

**Title 19-A: DOMESTIC RELATIONS HEADING:
PL 1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff)**

**Chapter 65: SUPPORT ENFORCEMENT HEADING:
PL 1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff)**

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Maine Revised Statutes

Title 19-A: DOMESTIC RELATIONS HEADING:
PL 1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff)

Chapter 65: SUPPORT ENFORCEMENT HEADING:
PL 1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff)

Subchapter 1: GENERAL PROVISIONS HEADING:
PL 1995, C. 694, PT. B, §2 (NEW); PT. E, §2 (AFF)

§2101. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

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, operate a snowmobile, operate an ATV or engage in any other sporting or recreational activity.

[2007, c. 206, §1 (AMD) .]

2. Compliance with a support order. "Compliance with a support order" means that the support obligor has obtained or maintained health insurance coverage if required by a support order and is:

A. No more than 60 days in arrears in making any of the following payments:

(1) Payments in full for current support;

(2) Periodic payments on a support arrearage pursuant to a written agreement with the department; and

(3) Periodic payments as set forth in a support order; and [2003, c. 396, §7 (NEW) .]

B. No more than 30 days in arrears in making payments as described in paragraph A if the obligor has been in arrears for more than 30 days in making payments as described in paragraph A at least 2 times within the past 24 months. [2003, c. 396, §7 (NEW) .]

[2003, c. 396, §7 (RPR) .]

3. Custodial parent. "Custodial parent" means a natural or adoptive parent, caretaker relative or legal custodian of a dependent child who is the child's primary residential care provider.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

4. Dependent child. "Dependent child" means any minor child who is not emancipated.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

5. Disposable earnings. "Disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amount required by law to be withheld.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

6. Earnings. "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus or otherwise, and specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, and all gain derived from capital, from labor or from both combined, including profit gained through sale or conversion of capital assets, and unemployment compensation benefits and workers' compensation benefits.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

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, operate a snowmobile, operate an ATV 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.

[2007, c. 206, §2 (AMD) .]

8. Licensee. "Licensee" means an individual holding 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 except an individual holding a registration, permit, approval or similar document evidencing the granting of authority to engage in the business of banking pursuant to Title 9-B.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

9. Order of support.

[1997, c. 466, §28 (AFF); 1997, c. 466, §6 (RP) .]

9. Support order.

[1997, c. 683, Pt. B, §9 (RP) .]

10. Order for spousal support; order for support; order for costs; spousal support order.

[1997, c. 537, §62 (AFF); 1997, c. 537, §28 (RP) .]

11. Public assistance. "Public assistance" means money payments and medical care furnished to or on behalf of dependent children by the State. It does not include assistance furnished by a political subdivision.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

12. Responsible parent. "Responsible parent" means the natural or adoptive parent of a dependent child.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

13. 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, that provides for monetary support, health care, arrearages or reimbursement and may include related costs and fees, interest and penalties, income withholding, attorney's fees and other relief.

[1997, c. 466, §7 (NEW); 1997, c. 466, §28 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 466, §§5-7 (AMD). 1997, c. 466, §28 (AFF). 1997, c. 537, §§26-28 (AMD). 1997, c. 537, §62 (AFF). 1997, c. 683, §B9 (AMD). 2003, c. 396, §7 (AMD). 2007, c. 206, §§1, 2 (AMD).

§2102. ENFORCEMENT OF RIGHTS

The obligee may enforce the right of support against the obligor, and the State or any political subdivision of the State may proceed on behalf of the obligee to enforce that right of support against the obligor. When the State or a political subdivision of the State furnishes support to an obligee, it has the same right as the obligee to whom the support was furnished, for the purpose of securing an award for past support and of obtaining continuing support. An award of attorney's fees may be collected by any means available under the law, including, but not limited to, remedies available under Title 14 and Title 36, section 5276-A. [2005, c. 323, §14 (AMD).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2005, c. 323, §14 (AMD).

§2103. DUTY OF DEPARTMENT TO ENFORCE SUPPORT OBLIGATIONS

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Applicant" means an individual, including a person receiving services under section 2108, state, political subdivision of a state or instrumentality of a state. [1999, c. 704, §3 (AMD).]

B. "Support obligations" means the amount due an obligee for support under an order of support and includes any arrearages of support that have accrued. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1999, c. 704, §3 (AMD) .]

2. Enforcement of support obligations. The department may, for a fee, locate absent parents, defend child support orders, establish support obligations, seek motions to modify support obligations, enforce support obligations and determine paternity on behalf of applicants who are not recipients of public assistance, by actions under an appropriate statute, including, but not limited to, remedies established in subchapter 2, article 3, to establish and enforce the support obligations. The department and the applicant shall sign an agreement in duplicate describing the fee. The department may defer or waive that fee.

[2005, c. 352, §7 (AMD) .]

3. Fees and costs. The department shall charge a fee of \$2 per pay period to all obligors whose child support payments are made to the department to reduce the department's costs in providing support enforcement services. The department may collect fees owed by the obligor by using any remedies available for collection of child support. The nonfederal share of the fee collected pursuant to this subsection must be deposited as General Fund undedicated revenue. The department shall deposit amounts collected as General Fund undedicated revenue only after the amount owed to the family for the current period is paid.

The department shall collect the fee from obligors whose child support is paid to the department under an income withholding order by notifying the payor of income to the obligor to increase withholding by \$2 per pay period. The department or any other person is not required to issue a new or amended withholding order to collect the fee, but shall notify the obligor in advance of the increase in withholding.

[2011, c. 477, Pt. L, §1 (AMD) .]

3-A. Service fee. In the case of an individual who has never received assistance under a state program and for whom the State has collected at least \$500 in child support, the State shall impose an annual \$25 fee for each child support enforcement case that is:

- A. Retained by the State from child support collected on behalf of the individual after the collected support exceeds \$500; [2007, c. 365, §1 (NEW) .]
- B. Paid by the individual applying for services; [2007, c. 365, §1 (NEW) .]
- C. Recovered from the noncustodial parent; or [2007, c. 365, §1 (NEW) .]
- D. Paid by the State out of its own funds. The annual fee may not be considered as an administrative cost of the State for operation of child support enforcement services and must be considered income to the program under which the individual has received child support enforcement services. [2007, c. 365, §1 (NEW) .]

The nonfederal share of the annual fee collected pursuant to this subsection must be deposited as General Fund undedicated revenue.

[2011, c. 477, Pt. L, §2 (AMD) .]

4. Attorney's fees. The Office of the Attorney General or attorneys acting under Title 5, section 191 may seek appropriate attorney's fees at the prevailing community rate for legal representation of individuals under this section. An award of attorney's fees may be collected by any means available under the laws, including, but not limited to, remedies available under Title 14 and Title 36, section 5276-A.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

5. State's role in support enforcement cases. In a child support action brought by the department under this Title or Title 22, the department or prosecuting attorney represents solely the interest of the State in providing child support enforcement services under federal law. This section may not be construed to modify statutory mandate, authority or confidentiality required of any governmental agency, nor does representation by a prosecuting attorney create an attorney-client relationship between the attorney and any party, other than the State.

For the purpose of this subsection, "prosecuting attorney" means an assistant attorney general, an assistant district attorney, an attorney under contract or an attorney in the employ of the department.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

6. Obligation established. The current support obligations in cases brought in accordance with this section are established pursuant to chapter 63. An obligation for past support due is established by application of the most current child support scale to the responsible parent's income for the time period in which the applicant was entitled to support payments and may include reimbursement for past medical expenses. In the absence of sufficient reliable information to calculate a responsible parent's past income, it is presumed that the responsible parent had an earning capacity equal to the average weekly wage of a worker within this State as determined by the Department of Labor statistics for the applicable years. A different annual income may be used if there is sufficient reliable evidence to conclude reasonably that the responsible parent earned a greater or lesser actual income. A present disability to pay child support, legal or otherwise, does not bar a determination of past debt due the applicant for any relevant period in which the disability did not exist.

If the responsible parent defaults or otherwise fails to appear, and no order of support has been established, the court or administrative hearing officer shall presume that the responsible parent has an earning capacity equal to the average weekly wage of a worker within this State as determined by the Department of Labor statistics for the applicable years. A different annual income may be used if there is sufficient reliable evidence to conclude reasonably that the responsible parent earned a greater or lesser actual income.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 530, §A34 (AMD). 1999, c. 704, §3 (AMD). 2005, c. 352, §7 (AMD). 2007, c. 365, §1 (AMD). 2011, c. 477, Pt. L, §§1, 2 (AMD).

§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.

[1997, c. 537, §29 (NEW); 1997, c. 537, §62 (AFF) .]

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.

§2104. Credit for dependent benefits

(As enacted by PL 1997, c. 466, §8 and affected by §28 is REALLOCATED TO TITLE 19-A, SECTION 2107)

[1997, c. 537, §29 (NEW); 1997, c. 537, §62 (AFF) .]

SECTION HISTORY

RR 1997, c. 1, §16 (RAL). 1997, c. 466, §8 (NEW). 1997, c. 466, §28 (AFF). 1997, c. 537, §29 (NEW). 1997, c. 537, §62 (AFF).

§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. [1997, c. 537, §29 (NEW); 1997, c. 537, §62 (AFF) .]

§2105. State child support enforcement services

(As enacted by PL 1997, c. 466, §8 and affected by §28 is REALLOCATED TO TITLE 19-A, SECTION 2108)

SECTION HISTORY

RR 1997, c. 1, §16 (RAL). 1997, c. 466, §8 (NEW). 1997, c. 466, §28 (AFF). 1997, c. 537, §29 (NEW). 1997, c. 537, §62 (AFF).

§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 private health insurance for a child and the parent is eligible for health insurance through an employer doing business in the State then, upon application by either parent or notice from the court or the department, the employer or plan administrator 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 or plan administrator 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 or plan administrator shall enroll the child in the least costly plan that is available where the child resides. If the plan requires that the participant be enrolled in order for the child to be enrolled, and the participant is not currently enrolled, the employer or the plan administrator must enroll both the participant and the child. The enrollments must be without regard to open season restrictions. The court or the department may issue to a parent's employer or other payor of income a medical support notice to enforce a parent's obligation to obtain or maintain health insurance coverage or other health care services for each dependent child of the parent. The format of the medical support notice must be the federal National Medical Support Notice as required by the Child Support Performance and Incentives Act of 1998, Public Law 105-200, 42 United States Code, Section 666(a)(19)(A) and the federal Employee Retirement Income Security Act of 1974, 29 United States Code, Section 1169(a)(5)(C). The employer or other payor of income shall complete Part A of the National Medical Support Notice and the plan administrator shall complete Part B.

[2009, c. 290, §20 (AMD) .]

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.

[1997, c. 537, §29 (NEW); 1997, c. 537, §62 (AFF) .]

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; [1997, c. 537, §29 (NEW); 1997, c. 537, §62 (AFF).]

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; [1997, c. 537, §29 (NEW); 1997, c. 537, §62 (AFF).]

C. The employer has eliminated family health care coverage for all of its employees; or [1997, c. 537, §29 (NEW); 1997, c. 537, §62 (AFF).]

