or more orders. If the registering party asserts that 2 or more orders are in effect, a notice must also:

A. Identify the 2 or more orders and the order alleged by the registering person to be the controlling order and the consolidated arrears, if any;

B. Notify the nonregistering party of the right to a determination of which order is the controlling order;

C. State that the procedures provided in subsection 2 apply to the determination of which order is the controlling order; and

D. State that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order.

4. Notice of income-withholding order. Upon registration of an income-withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to chapter 65, subchapter 4.

Sec. 39. 19-A MRSA §3202, sub-§1, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

1. Timing and remedies. A nonregistering party seeking to contest the validity or enforcement of a registered order in this State must request a hearing within 20 days after the date of mailing ~~or personal service of~~ notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order or to contest the remedies being sought or the amount of any alleged arrearages pursuant to section 3203.

Sec. 40. 19-A MRSA §3203, sub-§1, ¶¶F and G, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to read:

F. Full or partial payment has been made; ~~or~~

G. The statute of limitation under section 3153 precludes enforcement of some or all of the alleged arrearages; ~~or~~

Sec. 41. 19-A MRSA §3203, sub-§1, ¶H is enacted to read:

H. The alleged controlling order is not the controlling order.

Sec. 42. 19-A MRSA §3252, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§3252. Effect of registration for modification

A tribunal of this State may enforce a child support order of another state registered for purposes of modification in the same manner as if the order had been issued by a tribunal of this State, but the registered order may be modified only if the requirements of section 3253, 3255 or 3257 have been met.

Sec. 43. 19-A MRSA §3253, as amended by PL 1997, c. 669, §22, is repealed and the following enacted in its place:

§3253. Modification of child support order of another state

1. Modification of order issued in another state. If section 3255 does not apply, except as otherwise provided in section 3257, a tribunal of this State upon petition may modify a child support order issued in another state that has been registered in this State if, after notice and hearing, the tribunal finds that:

A. The following requirements are met:

- (1) Neither the child, nor the obligee who is an individual, nor the obligor resides in the issuing state;
- (2) A petitioner who is 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. This State is the state of residence of the child, or a party who is an individual is subject to the personal jurisdiction of the tribunal and all of the parties who are individuals have filed consents in a record in the issuing tribunal for a tribunal of this State to modify the support order and assume continuing, exclusive jurisdiction.

2. Modification; enforcement and satisfaction. Modification of a registered child support order is subject to the same requirements, procedures and defenses that apply to the modification of an order issued by a tribunal of this State and the order may be enforced and satisfied in the same manner.

3. No modification. Except as provided in section 3257, 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, including the duration of the obligation of support. If 2 or more tribunals have issued child support orders for the same obligor and same child, the order that controls and must be recognized under section 2967 establishes the aspects of the child support order that are nonmodifiable.

3-A. Issuing state's law governs. In a proceeding to modify a child support order, the law of the state that is determined to have issued the initial controlling order governs the duration of the obligation of support. The obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by a tribunal of this State.

4. Modification order; continuing, exclusive jurisdiction. Upon issuance of an order by a tribunal of this State modifying a child support order issued in another state, the tribunal of this State becomes the tribunal of continuing, exclusive jurisdiction.

Sec. 44. 19-A MRSA §3254, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§3254. Recognition of order modified in another state

A If a child support order issued by a tribunal of this State shall recognize a modification of its earlier child support order is modified by a tribunal of another state that assumed jurisdiction pursuant to a law substantially similar to this chapter and, upon request, except as otherwise provided in this chapter, shall the Uniform Interstate Family Support Act, a tribunal of the State:

1. Enforce amounts accruing before modification. Enforce May enforce the order that was modified only as to amounts arrears and interest accruing before the modification;

2. Enforce nonmodifiable aspects. Enforce only nonmodifiable aspects of that order;

3. Relief for violations before modification. Provide other May provide appropriate relief only for violations of that its order that occurred before the effective date of the modification; and

4. Recognize modifying order. Recognize Shall recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

Sec. 45. 19-A MRSA §§3255 to 3257 are enacted to read:

§3255. Jurisdiction to modify child support order of another state when individual parties reside in State

1. Jurisdiction to modify. If all of the parties who are individuals 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.

2. Application of laws. A tribunal of this State exercising jurisdiction under this section shall apply the provisions of subchapters 1 and 2-A, this subchapter and the procedural and substantive law of this State to the proceeding for enforcement or modification. Subchapters 3, 4, 5, 7 and 8 do not apply.

§3256. Notice to issuing tribunal of modification

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 in each tribunal in which the party knows the earlier order has been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a 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.

§3257. Jurisdiction to modify child support order of foreign country or political subdivision

1. Assumption of jurisdiction. If a foreign country or political subdivision that is a state will not or may not modify its order pursuant to its laws, a tribunal of this State may assume jurisdiction to modify the child support order and bind all individuals subject to the personal jurisdiction of the tribunal whether or not the consent to modification of a child support order otherwise required of the individual pursuant to section 3253 has been given or whether the individual seeking modification is a resident of this State or of the foreign country or political subdivision.

2. Controlling order. An order issued pursuant to this section is the controlling order.

Sec. 46. 19-A MRSA §3301, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§3301. Proceeding to determine parentage

1. Responding court. A tribunal court of this State authorized to determine parentage of a child may serve as an initiating or a responding tribunal in a proceeding to determine parentage brought under this

chapter or a law substantially similar to this chapter; the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act to determine that the petitioner is a parent of a particular child or to determine that a respondent is a parent of that child.

2. Law applied. In a proceeding to determine parentage, a responding tribunal of this State shall apply the procedural and substantive laws of this State, including provisions for blood or tissue typing tests, and the rules of this State on choice of law.

Sec. 47. 19-A MRSA §3352, sub-§2, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

2. Criminal charge in another state. If, under this chapter or a law substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act, the governor of another state makes a demand that the Governor surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the Governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the Governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

Sec. 48. 19-A MRSA §3401, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§3401. Uniformity of application and construction

~~This chapter must be applied and construed to effectuate its general purpose to make uniform. In applying and construing this Act, consideration must be given to the need to promote uniformity of the law with respect to the its subject of this chapter matter among states enacting that enact it.~~

See title page for effective date.

CHAPTER 437

H.P. 368 - L.D. 476

**An Act To Protect Maine Families
When Workplace Fatalities Occur**

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