

MAINE STATE LEGISLATURE

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STATE OF MAINE
117TH LEGISLATURE

FIRST REGULAR SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
JUDICIARY

AUGUST 1995

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**ONE HUNDRED AND SEVENTEENTH LEGISLATURE
FIRST REGULAR SESSION**

**SUMMARY OF LEGISLATION BEFORE
THE JOINT STANDING COMMITTEES**

AUGUST 1995

This document is a compilation of the bill summaries prepared by this office for the Joint Standing Committees of the Maine Legislature. The volume is organized alphabetically by committee; within each committee, the summaries are arranged by LD number. A subject index is provided at the beginning of each committee's summaries. The publication, History and Final Disposition of Legislative Documents, is helpful in determining to which committee any particular bill was referred.

In this document, the committee report or reports, the prime sponsor for each bill and the lead co-sponsor in each house if one has been designated are listed below each bill title. All adopted amendments are listed, by paper number, together with the sponsor for floor amendments. Final action on each bill is listed to the right of the title. Various categories of final action are abbreviated as follows:

CARRIED OVER	<i>Bill carried over to Second Session</i>
CON RES XXX	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
CONF CMTE UNABLE TO AGREE	<i>Committee of Conference unable to agree; bill died</i>
DIED BETWEEN BODIES	<i>House & Senate disagree; bill died</i>
DIED ON ADJOURNMENT	<i>Action incomplete when session ended; bill died</i>
EMERGENCY	<i>Enacted law takes effect sooner than 90 days</i>
FAILED EMERGENCY ENACTMENT	<i>Emergency bill failed to get 2/3 vote</i>
FAILED ENACTMENT	<i>Bill failed to get majority vote</i>
FAILED MANDATE ENACTMENT	<i>Bill imposing local mandate failed to get 2/3 vote</i>
INDEF PP	<i>Bill Indefinitely Postponed</i>
ONTP	<i>Ought Not to Pass report accepted</i>
P&S XXX	<i>Chapter # of enacted Private & Special Law</i>
PUBLIC XXX	<i>Chapter # of enacted Public Law</i>
RESOLVE XXX	<i>Chapter # of enacted Resolve</i>
UNSIGNED	<i>Not signed by Governor within 10 days</i>
VETO SUSTAINED	<i>Legislature failed to override Governor's Veto</i>

These summaries were prepared by the analyst or analysts assigned to the committee. If more detailed information is needed on a bill, contact the committee analyst.

5581LHS

SPONSOR(S)

MILLS

COMMITTEE REPORT

OTP-AM

AMENDMENTS ADOPTED

S-317

SUMMARY

This bill contains sections of Part I of LD 706 (Current Services Budget) relating to child support. Part A permits the Commissioner of Human Services to direct a responsible parent to appear before the Department of Human Services and disclose information relating to the responsible parent's ability to pay child support and permits the court to order obligors to seek employment. Part B allows the Department of Human Services to establish a periodic support payment by administrative decision, to impose reasonable fees and costs against the obligor and obligee and to retain fees and costs and apply them toward the administration of the child support enforcement program.

COMMITTEE AMENDMENT "A" (S-317) replaces the bill. It contains sections that are revised versions of the child support enforcement proposals originally proposed in L.D. 706, Part I.

1. This amendment allows the Department of Human Services to train and authorize nonattorneys to represent the department in two types of child support enforcement proceedings in court. A nonattorney representing the department may ask the court to order a delinquent child support obligor to seek work to become able to make child support payments. A nonattorney may also represent the department in an action for appropriate relief after the department has issued an order to an obligor to appear before the department and disclose the obligor's assets and ability to pay child support.
2. This amendment authorizes the Department of Human Services to ask financial institutions to carry out computer matches between lists of delinquent child support obligors and the institutions' depositors or share account holders. The Department must pay the costs of the match. The financial institutions are not required to freeze accounts or turn over funds. This amendment amends the Maine Banking Code to authorize the disclosure of this information to the Department of Human Services. The Maine Banking Code is also amended to authorize the disclosure of information to the Internal Revenue Service for uses of the information beyond the Internal Revenue Service. This amendment also amends the disclosure prohibitions in the Maine Revised Statutes, Title 36, to authorize the Bureau of Taxation to provide Internal Revenue Service information to the Department of Human Services upon request under current child support enforcement disclosure statutes.
3. This amendment amends the law on the enforcement of money judgments to ensure that the Department of Human Services can act as a judgment creditor when collecting child support on behalf of the recipient or because the obligor owes a debt to the department. It also establishes the procedure by which the department or the intended recipient of child support asks the court to issue an order requiring the obligor to seek employment if the obligor has claimed an inability to pay child support in a disclosure proceeding before either the department or the court. The court may not issue the order to seek work if the obligor shows by a preponderance of the evidence that the obligor is already engaged in a work search or that the obligor is unable to search for work. The burden is on the obligor to show either of these facts. If the obligor is ordered to seek employment, the obligor must make weekly reports either to the court, when a private party asks for an order to seek work, or to the department. The order expires in 6 months or earlier if the obligor finds work. Failure to comply with the order, absent good cause, may result in contempt sanctions imposed by the court.
4. This amendment replaces cites to specific sections of Title 19 under which the Department of Human Services has established support obligations because of past repeals and replacements making references to all possibly appropriate sections cumbersome or difficult. The specific cites are replaced with generic "administrative decision" language.