D. The parent who is ordered to provide health care coverage for the child terminates employment. [1997, c. 537, §29 (NEW); 1997, c. 537, §62 (AFF).]

[1997, c. 537, §29 (NEW); 1997, c. 537, §62 (AFF) .]

4. Answer. The employer shall respond within 20 days to a parent who requests enrollment or, if a medical support notice has been issued, to the court or the department within 20 days and confirm:

A. That the child has been enrolled in the employer's health plan; [1997, c. 537, §29 (NEW); 1997, c. 537, §62 (AFF).]

B. The date when the child will be enrolled, if enrollment is pending; or [1997, c. 537, §29 (NEW); 1997, c. 537, §62 (AFF).]

C. That coverage can not be provided, stating the reasons why coverage can not be provided. [1997, c. 537, §29 (NEW); 1997, c. 537, §62 (AFF).]

[2009, c. 290, §21 (AMD) .]

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.

[1997, c. 537, §29 (NEW); 1997, c. 537, §62 (AFF) .]

SECTION HISTORY

1997, c. 537, §29 (NEW). 1997, c. 537, §62 (AFF). 2001, c. 554, §§12,13 (AMD). 2009, c. 290, §§20, 21 (AMD).

§2107. CREDIT FOR DEPENDENT BENEFITS

(REALLOCATED FROM TITLE 19-A, SECTION 2104)

If a child receives dependent benefits as a result of the obligor parent's disability, any tribunal establishing, reviewing or modifying the child support obligation or debt shall give the obligor parent credit for the dependent benefits paid to the child. [1999, c. 327, §1 (RPR).]

1. Calculation of child support obligation; order. The tribunal shall calculate the obligor's child support obligation and issue a child support order pursuant to the child support guidelines in chapter 63. The obligation may not be reduced by the dependent benefits paid to the child.

[1999, c. 327, §1 (NEW) .]

2. Findings; credit for benefits paid. The tribunal shall make the following findings:

A. That the child currently receives dependent benefits as a result of the obligor parent's disability; [1999, c. 327, §1 (NEW).]

B. That the receipt of these benefits satisfied part or all of the obligation; and [1999, c. 327, §1 (NEW).]

C. That the obligor must receive credit against the established obligation for the benefits received. Credit may not exceed the amount of the current obligation for the period for which the benefits are paid. Credit may not be given toward a past or future obligation for dependent benefits that exceed the current obligation. [1999, c. 327, §1 (NEW).]

[1999, c. 327, §1 (NEW) .]

SECTION HISTORY

RR 1997, c. 1, §16 (RAL). 1999, c. 327, §1 (RPR).

§2108. STATE CHILD SUPPORT ENFORCEMENT SERVICES

(REALLOCATED FROM TITLE 19-A, SECTION 2105)

Notwithstanding any other provision of law, upon written authorization by the Secretary of the United States Department of Health and Human Services, the judicial branch and the department shall provide child support enforcement services in accordance with the United States Social Security Act, Title IV-D, without need of an application for services. When a person is seeking or has been awarded child support, the court shall provide written notice to that person that explains the services provided by the State and the right to refuse services if services are not wanted. [1997, c. 1, §16 (RAL).]

SECTION HISTORY

RR 1997, c. 1, §16 (RAL).

§2109. LIMITATIONS ON COLLECTION OF CHILD SUPPORT

A person other than an employee of the department who enters into an agreement with another to collect child support is subject to the following limitations. [2003, c. 562, §1 (NEW).]

1. Fee limitation. In a contingent-fee contract for the collection of child support, the fee may be based only upon the amount of unpaid past child support arrearage calculated as of the date when the contract is signed. A fee may not be based on current or future child support payments and may be assessed only on funds actually received by the child support obligee.

[2003, c. 562, §1 (NEW) .]

2. Collection practices limitations. Each person who enters into an agreement with another to collect child support is subject to the provisions of Title 32, chapter 109-A if either the support obligee or the support obligor is a resident of this State.

[2003, c. 562, §1 (NEW) .]

3. Requirement for written contract. Each agreement between a person who collects or offers to collect child support and a child support obligee must be in writing, dated and signed by the support obligee. The contract must contain a full and detailed description of the services to be performed for the support obligee and the terms and conditions of payment. The contract may not contain a penalty for termination at any time by the support obligee.

[2003, c. 562, §1 (NEW) .]

4. Basis of compensation. A collector of child support obligations may not impose a charge or fee for any child support payments collected primarily through the efforts of a governmental agency.

[2003, c. 562, §1 (NEW) .]

SECTION HISTORY

2003, c. 562, §1 (NEW).

Subchapter 2: ENFORCEMENT BY DEPARTMENT
HEADING: PL 1995, C. 694, PT. B, §2 (NEW); PT. E, §2 (AFF)

Article 1: LOCATION OF PERSONS, INCOME AND OTHER PROPERTY
HEADING: PL 1995, C. 694, PT. B, §2 (NEW); PT. E, §2 (AFF)

§2151. LOCATING THOSE LIABLE FOR SUPPORT OF DEPENDENTS

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 and those departments, boards, bureaus and other agencies shall provide the necessary information. 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. [1997, c. 537, §30 (AMD); 1997, c. 537, §62 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 537, §30 (AMD). 1997, c. 537, §62 (AFF).

§2152. DISCLOSURE OF INFORMATION IN MEDICAL SUPPORT RECOUPMENT AND CHILD SUPPORT CASES

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Assets" means any interest in real or personal property. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. "Medicaid recipient" means an individual authorized by the department to receive services under the provisions of the United States Social Security Act, Title XIX and successors to it. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

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

A. Complete name; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. Social security number; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. Date and place of birth; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

D. Present and past employment status; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

E. Earnings; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

F. Current or last known address; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

G. Assets and liabilities; [1997, c. 537, §31 (AMD); 1997, c. 537, §62 (AFF).]

H. Availability and description of present or previous health insurance coverage for a dependent child; and [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

I. Health insurance benefits paid or applied for under a policy of health insurance for a dependent child. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1997, c. 537, §31 (AMD); 1997, c. 537, §62 (AFF) .]

3. Request for information concerning present and former Medicaid recipients. The department may request of any person information relating to the following matters concerning a present or former Medicaid recipient:

A. Availability and description of health insurance coverage; and [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. Health insurance benefits paid or applied for under a policy of health insurance. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

4. Demand for information.

[1997, c. 537, §62 (AFF); 1997, c. 537, §32 (RP) .]

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 for information must be limited to the following matters concerning the alleged responsible parent:

A. Complete name; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. Date and place of birth; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. Present and past employment status; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

D. Social security number; and [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

E. Current or last known address. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1997, c. 537, §33 (AMD); 1997, c. 537, §62 (AFF) .]

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.

[1997, c. 537, §34 (NEW); 1997, c. 537, §62 (AFF) .]

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.

[1997, c. 537, §62 (AFF); 1997, c. 537, §35 (RPR) .]

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

[1997, c. 537, §36 (AMD); 1997, c. 537, §62 (AFF) .]

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

[1997, c. 537, §62 (AFF); 1997, c. 537, §37 (RPR) .]

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.

[1997, c. 537, §62 (AFF); 1997, c. 537, §37 (RPR) .]

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.

A. [1997, c. 537, §62 (AFF); 1997, c. 537, §37 (RP).]

B. [1997, c. 537, §62 (AFF); 1997, c. 537, §37 (RP).]

[1997, c. 537, §62 (AFF); 1997, c. 537, §37 (RPR) .]

11. Confidentiality of information; unlawful dissemination; penalty. All information collected in connection with the department's child support enforcement activity and medical support recoupment pursuant to this section is confidential and available only for the use of appropriate departmental personnel and legal counsel for the department in carrying out their functions. A person is guilty of unlawful dissemination if that person knowingly disseminates information in violation of this subsection. Unlawful dissemination is a Class E crime, which, notwithstanding Title 17-A, section 1252, subsection 2, paragraph E, is punishable by a fine of not more than \$500 or by imprisonment for not more than 30 days.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

12. Admissible evidence. If a person, in response to a request for information pursuant to this section, provides records or data from regularly conducted business, the information is admissible as a public record pursuant to the Maine Rules of Evidence 803(8)(A) and is not within the investigative report exception found in the Maine Rules of Evidence 803(8)(B) because the information is provided pursuant to a duty imposed by law and is inherently reliable.

[2001, c. 264, §10 (NEW) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 537, §§31-37 (AMD). 1997, c. 537, §62 (AFF). 2001, c. 264, §10 (AMD).

§2153. PUBLICATION OF DELINQUENT CHILD SUPPORT OBLIGORS

1. Publication. The department may publish in the State's newspapers the names of delinquent child support obligors who owe unpaid child support. Publication may include the place of residence and the amount of unpaid child support of each obligor.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Immunity. Newspapers and their employees are immune from any criminal or civil liability as a result of publication under subsection 1, unless publication is a result of negligent or intentional misconduct.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2154. EMPLOYMENT INFORMATION

1. Employment information; definition. An employer doing business in this State shall report to the department the hiring of a newly hired employee. For the purposes of this section, "newly hired employee" means a person who resides or works in this State to whom the employer anticipates paying earnings and who:

A. [2013, c. 279, §1 (RP).]

B. [2013, c. 279, §1 (RP).]

C. Was previously employed by the employer but who has been separated from that prior employment for at least 60 consecutive days; or [2013, c. 279, §1 (NEW).]

D. Has not previously been employed by the employer. [2013, c. 279, §1 (NEW).]

[2013, c. 279, §1 (AMD) .]

2. Exceptions.

[1997, c. 669, §3 (RP) .]

3. W-4 form. An employer required to report under subsection 1 may report by mailing the employee's copy of the W-4 form, transmitting a facsimile of the W-4 form, sending magnetic tape in a compatible format or by other means, as mutually agreed to by the employer and the department, that will result in timely reporting.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

4. Report. An employer shall submit a report within 7 days of the date that services for remuneration are first performed by a newly hired employee. The report must contain:

A. The employee's name, address, social security number, date of birth and the most recent date that services for remuneration were first performed by the employee; and [2013, c. 279, §2 (AMD) .]

B. The employer's name, address and employment security reference number or unified business identifier number. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

[2013, c. 279, §2 (AMD) .]

4-A. Independent contractors.

[2009, c. 198, §1 (RP) .]

4-B. Independent contractors. An employer who reports under subsection 1 shall also report the contracting for services in this State with an independent contractor when reimbursement for such services is anticipated to equal or exceed \$2,500.

A. An employer required to report under this subsection may report by mailing a copy of the employer's federal Internal Revenue Service 1099-MISC form, transmitting a facsimile of the 1099-MISC form, sending magnetic tape in a compatible format or by other means, as mutually agreed to by the employer and the department, that will result in timely reporting. [2009, c. 198, §2 (NEW) .]

B. The employer shall report the information in this paragraph within 7 days of the earlier of first making payments that in the aggregate equal or exceed \$2,500 in any year to an independent contractor and entering into a contract or contracts with an independent contractor providing for payments that in the aggregate equal or exceed \$2,500 in any year:

- (1) The independent contractor's name, address and social security number;
- (2) The employer's name, business name, address and telephone number;
- (3) The employer's social security number, employment security reference number or unified business identifier number;
- (4) The date the contract is executed or, if no contract, the date payments in the aggregate first equal or exceed \$2,500; and
- (5) The total dollar amount of the contract, if any, and the contract expiration date. [2009, c. 198, §2 (NEW) .]

[2009, c. 198, §2 (NEW) .]

5. Retention of records.

[1997, c. 537, §62 (AFF); 1997, c. 537, §38 (RP) .]

6. Penalties. An employer who knowingly fails to report as required under this section must be given a written warning by the department for the first violation and is subject to a civil penalty of up to \$200 per month for each subsequent violation after the warning has been given. All violations within a single month are considered a single violation for purposes of assessing the penalty.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

7. Transmissions to the National Directory of New Hires. Within 3 business days after the date information regarding a newly hired or rehired employee or independent contractor 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.

[2009, c. 198, §3 (AMD) .]

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; [1997, c. 537, §39 (NEW); 1997, c. 537, §62 (AFF) .]

B. Collecting overpayments of public assistance and overissue of food stamps when benefits are no longer being paid; and [1997, c. 537, §39 (NEW); 1997, c. 537, §62 (AFF).]

C. Determining eligibility and enforcing eligibility rules for cash assistance, food stamps, Medicaid and other benefit programs funded or administered by the department. [1997, c. 537, §39 (NEW); 1997, c. 537, §62 (AFF).]

[1997, c. 537, §39 (NEW); 1997, c. 537, §62 (AFF) .]

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.

[1997, c. 537, §39 (NEW); 1997, c. 537, §62 (AFF) .]

10. Independent contractor. For purposes of this section, "independent contractor" means an individual who is not an employee of the employer and who receives compensation or executes a contract for services performed for that employer within or without this State. "Independent contractor" does not include a direct seller as defined in 26 United States Code, Section 3508(b)(2).

[2009, c. 198, §4 (NEW) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 537, §§38,39 (AMD). 1997, c. 537, §62 (AFF). 1997, c. 669, §§2,3 (AMD). 2003, c. 224, §1 (AMD). 2009, c. 198, §§1-4 (AMD). 2013, c. 279, §§1, 2 (AMD).

§2155. DUTY TO REPORT

A responsible parent required by law to pay child support to the department shall inform the department of any changes in the responsible parent's current address or employer. Failure to report a change of address or employer to the department within 15 days is a civil violation for which a forfeiture not to exceed \$200 may be adjudged for each violation. Each judicial order or administrative decision issued or modified in this State that includes an order for child support must include a statement that advises the responsible parent of the duty to report and the penalty for failure to report. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2156. ANNUAL STATEMENT

The department shall send an annual statement of arrearages to all obligors who owe past-due child support that the department is authorized to collect. The statement must include notice to the obligor that the department may collect the amount owed by issuing an order to seize and sell property. The statement may include other notices that the department considers appropriate. The department shall send the statement to the obligor by regular mail to the obligor's last known address. If the obligor disagrees with the department's statement of arrearages, the obligor must immediately notify the department. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§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. [1997, c. 537, §40 (NEW); 1997, c. 537, §62 (AFF).]

SECTION HISTORY

1997, c. 537, §40 (NEW). 1997, c. 537, §62 (AFF).

§2158. ACCESS TO WIRELESS SERVICE PROVIDER'S RECORDS OF INDIVIDUALS WHO OWE CHILD SUPPORT

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

A. "Account holder" means an individual who has executed an agreement with a wireless service provider for cellular telephone service. [2005, c. 566, §1 (NEW).]

B. "Match" means an automated comparison by name, date of birth and social security number of a list of obligors provided to a wireless service provider by the department with a list of account holders of the wireless service provider for the purpose of providing the department with a list of addresses of account holders delinquent in support allowing the department to locate and enforce support obligations. [2005, c. 566, §1 (NEW).]

C. "Obligor" means a person who owes a child support obligation. [2005, c. 566, §1 (NEW).]

D. "Wireless service provider" means an entity that provides cellular telephone service. [2005, c. 566, §1 (NEW).]

[2005, c. 566, §1 (NEW) .]

2. Match. Upon request from the department to a wireless service provider conducting business in this State, the wireless service provider shall perform a match using the list of obligors' names provided by the department. The department may not request a wireless service provider to perform a match under this section more often than once every calendar quarter.

[2005, c. 566, §1 (NEW) .]

3. Compilation of match list. After completing a match under subsection 2, a wireless service provider shall compile for the department a list of those account holders whose names match names on the list of obligors provided by the department. The list must contain the following information, if available to the wireless service provider through its matching procedure, for each account holder identified:

A. The account holder's full name; [2005, c. 566, §1 (NEW).]

B. The account holder's date of birth; [2005, c. 566, §1 (NEW).]

C. The account holder's social security number; [2005, c. 566, §1 (NEW).]

D. The account holder's address; and [2005, c. 566, §1 (NEW).]

E. The account holder's employer. [2005, c. 566, §1 (NEW).]

[2005, c. 566, §1 (NEW) .]

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

[2005, c. 566, §1 (NEW) .]

5. Reasonable fee. To cover the costs of carrying out the requirements of this section, a wireless service provider may assess a reasonable fee to the department not to exceed the actual costs incurred by the wireless service provider.

[2005, c. 566, §1 (NEW) .]

6. Confidentiality. A list of obligors provided by the department to a wireless service provider under subsection 2 is confidential. The information may be used only for the purpose of carrying out the requirements of this section. Knowing or intentional use of the information, without authorization from the department, is a civil violation for which a fine not to exceed \$1,000 may be adjudged.

[2005, c. 566, §1 (NEW) .]

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

[2005, c. 566, §1 (NEW) .]

8. Rulemaking. The department shall adopt rules to carry out this section. Rules adopted under this subsection are routine technical rules as provided in Title 5, chapter 375, subchapter 2-A.

[2005, c. 566, §1 (NEW) .]

SECTION HISTORY

2005, c. 566, §1 (NEW).

Article 2: ENFORCEMENT HEADING: PL 1995, C. 694, PT. B, §2 (NEW); PT. E, §2 (AFF)

§2201. NOTICE TO LICENSING BOARDS AND OBLIGOR; JUDICIAL REVIEW

1. Notice. The notice must include the address and telephone number of the department's support enforcement office that issues the notice and a statement of the need to obtain a written confirmation of compliance from that office as provided in subsection 8. The department shall attach a copy of the obligor's order of support to the notice. Service of the notice must be made in the manner provided for service of summons by the Maine Rules of Civil Procedure, Rule 4. For purposes of this subsection, this must be deemed to be an action pursuant to Chapter XIII of the Maine Rules of Civil Procedure. Personal service within the State of the notice described in this subsection may be made by an authorized representative of the commissioner.

The department may serve notice upon a support obligor who is not in compliance with an order of support that informs the obligor of the department's intention to submit the obligor's name to the appropriate board as a licensee who is not in compliance with an order of support. The notice must inform the obligor that:

A. The obligor may request an administrative hearing to contest the issue of compliance; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. A request for hearing must be made in writing and must be received by the department within 20 days of service; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. If the obligor requests a hearing within 20 days of service, the department shall stay the action to certify the obligor to a board for noncompliance with an order of support pending a decision after hearing; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

D. If the obligor does not request a hearing within 20 days of service and is not in compliance with an order of support, the department shall certify the obligor to the appropriate board for noncompliance with an order of support; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

E. If the department certifies the obligor to a board for noncompliance with an order of support, the board must revoke the obligor's license and refuse to issue or reissue a license until the obligor provides the board with a written confirmation of compliance from the department that states the obligor is in compliance with the obligor's order of support. A revocation by an agency or a refusal by an agency to reissue, renew or otherwise extend the license or certificate of authority is deemed a final determination within the meaning of Title 5, section 10002; and [2009, c. 158, §1 (AMD).]

F. [2009, c. 158, §2 (RP).]

G. The obligor can comply with an order of support by:

- (1) Paying current support;
- (2) Paying all past-due support or, if unable to pay all past-due support and a periodic payment for past-due support has not been ordered by the court, by making periodic payments in accordance with a written payment agreement with the department; and
- (3) Meeting the obligor's health insurance obligation. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[2009, c. 158, §§1, 2 (AMD); 2009, c. 290, §22 (AMD) .]

1-A. Written agreement to pay past-due support. An obligor who is presently unable to pay all past-due support may come into compliance with the support order by executing a written payment agreement with the department and by complying with that agreement. A condition of a written payment agreement must be that the obligor pay the current child support when due. Before a written payment agreement is executed, the obligor shall:

A. Disclose fully to the department in writing on a form prescribed by the department the obligor's financial circumstances, including income from all sources, assets, liabilities and work history for the past year; and [1997, c. 466, §9 (NEW); 1997, c. 466, §28 (AFF).]

B. Provide documentation to the department concerning the obligor's financial circumstances, including copies of the most recent state and federal income tax returns, both personal and business, a copy of a recent pay stub representative of current income and copies of other records that show the obligor's income and the present value of assets held by the obligor. [1997, c. 466, §9 (NEW); 1997, c. 466, §28 (AFF).]

After full disclosure, the department shall determine the obligor's ability to pay past-due support and request the obligor to execute a written payment agreement consistent with the obligor's ability to pay, not to exceed the limits on income withholding in section 2356.

[1997, c. 466, §9 (NEW); 1997, c. 466, §28 (AFF) .]

1-B. Failure to comply with written agreement. Failure to comply with a written payment agreement is grounds for license revocation unless the obligor notifies the department that the obligor is unable to comply with the agreement and provides the department with evidence of the obligor's current financial circumstances to support the claim. The consequences of failing to comply with a written payment agreement and the requirements to avoid license revocation, if the obligor can not comply with the agreement, must be stated in the agreement. If the obligor claims inability to comply with a written payment agreement, the department, upon motion to the District Court, may request the court to determine the obligor's ability to pay past-due support. After notice and an opportunity for hearing, the court may make a finding of money due, render judgment in that amount and order any relief provided under sections 2603 and 2603-A. For purposes

of this subsection, the commissioner may designate employees of the department who are not attorneys to represent the department in District Court. The commissioner shall ensure that appropriate training is provided to all employees designated to represent the department under this subsection.

[1997, c. 466, §9 (NEW); 1997, c. 466, §28 (AFF) .]

2. Administrative hearing. An obligor may request an administrative hearing upon service of the notice described in subsection 1. 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 determined at hearing are limited to whether the obligor is required to pay child support under an order of support and whether the obligor is in compliance with an order of support. The obligor may raise additional issues, including the reasonableness of a payment agreement in light of the obligor's current circumstances, to be preserved for appeal.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

3. Decision after hearing. The department shall render a decision after hearing without undue delay as to whether the obligor is in compliance with the obligor's order of support. The decision must be based on the hearing record and rules adopted by the commissioner. The decision must inform the obligor that the obligor may file a petition for judicial review of the decision within 30 days of the date of the decision. The department shall send an attested copy of the decision to the obligor by regular mail to the obligor's most recent address of record.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

4. Appeal to Superior Court. If the obligor appeals the department's decision under subsection 3, the Superior Court may hear and determine issues raised at the hearing, including the reasonableness of a payment agreement in light of the obligor's current circumstances.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

5. Stay. If an obligor timely requests a hearing to contest the issue of compliance, the department may not certify the name of the obligor to a board for noncompliance with an order of support until the department issues a decision after hearing that finds the obligor is not in compliance with an order of support.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

6. Certification of noncompliance. The department may certify in writing to the appropriate board that a support obligor is not in compliance with an order of support if:

A. The obligor does not timely request a hearing upon service of a notice issued under subsection 1 and is not in compliance with an order of support 21 days after service of the notice; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. The department issues a decision after a hearing that finds the obligor is not in compliance with an order of support and the obligor has not appealed the decision within the 30-day appeal period provided in subsection 3; [1997, c. 466, §10 (AMD); 1997, c. 466, §28 (AFF).]