5. This amendment repeals and replaces the current provisions on liens for child support and makes the appropriate cross-reference changes. After a responsible parent is notified of the child support debt due or the order establishing child support and the initial appeal period has run, the amount stated in the debt or the administrative decision is a judgment in favor of the department, the obligee or both, and the judgment is a lien against all property of the responsible parent. The department can perfect the lien, establishing priority over subsequent lienholders, by filing a notice of support lien in the registry of deeds for real property and with the Secretary of State for certain personal property. No notice of the lien is required to be given to joint owners of the property. A lien may be collected through an order to seize and sell.

6. This amendment includes a new provision to authorize the Department of Human Services to order an obligor to appear before an enforcement agent or other department representative and disclose the obligor's assets and the extent of the obligor's ability to pay child support. The obligee must also be given notice of the disclosure proceeding. This procedure can be used only if the obligor owes \$500 or more in overdue child support, the amount has been owed for at least 60 days and the responsible parent is not making reasonable, regular payments to reduce the debt. A transcribeable record must be made of the proceeding. The department may file the record of the proceeding in District Court for any appropriate relief under the enforcement of money judgment provisions, including an order to seek employment. Failure to appear may result in a civil order of arrest, which requires the obligor to comply with the order to appear and disclose. Failure to comply is also a civil violation. An employer may not discharge, refuse to employ or take disciplinary action against an employee who misses work to comply with the order to appear and disclose.

7. This amendment revises the warrant for distraint proposal included in L.D. 706, and renames it an "order to seize and sell." The Department of Human Services may issue an order to seize and sell to collect support due under a support lien or as otherwise established. It directs the recipient to seize and sell specifically listed property of the obligor. A specified value of certain types of property is exempt. The interests of others having interests in the property are protected through notice and hearing requirements.

8. This amendment retains unchanged the provisions requiring birthing centers to provide an opportunity for all unmarried parents of newborns to acknowledge paternity as close to the birth of the child as possible.

9. This amendment addresses the collection of fees by the division of support enforcement and recovery for child support enforcement services.

10. It repeals current law authorizing the department to establish fees by rule for welfare and nonwelfare cases.

11. It requires the Department of Human Services to charge the obligor \$2 per week for support enforcement services. It applies to all cases, whether welfare or nonwelfare. Payments made by obligors will first be allocated to the current support obligation, as required by federal law, then to fees and finally to arrearages. The fees are added to the child support obligation, become part of the debt due if not paid and may be collected by the department through any means by which the department collects child support in general.

12. It amends the child support withholding order section to require a notice to both the obligor and the payor or employer, about the \$2 per week fee.

13. It also adds an appropriation section, allocation sections and a fiscal note to the bill.

14. This amendment repeals on October 1, 1998, provisions adopted in this amendment pertaining to:

- A. Matching financial records;
- B. Orders to seek employment;
- C. Orders to seize and sell property; and
- D. Orders to appear and disclose.

Senate Amendment "A" to Committee Amendment "A" (S-382) removes the appropriation and allocation sections; funding is provided in the current services budget (LD 706).

LD 1517 An Act to Create the Sunshine in Litigation Act CARRIED OVER

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
MILLS		

SUMMARY

This bill proposes to aid consumers of the State in obtaining information necessary to protect public health and safety. This bill proposes to prohibit courts from entering orders or approving agreements that conceal public hazards.

LD 1522 An Act to Amend the Laws Regarding Child Placing Agency Disclosure of a Child's Background for the Purpose of Adoption PUBLIC 391

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
ROWE	OTP-AM MAJ ONTP MIN	H-596

SUMMARY

This bill provides specific requirements for the collection and disclosure of pertinent information concerning a child to be placed for adoption.

COMMITTEE AMENDMENT "A" (H-596) is the Majority Report. It replaces the bill. Current law requires the Department of Human Services and licensed child placing agencies to obtain medical and genetic information on the birth parents and a child to be placed for adoption. This amendment retains that requirement, expands its application to any person who assists in placing a child for adoption and also requires the department, agencies and persons assisting in placing children for adoption to attempt to collect more information about the child and the birth parents. The information to be sought is spelled out specifically. The information collected must be disclosed to the prospective adoptive parents before the adoption is finalized.

If the collector of the information has specific, articulable reasons to question the truth or accuracy of the information, those concerns must be noted in writing and provided to the adoptive parents or prospective adoptive parents. If the information is not available because the records were not available or because the birth parents did not cooperate in providing information, that must be disclosed to the prospective adoptive parents as well.

The information collected must be filed with the Probate Court and made available to the prospective adoptive parents before the adoption is finalized.