C. The court enters a judgment on a petition for judicial review that finds the obligor is not in compliance with a support order; [1997, c. 466, §10 (AMD); 1997, c. 466, §28 (AFF) .]

D. The obligor abandons a timely request for a hearing on the department's notice of noncompliance and is not in compliance with the support order; or [1997, c. 466, §11 (NEW); 1997, c. 466, §28 (AFF) .]

E. The obligor fails to comply with a written payment agreement, does not notify the department that the obligor is unable to comply with the agreement and does not provide the department with evidence of the obligor's current financial circumstances. [1997, c. 466, §11 (NEW); 1997, c. 466, §28 (AFF).]

The department shall send by regular mail a copy of a certification of noncompliance filed with a board to the obligor at the obligor's most recent address of record.

[1997, c. 466, §§10, 11 (AMD); 1997, c. 466, §28 (AFF) .]

7. Notice from board. A board shall notify an obligor certified by the department under subsection 6, without undue delay, that the obligor's application for the issuance or renewal of a license may not be granted or that the obligor's license has been revoked because the obligor's name has been certified by the department as a support obligor who is not in compliance with an order of support.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

8. Written confirmation of compliance. When an obligor who is served notice under subsection 1 subsequently complies with the official order of support, the department shall provide the obligor with written confirmation that the obligor is in compliance with the order of support.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

9. Rules. The department shall adopt rules to implement and enforce the requirements of this section.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

10. Agreements. The department and the various boards shall enter into agreements that are necessary to carry out the requirements of this section, but only to the extent the department determines it is cost-effective.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

11. Motion to modify order of support; stay. This section does not prohibit a support obligor from filing a motion to modify support with the court or from requesting the department to amend a support obligation established by an administrative decision.

[2009, c. 158, §3 (AMD) .]

12. Reporting. On or before April 1, 1994, or as soon as economically feasible and at least annually, all boards subject to this section and the Department of Professional and Financial Regulation, Division of Administrative Services shall provide to the department specified information, on magnetic tape or other machine-readable form, according to standards established by the department, about applicants for licensure and all current licensees. The Department of Professional and Financial Regulation, Office of Securities shall provide the specified information for only those current licensees that are residents of this State. The information to be provided must include all of the following information about the licensee:

A. Name; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. Address of record; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. Federal employer identification number or social security number; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

D. Type of license; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

E. Effective date of license or renewal; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

F. Expiration date of license; and [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

G. Active or inactive status. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[2001, c. 182, §6 (AMD) .]

12-A. Commissioner of Inland Fisheries and Wildlife report. The Commissioner of Inland Fisheries and Wildlife shall provide annually to the department on magnetic tape or other machine-readable form, according to standards established by the department, watercraft, snowmobile and ATV registration information concerning obligors who are residents of this State. The information to be provided must include all of the following information about the registrant:

A. Name; [2007, c. 206, §3 (NEW).]

B. Address of record; [2007, c. 206, §3 (NEW).]

C. Make, model and identification number for each watercraft registered under Title 12, section 13052; each snowmobile registered under Title 12, section 13104; and each ATV registered under Title 12, section 13155; [2007, c. 206, §3 (NEW).]

D. Type of registration; [2007, c. 206, §3 (NEW).]

E. Effective date of registration or registration renewal; and [2007, c. 206, §3 (NEW).]

F. Expiration of registration. [2007, c. 206, §3 (NEW).]

[2007, c. 206, §3 (NEW) .]

13. Effect of noncompliance. The department, upon receipt of the licensee information referred to in subsection 12 and registration information referred to in subsection 12-A, shall identify and notify each board and the Department of Professional and Financial Regulation, Division of Administrative Services, of the names of their licensees and registrants who are support obligors subject to this section. The notice must include the social security number and address of the support obligor, the name, address and telephone number of the department's designee for implementing this section and a certification by the department that it has verified that the licensee or registrant is a support obligor subject to this section. When the department notifies a board under this subsection, the department shall provide adequate notice of its action to the obligor. The notice must inform the obligor of the right to request a hearing on the issue of whether the obligor is in compliance with an order of support. The board may not issue or renew a license or registration to a person whose name is on the most recent list from the department until the board receives a copy of the written confirmation of compliance specified in subsection 8.

[2007, c. 206, §4 (AMD) .]

14. Subsequent reissuance, renewal or other extension of license or certificate. The board may reissue, renew or otherwise extend the license or certificate of authority in accordance with the board's rules after the board receives a copy of the written confirmation of compliance specified in subsection 8. A board may waive any applicable requirement for reissuance, renewal or other extension if it determines that the imposition of that requirement places an undue burden on the person and that waiver of the requirement is consistent with the public interest.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

15. Program review. In furtherance of the public policy of increasing collection of child support, the department shall report the following to the Legislature and the Governor on January 31, 1999 and biennially thereafter:

A. The number of support obligors identified as licensees subject to this section; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. The number of support obligors identified by the department under this section who are not in compliance with a support order; and [2003, c. 396, §8 (AMD).]

C. The number of actions taken by the department under this section and the results of those actions. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[2003, c. 396, §8 (AMD) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 466, §§9-11 (AMD). 1997, c. 466, §28 (AFF). 2001, c. 182, §6 (AMD). 2003, c. 396, §8 (AMD). 2005, c. 352, §8 (AMD). 2007, c. 206, §§3, 4 (AMD). 2009, c. 158, §§1-3 (AMD). 2009, c. 290, §22 (AMD).

§2202. FAMILY FINANCIAL RESPONSIBILITY

1. Purpose. The Legislature finds and declares that child support is a basic legal right of the State's parents and children, that mothers and fathers have a legal obligation to provide financial support for their children and that child support payments can have a substantial impact on child poverty and state welfare expenditures. It is therefore the Legislature's intent to encourage payment of child support to decrease overall costs to the State's taxpayers while increasing the amount of financial support collected for the State's children. The department is authorized to initiate action under this section against individuals who are not in compliance with an order of support.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

1-A. Written agreement to pay past-due support. An obligor who is presently unable to pay all past-due support may come into compliance with the support order by executing a written payment agreement with the department and by complying with that agreement. A condition of a written payment agreement must be that the obligor pay the current child support when due. Before a written payment agreement is executed, the obligor shall:

A. Disclose fully to the department in writing on a form prescribed by the department the obligor's financial circumstances, including income from all sources, assets, liabilities and work history for the past year; and [1997, c. 466, §12 (NEW); 1997, c. 466, §28 (AFF).]

B. Provide documentation to the department concerning the obligor's financial circumstances, including copies of the most recent state and federal income tax returns, both personal and business, a copy of a recent pay stub representative of current income and copies of other records that show the obligor's income and the present value of assets held by the obligor. [1997, c. 466, §12 (NEW); 1997, c. 466, §28 (AFF).]

After full disclosure, the department shall determine the obligor's ability to pay past-due support and request the obligor to execute a written payment agreement consistent with the obligor's ability to pay, not to exceed the limits on income withholding in section 2356.

[1997, c. 466, §12 (NEW); 1997, c. 466, §28 (AFF) .]

1-B. Failure to comply with written agreement. Failure to comply with a written payment agreement is grounds for license revocation unless the obligor notifies the department that the obligor is unable to comply with the agreement and provides the department with evidence of the obligor's current financial circumstances to support the claim. The consequences of failing to comply with a written payment agreement and the requirements to avoid license revocation, if the obligor can not comply with the agreement, must be stated in the agreement. If the obligor claims inability to comply with a written payment agreement, the department, upon motion to the District Court, may request the court to determine the obligor's ability to pay past-due support. After notice and an opportunity for hearing, the court may make a finding of money due, render judgment in that amount and order any relief provided under sections 2603 and 2603-A. For purposes of this subsection, the commissioner may designate employees of the department who are not attorneys to represent the department in District Court. The commissioner shall ensure that appropriate training is provided to all employees designated to represent the department under this subsection.

[1997, c. 466, §12 (NEW); 1997, c. 466, §28 (AFF) .]

2. Notice. The notice must include the address and telephone number of the department's support enforcement office that issues the notice and a statement of the need for the obligor to obtain a written confirmation of compliance from that office as provided in subsection 8. The department shall attach a copy of the obligor's order of support to the notice. The notice must be made in the manner provided for service of summons by the Maine Rules of Civil Procedure, Rule 4. For purposes of this subsection, this notice must be deemed to be an action pursuant to Chapter XIII of the Maine Rules of Civil Procedure. Personal service within the State of the notice described in this subsection may be made by an authorized representative of the commissioner.

The commissioner may serve notice upon a support obligor who is not in compliance with an order of support that informs the obligor of the commissioner's intention to certify the obligor to the Secretary of State as an individual who is not in compliance with an order of support. The notice must inform the obligor that:

A. The obligor may contest the issue of compliance at an administrative hearing; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. A request for hearing must be made in writing and must be received by the department within 20 days of service; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. If the obligor requests a hearing within 20 days of service, the department shall stay the action to certify the obligor to the Secretary of State for noncompliance with an order of support pending a decision after hearing; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

D. If the obligor does not timely request a hearing to contest the issue of compliance and does not obtain a written confirmation of compliance from the department, the commissioner shall certify the obligor to the Secretary of State for noncompliance with an order of support; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

E. If the commissioner certifies the obligor to the Secretary of State, the Secretary of State must suspend any motor vehicle operator's licenses that the obligor holds and the obligor's right to apply for or obtain a motor vehicle operator's license; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

F. If the obligor requests a hearing, the obligor shall direct the request to the department's support enforcement office that is responsible for handling the obligor's case; and [2009, c. 158, §4 (AMD).]

G. [2009, c. 158, §5 (RP).]

H. The obligor can comply with an order of support by:

(1) Paying current support;

(2) Paying all past-due support or, if unable to pay all past-due support and a periodic payment for past-due support has not been ordered by the court, by making periodic payments in accordance with a written payment agreement with the department; and

(3) Meeting the obligor's health insurance obligation. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[2009, c. 158, §§4, 5 (AMD); 2009, c. 290, §23 (AMD) .]

3. Administrative hearing. An obligor may request an administrative hearing within 20 days of service of the notice described in subsection 2. The request for hearing must be in writing and must be received by the department within 20 days. The department shall conduct the hearing in accordance with the requirements of Title 5, chapter 375, subchapter IV. The issues that may be determined at hearing are limited to whether the obligor is required to pay child support under an order of support and whether the obligor is in compliance with an order of support, although the obligor may raise additional issues, including the reasonableness of a payment agreement in light of the obligor's current circumstances, to be preserved for appeal.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

4. Decision after hearing. The department shall render a decision after hearing without undue delay as to whether the obligor is in compliance with the obligor's order of support. The decision must be based on the hearing record and rules adopted by the commissioner. The decision must inform the obligor that the obligor may file a petition for judicial review of the decision within 30 days of the date of the decision. The department shall send an attested copy of the decision to the obligor by regular mail to the obligor's most recent address of record.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

5. Appeal to Superior Court. If the obligor appeals the department's decision under subsection 4, the Superior Court may hear and determine issues raised at the hearing, including the reasonableness of a payment agreement in light of the obligor's current circumstances.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

6. Stay. If an obligor timely requests a hearing to contest the issue of compliance, the department may not certify the name of the obligor to the Secretary of State for noncompliance with an order of support until the department issues a decision after hearing that finds the obligor is not in compliance with an order of support.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

7. Certification. The commissioner may certify in writing to the Secretary of State that a support obligor is not in compliance with an order of support if:

A. The obligor does not timely request a hearing upon service of a notice issued under subsection 2 and is not in compliance with an order of support 21 days after service of the notice; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. The department issues a decision after a hearing that finds the obligor is not in compliance with an order of support and the obligor has not appealed the decision within the 30-day appeal period provided in subsection 4; [1997, c. 466, §13 (AMD); 1997, c. 466, §28 (AFF).]

C. The court enters a judgment on a petition for judicial review that finds the obligor is not in compliance with a support order; [1997, c. 466, §13 (AMD); 1997, c. 466, §28 (AFF) .]

D. The obligor abandons a timely request for a hearing on the department's notice of noncompliance and is not in compliance with the support order; or [1997, c. 466, §14 (NEW); 1997, c. 466, §28 (AFF).]

E. The obligor fails to comply with a written payment agreement, does not notify the department that the obligor is unable to comply with the agreement and does not provide the department with evidence of the obligor's current financial circumstances. [1997, c. 466, §14 (NEW); 1997, c. 466, §28 (AFF).]

The department shall send by regular mail a copy of a certification of noncompliance filed with the Secretary of State to the obligor at the obligor's most recent address of record.

[1997, c. 466, §§13, 14 (AMD); 1997, c. 466, §28 (AFF) .]

8. Written confirmation of compliance. When an obligor who is served notice under subsection 2 subsequently complies with the order of support, the department shall provide the obligor with written confirmation that the obligor is in compliance with the order of support.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

9. Rules. The department shall adopt rules to implement and enforce the requirements of this section.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

10. Agreement. The department may enter into an agreement with the Secretary of State to carry out the requirements of this section.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

11. Motion to modify court order of support; stay. This section does not prohibit a support obligor from filing a motion to modify support with the court or from requesting the department to amend a support obligation established by an administrative decision.

[2009, c. 158, §6 (AMD) .]

12. Program review. In furtherance of the public policy of increasing collection of child support, the department shall report the following to the Legislature and the Governor on January 31, 1999 and biennially thereafter:

A. The number of notices served upon support obligors by the department under this section; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. The number of obligors served notice under this section who request a hearing; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. The number of hearings held under this section, the results of the hearings and the number of cases settled without a hearing; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

D. The number of support obligors certified to the Secretary of State for noncompliance with a court order of support under this section; and [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

E. The costs incurred in the implementation and enforcement of this section and the department's estimate of the amount of child support collected due to the department's actions under this section. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

13. Premium from noncustodial parents. The Department of Health and Human Services, Division of Support Enforcement and Recovery shall collect a premium from noncustodial parents whose children are MaineCare members and who have legally been determined to be responsible for medical care contributions for these children.

This subsection is repealed upon adoption of the final federal rules to implement the premium assistance provisions of the federal Deficit Reduction Act of 2005.

[2007, c. 448, §5 (AMD) .]

13-A. Premium from noncustodial parents. The Department of Health and Human Services, Division of Support Enforcement and Recovery shall collect a premium from noncustodial parents whose children are MaineCare members, including those who receive assistance under Title 22, section 3174-T, and from parents who have legally been determined to be responsible for medical care contributions for these children but do not have access to other health insurance that is at a reasonable cost and that is accessible and comprehensive as determined by rules adopted by the department. The department shall adopt rules to establish a sliding scale for premiums required under this section in accordance with the sliding scale that is applied by the department to custodial parents under 42 United States Code, Section 1396o-1 (2007) or 42 Code of Federal Regulations, Section 457.560 (2006). Rules adopted pursuant to this subsection are routine technical rules as described in Title 5, chapter 375, subchapter 2-A. This subsection takes effect upon adoption of the final federal rules to implement the premium assistance provisions of the federal Deficit Reduction Act of 2005.

[2007, c. 448, §6 (NEW) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 466, §§12-14 (AMD). 1997, c. 466, §28 (AFF). 2003, c. 20, §K1 (AMD). 2003, c. 689, §B6 (REV). 2007, c. 448, §§5, 6 (AMD). 2009, c. 158, §§4-6 (AMD). 2009, c. 290, §23 (AMD).

§2203. ORDER TO SEIZE AND SELL

1. Execution of support liens. The department may issue an order to seize and sell to execute a support lien established under former Title 19, section 503 or 503-A or section 2357 or to enforce and collect any money judgment assessed under chapter 51, chapter 53, chapter 55, chapter 63 or this chapter. An order to seize and sell has the same effect as a writ of execution issued by the District Court or the Superior Court.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

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

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

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

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

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

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

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

5. Sheriff or levying officer. An order to seize and sell may be sent by the department to a county sheriff or levying officer. Upon receipt of the order, the sheriff or levying officer shall proceed to execute the order in the same manner as prescribed for execution of a judgment. A sheriff or levying officer shall return the order, along with any funds collected, to the department within 90 days of the receipt of the order. Funds resulting from execution of the order must first be applied to the sheriff's or levying officer's costs, then to any superior liens and then to the support lien or other money obligation and any inferior liens of which the department has notice. Any amounts in excess of this distribution must be paid to the obligor. If the order is returned not fully satisfied, the department has the same remedies to collect the deficiency as are available for any civil judgment.

[2009, c. 290, §24 (AMD) .]

6. Right to hearing. At least 20 calendar days before the sale, the department shall serve a copy of the order on the obligor and all other persons that the department knows have an ownership interest in the property identified in the order. Service of an order under this subsection must be made in the manner provided for service of summons by the Maine Rules of Civil Procedure, Rule 4. For purposes of this subsection, this service must be deemed to be an action pursuant to Chapter XIII of the Maine Rules of Civil Procedure. Personal service within the State of a copy of the order may be made by an authorized representative of the commissioner. The obligor and any other persons who claim an ownership interest in the property seized under an order to seize and sell have a right to an administrative hearing to contest the seizure and sale of the property and to establish the value of their relative interest in the property. A request for a hearing must be in writing and must be received by the department within 10 calendar days of service of a copy of the order. Upon receiving a request for a hearing, the department shall notify all persons who the department has reason to believe have an ownership interest in the property of the time, place and nature of the hearing.

A. Anyone requesting a hearing has the right to a preliminary hearing within 5 business days of the hearing request. At the preliminary hearing, if the hearing officer determines that there is reasonable ground to believe the seizure was lawful and that the obligor owes a support debt that could be satisfied in whole or in part by nonexempt property that has been seized, the hearing officer shall require the seizure to remain in force and schedule a final hearing, allowing all parties reasonable time to collect evidence and prepare for the final hearing. If the hearing officer determines that the seizure was not lawful or that the obligor does not owe a support debt that could be satisfied in whole or in part by nonexempt property that has been seized, the hearing officer shall declare the order to seize and sell void.
[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

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

- (1) Whether the obligor owes a support debt;
- (2) Whether the support debt could be satisfied in whole or in part by the property seized;
- (3) The percentage share of ownership of all persons claiming an ownership interest in the property;
- (4) The amount of the debtor's interest in the property that is exempt; and

(5) The value of the interest in the property owned by nonobligor parties with an interest superior to that of the department. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[2009, c. 290, §25 (AMD) .]

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

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

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

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

9. Release. Upon receiving payment in full of the order amount plus fees and costs, if any, the department shall release the order to seize and sell. Upon receiving partial payment of the order amount or if the department determines that a release or partial release of the order will facilitate the collection of the unpaid amount, fees and costs, the department may release or may partially release the order to seize and sell. The department shall release the order if it determines the order is unenforceable.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

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

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

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

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

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

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

13. Statute of limitations. The department may issue an order to seize and sell to collect a support lien or other money obligation under chapter 51, chapter 53, chapter 55, chapter 63 or this chapter at any time within the statutory limitation period for enforcing and collecting child support amounts.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

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

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

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

A. The obligor's aggregate interest, not to exceed \$12,500 in value, in real or personal property that the obligor uses as a residence; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. The obligor's interest, not to exceed \$2,500 in value, in one motor vehicle; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. The obligor's interest, not to exceed \$200 in value in any particular item, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops or musical instruments that are held primarily for the personal, family or household use of the obligor or a dependent of the obligor; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

D. The obligor's aggregate interest, not to exceed \$5,000 in value, in any implements, professional books or tools of the trade of the obligor or the trade of a dependent of the obligor, including, but not limited to, power tools, materials and stock designed and procured by the obligor and necessary for carrying on the obligor's trade or business and intended to be used or wrought in that trade or business; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

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

(1) One cooking stove;

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

(3) All cooking and heating fuel not to exceed 10 cords of wood, 5 tons of coal or 1,000 gallons of petroleum products or the equivalent amount of another type of fuel; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

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

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

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

(3) All tools and equipment reasonably necessary for raising and harvesting food; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

G. The obligor's interest in one of every type of farm implement reasonably necessary for the obligor to raise and harvest agricultural products commercially, including any personal property incidental to the maintenance and operation of the farm implements; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

H. The obligor's interest in one boat, not exceeding 5 tons burden, used by the debtor primarily for commercial fishing; and [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

I. Professionally prescribed health aids for the obligor or a dependent of the obligor. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

16. Repeal.

[1997, c. 669, §4 (RP) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 669, §4 (AMD). 2009, c. 290, §§24, 25 (AMD).

§2204. CARETAKER RELATIVE; CHANGE OF PAYEE

When the department pays cash aid to a caretaker relative who provides primary residential care for a dependent child for whom a support order has been issued, the obligor's obligation under the support order to pay child support and provide medical support continues. The child support is payable to the department for as long as the department pays cash aid for the child. Upon notice to the obligor and the payee named in the support order, the department may redirect payments under the support order to the caretaker relative if the caretaker relative states under penalty of perjury that physical custody of the child was not obtained illegally. The obligor and the payee may contest action to redirect payments at an administrative hearing. The department shall notify the obligor and the payee of the right to a hearing in the notice. If payments are redirected to a caretaker relative, the department may seek to establish an administrative support order against the nonobligated parent. [1997, c. 466, §15 (NEW); 1997, c. 466, §28 (AFF).]

SECTION HISTORY

1997, c. 466, §15 (NEW). 1997, c. 466, §28 (AFF).

Article 3: ALTERNATIVE METHOD OF SUPPORT ENFORCEMENT HEADING: PL 1995, C. 694, PT. B, §2 (NEW); PT. E, §2 (AFF)

Subarticle 1: GENERAL PROVISIONS HEADING: EFFECTIVE ON 10/1/97 BY PL 1995, C. 694, PT. B, §2 (NEW); PT. E, §2 (AFF)

§2251. PURPOSE

With this article, the Legislature intends to provide additional remedies for the enforcement of support for dependent children and spouses and former spouses caring for dependent children by establishing an alternative method directed to the real and personal property of the responsible parents. These remedies are in addition to, not in lieu of, existing law. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2252. LIMIT ON USE

A support obligation or debt incurred before October 1, 1975 may not be enforced by the methods of this article. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2253. PERSONS SUBJECT TO JURISDICTION

1. Declaration of purpose. It is declared, as a matter of legislative determination, that the public interest demands that the State provide its citizens with an effective means of redress against nonresident persons who, through certain significant minimal contacts with this State, incur obligations to citizens entitled to the State's protection.

This section, to ensure maximum protection to citizens of this State, must be applied so as to assert jurisdiction over nonresident responsible parents to the fullest extent permitted by the due process clause of the United States Constitution, Amendment XIV.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Causes of action. A person who does any of the acts enumerated in this subsection is deemed to have submitted to the jurisdiction of the department for the purpose of enforcing this article as to a cause of action arising from the doing of the following acts:

A. Maintaining a domicile in this State while subject to a marital or family relationship out of which arises a claim for child support or spousal support or the commission in this State of any act giving rise to such a claim; or [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

B. Conception resulting in paternity within the meaning of chapter 53, subchapter I. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

3. Personal service.

[2009, c. 290, §26 (RP) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2009, c. 290, §26 (AMD) .

§2254. SERVICE

Service of a notice, order or lien described in this article must be made in the manner provided for service of summons by the Maine Rules of Civil Procedure, Rule 4. For purposes of this section, this service must be deemed to be an action pursuant to Chapter XIII of the Maine Rules of Civil Procedure. Personal service within the State of a notice, order or lien described in this article may be made by an authorized representative of the commissioner. [2009, c. 290, §27 (AMD) .]

1. Date of service.

[2009, c. 290, §27 (RP) .]

2. Branch banks.

[2009, c. 290, §27 (RP) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2009, c. 290, §27 (AMD).

§2255. SUBPOENA POWERS

In carrying out the provisions of this article, the department, through a request to the Attorney General or to an assistant attorney general assigned to the department, upon its own motion or upon the request of a party, has the power to subpoena witnesses, compel their attendance and require the production of any papers, books, records or documents that are relevant to determining the support obligation and the responsible parent's ability to pay or earn. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

Subpoenas must be issued in accordance with Title 5, section 9060 and served in accordance with the Maine Rules of Civil Procedure. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2256. NOTICES; READABILITY

1. Readability score. As notices are revised by the department and as resources permit, all notices provided by the department under this article must have a readability score, as determined by a recognized instrument for measuring adult literacy levels, equivalent to no higher than a 6th-grade reading level.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Report.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF); T. 19-A, §2256, sub-§2 (RP) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

Subarticle 2: SUPPORT DEBT HEADING: PL
1995, C. 694, PT. B, §2 (NEW); PT. E, §2 (AFF)

§2301. CREATION OF DEBT TO DEPARTMENT

1. Public assistance. Debts due the department for public assistance are as follows.

A. When a support order has not been established, a payment of public assistance for the benefit of the dependent child creates a debt due the department from the responsible parent for past support. The amount of debt due the department is established by application of the most current child support scale to the responsible parent's income for the time period in which the department was entitled to support payments. In the absence of sufficient reliable information to calculate a responsible parent's past income, it is presumed that the responsible parent had an earning capacity equal to the average weekly wage of a worker within this State as determined by the Department of Labor statistics for the applicable years. A different annual income may be used if there is sufficient reliable evidence to

conclude reasonably that the responsible parent earned a greater or lesser actual income. A present disability to pay child support, legal or otherwise, does not bar a determination of past debt due the department for any relevant period in which the disability did not exist. When the department establishes a periodic support payment by administrative decision, the debt is limited to the amount stated in the decision. [1997, c. 466, §16 (AMD); 1997, c. 466, §28 (AFF).]

B. When a support order has been established, the debt due the department from the responsible parent is the amount established under that order.

(1) The debt may not be limited by the amount of public assistance paid for the benefit of the dependent child. Amounts collected by the department in excess of public assistance expended must be distributed pursuant to section 2401.

(2) The issuance of a support order does not relieve the responsible parent of any liability for a debt that previously had accrued under paragraph A. [1997, c. 466, §16 (AMD); 1997, c. 466, §28 (AFF).]

[1997, c. 466, §16 (AMD); 1997, c. 466, §28 (AFF) .]

2. Failure to pay child or spousal support. For actions initiated pursuant to section 2103, failure to pay support obligations under a support order creates a debt due the applicant. Upon execution of a contract between the department and the applicant, the department may take action to establish, enforce or collect the debt under any appropriate statute, including, but not limited to, remedies contained in this article. The department is subrogated to the rights of the payee as provided in section 2351.

[1997, c. 466, §16 (AMD); 1997, c. 466, §28 (AFF) .]

3. Default judgment. If the responsible parent defaults or otherwise fails to appear, and no support order has been established, the court or administrative hearing officer shall presume that the responsible parent has an earning capacity equal to the average weekly wage of a worker within this State as determined by the Department of Labor statistics for the applicable years. A different annual income than the one specified by this subsection may be used if there is sufficient reliable evidence to conclude reasonably that the responsible parent earned a greater or lesser actual income.

[1997, c. 466, §16 (AMD); 1997, c. 466, §28 (AFF) .]

4. Interstate cooperation. With the execution of an application for nonwelfare services between a state and a resident of that state, the state may request the department to enforce or collect any unpaid support debt belonging to the applicant. Upon written request by a state to the department, the department may attempt to collect either the welfare or nonwelfare debt by action under any appropriate laws, including, but not limited to, remedies established by this article.

[2001, c. 264, §11 (AMD) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 466, §16 (AMD). 1997, c. 466, §28 (AFF). 2001, c. 264, §11 (AMD).

§2302. SUPPORT OBLIGATIONS WHEN OBLIGOR RECEIVES PUBLIC ASSISTANCE

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Assisted obligor" means an obligor under a court or administrative child support order who receives:

(1) Supplemental security income; or

(2) Public assistance for the benefit of a child of that obligor. [2001, c. 255, §1 (NEW).]

B. "Order" means a court or administrative child support order in existence at the time an obligor becomes an assisted obligor. [2001, c. 255, §1 (NEW).]

C. "Public assistance" has the same meaning as set forth in section 2101, subsection 11, except that it does not include medical care only. [2001, c. 255, §1 (NEW).]

[2001, c. 255, §1 (NEW).]

2. Child support obligation during period that obligor is assisted obligor. For the period during which an obligor is an assisted obligor and for 2 weeks thereafter, the assisted obligor's child support obligation is automatically suspended. At the end of the 2 weeks, the obligor's child support obligation resumes automatically at the same level at which it was suspended unless modified by an order entered pursuant to subsection 3.

A debt previously incurred under section 2301 may not be collected from a responsible parent while that parent is an assisted obligor, except that such a debt may be collected from nonrecurring lump sum income, as defined in Title 22, section 3762, subsection 11, paragraph A, of a responsible parent while that parent is an assisted obligor.

[2011, c. 550, §1 (AMD).]

3. Obligee's opportunity for modification. The obligee may seek to modify the effect of subsection 2 by filing a petition for modification with the court or the department, whichever issued the affected order. The court or administrative hearing officer may, by order after hearing, modify the effect of subsection 2. The court or administrative hearing officer, in determining whether to make such a modification, shall consider the suspension in subsection 2 and the child support guidelines under chapter 63. For purposes of the hearing, a substantial change in circumstances is deemed to have occurred.

[2001, c. 255, §1 (NEW).]

4. Department notification responsibilities. As soon as practicable after the department knows that an obligor has become an assisted obligor, the department shall send notices to the obligor and obligee notifying them of:

A. The obligor's status as an assisted obligor; [2001, c. 255, §1 (NEW).]

B. The existence of the suspension in subsection 2; [2001, c. 255, §1 (NEW).]

C. The obligee's opportunity to contest the suspension by seeking a modification as set forth in subsection 3; and [2001, c. 255, §1 (NEW).]

D. The location where forms for modification proceedings can be obtained. [2001, c. 255, §1 (NEW).]

In addition, the department shall include with the notices to the parties blank forms for use in initiating modification actions.

[2001, c. 255, §1 (NEW).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2001, c. 255, §1 (RPR). 2011, c. 550, §1 (AMD).

§2303. RIGHT OF SUPPORT ENFORCEMENT

If no order of support exists, the department has the right provided in section 2102 to enforce the duty of support. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2304. ADMINISTRATIVE ESTABLISHMENT OF PARENTAL SUPPORT OBLIGATION; DEBT FOR PAST SUPPORT; OBLIGATION TO PROVIDE HEALTH INSURANCE COVERAGE

When a support order has not been established, the department may establish the responsible parent's current parental support obligation pursuant to chapter 63, establish the responsible parent's debt for past support, including medical expenses, and establish the responsible parent's obligation to maintain health insurance coverage for each dependent child or to pay a proportionate share of health insurance premiums. The department may proceed on its own behalf or on behalf of another state or another state's instrumentality, an individual or governmental applicant for services under section 2103 or a person entitled by federal law to support enforcement services as a former recipient of public assistance. The department acting on behalf of another state, another state's instrumentality or a person residing in another state constitutes good cause within the meaning of Title 5, section 9057, subsection 5. Notwithstanding any other provision of law, a parental support obligation established under this section continues beyond the child's 18th birthday, if the child is attending secondary school as defined in Title 20-A, section 1, until the child graduates, withdraws, is expelled or attains 19 years of age, whichever occurs first. For purposes of this section, "debt for past support" includes a debt owed to the department under section 2301, subsection 1, paragraph A, a debt owed under section 2103 and a debt that accrues under sections 1504 and 1554. [2001, c. 264, §12 (AMD).]

1. Notice of support order. The department shall serve the responsible parent with a notice that it intends to establish a support order and a blank income affidavit. The notice must state:

- A. The names of both parents and the names of each dependent child; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]
- B. The department's intention to establish a support order, which may include a periodic payment for current support, a debt for past support, including medical expenses, and an obligation to provide health insurance coverage; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]
- C. That the responsible parent must submit a completed income affidavit to the department within 30 days; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]
- D. That the department calculates a proposed support order based on the State's child support guidelines using all available information and, if there is a lack of sufficient reliable information about a parent's actual earnings for a current or past period, the department presumes for the purpose of establishing a current support obligation or a debt for past support that the responsible parent has or had an earning capacity equal to the average weekly wage as determined by the Department of Labor statistics for the applicable years; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]
- E. That the department will send to the responsible parent by regular mail a copy of the proposed support order and the department's child support worksheets; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]
- F. That the responsible parent may request a hearing in writing within 30 days of the date of mailing of the proposed support order; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

G. That, if the department does not receive a timely request for hearing, it will issue a decision that incorporates the findings of the proposed support order and will send a copy of the decision to both parents by regular mail; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

H. That, after a decision is issued, the department may enforce the decision by any lawful means, including immediate income withholding, lien and foreclosure, administrative seizure and disposition, order to withhold and deliver and tax refund intercept; and [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

I. That, if the department establishes a debt for past support, the department may report the responsible parent and the amount of the debt to a consumer credit reporting agency. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Proposed support order. After serving notice upon the responsible parent in accordance with subsection 1 and after more than 30 days have elapsed, the department shall calculate the responsible parent's parental support obligation and debt for past support pursuant to chapter 63. Based on its calculations under the support guidelines, the department shall issue a proposed support order. The proposed support order must include the department's calculations and state the amount of the responsible parent's current parental support obligation and debt for past support, including medical expenses, and must state the responsible parent's obligation to provide health insurance coverage for each dependent child and to pay a proportionate share of uninsured medical expenses. The department shall send a copy of the proposed support order to the responsible parent by regular mail, along with a copy of the department's child support worksheet. The proposed order must be accompanied by a notice that states:

A. That the responsible parent has the right to request a hearing within 30 days of the date of mailing of the proposed support order and that, if a hearing is requested, the department will send the responsible parent a notice of hearing by regular mail at least 30 days before the date of the hearing, along with a statement of the hearing rights described in subsection 3, paragraph A; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. That, if the department does not receive a timely request for hearing, the department will issue a decision that incorporates the findings of the proposed support order into the department's decision and will send a copy of the decision to both parents by regular mail; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. That, if the department issues a decision that establishes a responsible parent's support obligation, the department may enforce the decision by any lawful means, including immediate income withholding, lien and foreclosure, administrative seizure and disposition, order to withhold and deliver and tax refund intercept; and [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

D. That, if the department establishes a debt for past support, the department may report the responsible parent and the amount of that debt to a consumer credit reporting agency. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

3. Hearing. The hearing must be conducted according to rules adopted by the commissioner.

A. At the hearing, the responsible parent may present testimony, cross-examine witnesses and be represented by an attorney or other person. In rendering a decision, the department may not consider evidence that was not presented at the hearing. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. When deciding the amount of the current parental support obligation, the debt for past support and the availability of health insurance coverage, the official conducting the hearing shall consider at least the following criteria:

- (1) Each child's needs;
- (2) The responsible parent's income and real and personal property;
- (3) The responsible parent's ability to borrow;
- (4) The responsible parent's ability to earn;
- (5) The responsible parent's needs;
- (6) Whether the responsible parent has a duty to support other dependents. In any case, each child for whom support is sought must benefit as much as any other dependent from the income and resources of the responsible parent;
- (7) Whether the responsible parent has voluntarily incurred subsequent obligations that have reduced that parent's ability to pay support. This condition does not relieve the responsible parent of the duty to provide support;
- (8) Whether employer-related or other group health insurance coverage is available to the responsible parent; and
- (9) Whether the responsible parent's existing health insurance coverage may be extended to include each dependent child. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

4. Decision. If a hearing is held, the department shall render a decision based on the hearing record and applicable state laws and rulemaking. If a request for hearing is not made in a timely manner or if the responsible parent does not appear at the hearing, the department shall issue a decision that incorporates the findings of the department's proposed support order. The department shall send a copy of the decision to both parents by regular mail. The decision must establish and state:

A. The responsible parent's duty to provide support, the amount of the current parental support obligation, the amount of any debt for past support including medical expenses, the obligation of the responsible parent to maintain health insurance coverage for each dependent child and to pay a proportionate share of uninsured medical expenses and that the responsible parent must provide written proof to the department of health insurance coverage that is required by the decision within 15 days of the responsible parent's receipt of the decision; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. If an obligation for current support is established, an order for immediate income withholding is issued and made a part of the decision; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. That, 30 days after the decision is issued, the department may enforce the decision by any lawful means, including immediate income withholding, lien and foreclosure, administrative seizure and disposition, order to withhold and deliver and tax refund intercept; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

D. That, if the department establishes a debt for past support, the department may report the responsible parent and the amount of the debt to a consumer credit reporting agency; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

E. That, if the responsible parent does not maintain health insurance coverage when required to do so by the department, the responsible parent may be held liable for all medical expenditures made by the department or the custodial parent on behalf of each dependent child; and [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

F. That the responsible parent may appeal the decision within 30 days of the date of mailing of the decision by requesting the department to hold an administrative appeal hearing. The decision must also state that the resulting appeal hearing must be based on the evidence submitted at the underlying hearing, if any. Evidence not part of the hearing record may be considered at the appeal hearing only if the evidence was offered but incorrectly excluded at the underlying hearing. [2005, c. 352, §9 (AMD) .]

[2005, c. 352, §9 (AMD) .]

5. Collection action. The department may initiate collection action 30 days after the date of mailing of a decision. If a decision includes an immediate income withholding order, the department may implement the withholding order to collect current support immediately after the decision is issued.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

6. Subsequent order. A decision under this section remains in effect until superseded by a subsequent support order.

[1997, c. 466, §18 (AMD); 1997, c. 466, §28 (AFF) .]

7. Request to set aside. Within one year of the mailing of a decision, the responsible parent may request the department to set aside the decision if the responsible parent shows good cause why the responsible parent did not request a hearing or did not appear at a hearing and presents a meritorious defense to the decision.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

8. Amendment. A responsible parent may request an administrative hearing to amend a decision issued under this section prospectively based on a substantial change of circumstances. The department may seek to amend a decision issued under this section prospectively, based on a substantial change of circumstances, by using the same process permitted by this section for establishing a support obligation. When proceeding to amend a decision issued under this section, the department shall state in its notice of hearing that the purpose of the proceeding is to amend the responsible parent's support obligation based on a substantial change of circumstances.

Modification and termination of child support orders are governed by section 2009.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

9. Enforcement. A decision under this section establishes a support obligation for purposes of enforcement under section 2103.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

10. Provisions supplemental. The provisions of this chapter are in addition to other laws and rules that enable the department to establish child support obligations.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 466, §§17,18 (AMD). 1997, c. 466, §28 (AFF). 2001, c. 264, §12 (AMD). 2005, c. 352, §9 (AMD).

§2305. EFFECT AND IMPLEMENTATION OF HEALTH INSURANCE OBLIGATIONS; FAILURE OF RESPONSIBLE PARENT TO COMPLY

1. Responsible parent's failure to comply. If a responsible parent fails to obtain health insurance coverage as required by an administrative decision, that parent is liable for any expenses incurred, for each dependent child, that would have been paid by the insurance coverage, regardless of incurred expenses. Incurred liability may be enforced as a child support debt under this article or by judicial action.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Insurer's obligation under authorization. Upon receipt of a written authorization by a responsible parent to make health insurance payments to the department for each dependent child of that parent, whether or not public assistance is being expended for the benefit of each child, an insurer shall make all payments directly to the department until the authorization is withdrawn. Upon receipt of authorization from the responsible parent, the department is subrogated to the rights of the responsible parent under the insurance policy for each child.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

3. Insurer's obligation under order or decision and notice. Upon receipt of a copy of a court order or administrative decision establishing the obligation of a responsible parent to provide health insurance coverage for each dependent child of that parent, and receipt of a copy of a notice from the department that public assistance is being expended for the benefit of each dependent child of the responsible parent or that the department is furnishing support enforcement services to a person with whom each child resides other than the responsible parent, an insurer shall make all health insurance payments for each child directly to the department until otherwise notified by the department. In all such cases, the responsibility of the department is subrogated to the rights of the responsible parent under the insurance policy for each child.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

4. Insurers to provide information. Upon request by the department, a nonprofit hospital or medical service organization authorized under Title 24 or an insurer authorized under Title 24-A shall provide to the department a list of persons who have health insurance coverage with that organization or insurer. The information must be transmitted in a manner prescribed by the department to allow electronic identification of responsible parents who have health insurance coverage.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2306. IMMEDIATE WITHHOLDING OF EARNINGS

1. Withholding order. A decision establishing or modifying a child support obligation under section 2304 must conform with this subsection.

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 7 business days after each withholding of earnings. [1997, c. 669, §5 (AMD).]

B. This subsection does not apply if:

(1) A party demonstrates and the hearing officer finds that there is good cause not to require immediate withholding under this section; or

(2) A written agreement between the parties providing an alternative arrangement is filed with the hearing officer. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1997, c. 669, §5 (AMD) .]

2. Priority of order. Notwithstanding any other law, a withholding order under this section has priority over any previously filed attachment, execution, garnishment or assignment of earnings that is not made for the purpose of enforcing or paying a child support obligation.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

3. Obligations of payor of earnings. This subsection governs the obligations of a payor of earnings under this section.

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 7 business days after each withholding. [1997, c. 537, §41 (AMD); 1997, c. 537, §62 (AFF).]

B. The payor shall include with all remittances of withheld earnings the responsible parent's support enforcement case number set forth in the withholding order. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

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 7 business days from the withholding date. [1997, c. 669, §6 (AMD).]

D. The balance of earnings due the responsible parent must be paid to the responsible parent on the day that the responsible parent is usually paid. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1997, c. 669, §6 (AMD) .]

4. Duration of order. A withholding order is binding upon the payor of earnings to the responsible parent until:

A. The order is superseded by another withholding order issued by the department under this subchapter; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. The decision establishing the support obligation is superseded by a court order; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. The payor has been released from the withholding order in writing by the department; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

D. The child:

(1) If not attending secondary school, as defined in Title 20-A, section 1, becomes 18 years of age; or

(2) If attending secondary school, as defined in Title 20-A, section 1:

(a) Graduates, withdraws or is expelled from secondary school; or

(b) Becomes 19 years of age; or [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

E. The child is emancipated or adopted. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

5. Payor to be held harmless. A payor of earnings to the responsible parent who honors a withholding order under this section is discharged from any liability or obligation to the responsible parent for earnings withheld in compliance with the order. The department shall defend and hold harmless a payor for honoring the order.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

6. Notice of termination of payor-payee relationship. When the relationship between the payor of earnings and the responsible parent that provides for the payment of earnings to the responsible parent, whether the relationship is that of employer and employee or any other, is terminated, the payor shall, within 15 days of the termination, send the department a written notice of the termination. The notice must include:

A. The responsible parent's name, last known address and social security number; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. The support enforcement case number; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. The date of termination of the relationship of payor and payee; and [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

D. If known, the name and address of any new or other payor of earnings to the responsible parent. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

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 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. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. A payor who knowingly fails to send withheld earnings to the department within 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. [1997, c. 669, §7 (AMD).]

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. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

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. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1997, c. 669, §7 (AMD) .]

8. Other remedies. A withholding order under this section does not bar any judicial or administrative enforcement or collection action otherwise available under federal or state law regarding child or spousal support arrearages or a debt for public assistance under section 2301.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 537, §41 (AMD). 1997, c. 537, §62 (AFF). 1997, c. 669, §§5-7 (AMD).

§2307. DISCOVERY OF PAST INCOME

The responsible parent has an obligation to supply evidence regarding past income in order to calculate the debt owed the department or an applicant for services under section 2103 if the evidence is reasonably available. The responsible parent has 30 days to supply evidence of past income if requested to do so by the department. A request for evidence regarding past income may be made through an administrative form developed by the department. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

Failure to provide the evidence, absent a showing of good cause for failure to do so or notification to the department of good faith attempts to secure the information, allows the administrative hearing officer to draw a reasonable inference from the evidence available, including an inference that the responsible parent had a greater earning capacity than the average weekly wage of a worker within this State as defined by the most recent Department of Labor statistics. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2308. MEDICAL SUPPORT NOTICE

1. Issuance of notice. 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 parent's employer or other payor of income a medical support notice to enforce a parent's obligation to obtain or maintain health insurance coverage or other health care services for each dependent child of the parent. The medical support notice must be in the format of the federal National Medical Support Notice as required by the Child Support Performance and Incentives Act of 1998, Public Law 105-200, 42 United States Code, Section 666(a)(19)(A) and the federal Employee Retirement Income

Security Act of 1974, 29 United States Code, Section 1169(a)(5)(C). The employer or other payor of income shall complete Part A of the National Medical Support Notice and the plan administrator shall complete Part B.

[2009, c. 290, §28 (AMD) .]

2. Employer notice. A medical support notice must be accompanied by an employer notice that contains the substance of subsections 3 to 16.

[2001, c. 554, §14 (AMD) .]

3. Duty to enroll. An employer or other payor of income served with a medical support notice 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.

[2001, c. 554, §14 (AMD) .]

4. Choice of plan. If more than one plan is offered by the employer, the employer or the plan administrator shall enroll each qualified child prospectively in the insurance plan in which the employee is enrolled or, if the employee is not enrolled, in the least costly plan otherwise available, as long as 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 or the plan administrator shall enroll each qualified child prospectively in the least costly plan that is available where the child resides. If the plan requires that the participant be enrolled in order for the child to be enrolled, and the participant is not currently enrolled, the employer or the plan administrator must enroll both the participant and the child. The enrollments must be made without regard to enrollment season restrictions.

[2001, c. 554, §14 (AMD) .]

5. Answer. An employer shall respond to a medical support notice in writing within 20 days of service. The employer shall advise the department of the plan in which each child is enrolled or if a child is ineligible for any plan through the employer. The department shall include preprinted answer forms for the employer's and plan administrator's use and shall include the forms and a prepaid, self-addressed envelope with each medical support notice. The plan administrator must complete and return the Part B response within 40 business days of service.

[2001, c. 554, §14 (AMD) .]

6. Mistake of fact; affirmative defenses. A parent may claim a mistake of fact or assert affirmative defenses to contest the issuance of a medical support notice. The department shall establish by rule an administrative process for reviewing claims of mistake and investigating affirmative defenses.

[2009, c. 290, §29 (AMD) .]

7. Duration of notice. A medical support notice remains in force until the employee terminates employment, the employer or other payor of earnings is released from the order in writing by the department or release is ordered by a court.

[2001, c. 554, §14 (AMD) .]

8. Change of plan. After it is initially determined in response to a medical support notice that a child is eligible for coverage, the employer or plan administrator must make subsequent enrollment changes to include the child if the group health insurance plan is changed and provide notices of any changes in coverage to the department.

[2001, c. 554, §14 (AMD) .]

9. Fee. The commissioner may establish by rule a fee that an employer may charge an employee for each withholding and for a change of plan.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

10. Failure to honor. Failure of an employer or other payor of earnings or the plan administrator to comply with the requirements of a medical support notice is a civil violation for which the department may recover up to \$1,000 in a civil action.

[2001, c. 554, §14 (AMD) .]

11. Priority of notice. A medical support notice has priority over any previously filed attachment, execution, garnishment or assignment of earnings that is not for the purpose of enforcing or paying a child support obligation.

[2001, c. 554, §14 (AMD) .]

12. Employer protected. The department shall defend and hold harmless any employer or other payor of earnings or plan administrator who honors a medical support notice.

[2001, c. 554, §14 (AMD) .]

13. Immunity. The employer or plan administrator may not be held liable for medical expenses incurred on behalf of a dependent child because of the employer's or plan administrator's failure to enroll the dependent child in a health insurance or health care plan after being directed to do so by the department.

[2001, c. 554, §14 (AMD) .]

14. Employee protected. An employer who discharges, refuses to employ or takes disciplinary action against a parent, or who otherwise discriminates against a parent because of the existence of the medical support notice or the obligation the medical support notice imposes upon the employer, is subject to a civil penalty of not more than \$5,000 payable to the State, to be recovered in a civil action. The employer is also subject to an action by the parent for compensatory and punitive damages, plus attorney's fees and court costs.

[2009, c. 290, §30 (AMD) .]

15. Service. A medical support notice must be served on the parent's employer or other payor of earnings. Service must be made in the manner provided for service of summons by the Maine Rules of Civil Procedure, Rule 4. For purposes of this subsection, this service must be deemed to be an action pursuant to Chapter XIII of the Maine Rules of Civil Procedure. Personal service within the State of a copy of the notice may be made by an authorized representative of the commissioner. The department shall send a copy of the medical support notice to the parent at the parent's most recent address of record.

[2009, c. 290, §31 (AMD) .]

16. Withholding order and support notice combined. The department may combine a medical support notice with a child support income withholding order issued under section 2306.

[2001, c. 554, §14 (AMD) .]

17. Rules. The department shall adopt rules to implement and enforce the requirements of this section.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 537, §§42,43 (AMD). 1997, c. 537, §62 (AFF). 2001, c. 554, §14 (AMD). 2009, c. 290, §§28-31 (AMD).

§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; [1997, c. 537, §44 (NEW); 1997, c. 537, §62 (AFF).]
- 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 [1997, c. 537, §44 (NEW); 1997, c. 537, §62 (AFF).]
- C. Has not reimbursed the custodial parent, department or another payor of public assistance who has paid for the dependent child's care. [1997, c. 537, §44 (NEW); 1997, c. 537, §62 (AFF).]

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

[1997, c. 537, §44 (NEW); 1997, c. 537, §62 (AFF) .]

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; [1997, c. 537, §44 (NEW); 1997, c. 537, §62 (AFF).]
- B. Explain to the responsible parent that the responsible parent may contest the claim set forth in the notice at a department administrative hearing; [1997, c. 537, §44 (NEW); 1997, c. 537, §62 (AFF).]
- C. State the responsible parent's basic hearing rights; [1997, c. 537, §44 (NEW); 1997, c. 537, §62 (AFF).]
- D. Inform the responsible parent of what the department may do to collect the claim if the responsible parent does not contest it; and [1997, c. 537, §44 (NEW); 1997, c. 537, §62 (AFF).]
- E. Explain to the responsible parent about the stay of collection provided for by subsection 7. [1997, c. 537, §44 (NEW); 1997, c. 537, §62 (AFF).]

[1997, c. 537, §44 (NEW); 1997, c. 537, §62 (AFF) .]

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.

[1997, c. 537, §44 (NEW); 1997, c. 537, §62 (AFF) .]

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.

[1997, c. 537, §44 (NEW); 1997, c. 537, §62 (AFF) .]

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.

[1997, c. 537, §44 (NEW); 1997, c. 537, §62 (AFF) .]

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.

[1997, c. 537, §44 (NEW); 1997, c. 537, §62 (AFF) .]

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.

[1997, c. 537, §44 (NEW); 1997, c. 537, §62 (AFF) .]

SECTION HISTORY

1997, c. 537, §44 (NEW). 1997, c. 537, §62 (AFF).

Subarticle 3: COLLECTION OF SUPPORT DEBT HEADING:
PL 1995, C. 694, PT. B, §2 (NEW); PT. E, §2 (AFF)

§2351. RIGHT OF SUPPORT ENFORCEMENT WHEN ORDER EXISTS

1. Subrogation of support rights. If a 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 support 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 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.

[1997, c. 683, Pt. A, §10 (RPR) .]

2. Limits on subrogation. When payment of public assistance for the benefit of a dependent child has ceased, that child, or a person having the custody of the child named in the order, may pursue any support action or administrative remedy to secure payment of any support arrearage that accrued before or after the period of receiving public assistance and that is not part of the debt under section 2301. The department may not be subrogated to this right.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 466, §19 (AMD). 1997, c. 466, §28 (AFF). 1997, c. 537, §45 (AMD). 1997, c. 537, §62 (AFF). 1997, c. 683, §A10 (AMD).

§2352. NOTICE OF SUPPORT DEBT WHEN COURT ORDER EXISTS

When the department is subrogated to a support order or a spousal support order under section 2351, the commissioner may issue to the responsible parent a notice of debt accrued or accruing under section 2301. [1997, c. 466, §20 (AMD); 1997, c. 466, §28 (AFF).]

1. Notice of debt. In addition to conforming with the requirements of Title 5, section 9052, subsection 4, notice of debt must include:

A. A statement of the debt accrued or accruing under section 2301; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. A statement of the terms of the support order, including the names of each dependent child; [1997, c. 466, §21 (AMD); 1997, c. 466, §28 (AFF).]

C. A statement that any property of the debtor is subject to lien and foreclosure, administrative seizure and disposition, order to withhold and deliver or other collection actions and that any debt determined to be owed by the responsible parent may be reported to a consumer reporting agency; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

D. A demand for payment of the support debt within 20 days of receipt of the notice of debt; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

E. A statement that the net proceeds of any collection action will be applied to the satisfaction of the support debt; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

F. A statement that the responsible parent has the right to request a hearing under section 2451, or, in the alternative, to seek relief in a court of proper jurisdiction; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

G. A statement that at the administrative hearing only the following issues may be considered:

- (1) The receipt of public assistance by the responsible parent;
- (2) Uncredited cash payments;
- (3) The amount of the debt accrued and accruing;
- (4) The accuracy of the terms of the support order as stated in the notice of debt; and
- (5) The maintenance of any required medical or dental insurance coverage; and [1997, c. 466, §21 (AMD); 1997, c. 466, §28 (AFF).]

H. A statement that the department will stay collection action upon receipt of a request for review under section 2451 or on service of pleadings filed in a court of proper jurisdiction. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1997, c. 466, §21 (AMD); 1997, c. 466, §28 (AFF) .]

2. Commencement of action. Actions to collect any debt accrued or accruing under section 2301 may commence after 20 days after the date of receipt of the notice of debt described in this section.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

3. Demand for immediate payment. If the commissioner finds that the collection of any support debt accrued or accruing under section 2301 is in jeopardy, the commissioner may make demand under subsection 1 for immediate payment of the support debt, and upon failure or refusal immediately to pay, the commissioner may file and serve liens pursuant to section 2357. An action under sections 2358, 2363 and 2364 may not be taken until the notice requirements of subsection 1 are met.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

4. Stay of collection action. If the responsible parent requests review of a notice of debt accrued or accruing under section 2451, or seeks relief in a court of proper jurisdiction, and if the department receives the request or service of pleadings within 21 days after service of the notice of debt, the department shall stay the collection action. The department shall accept ordinary mail service of copies of all pleadings, which must be addressed to the department representative whose name appears on the face of the notice of debt. Service upon the department is in addition to any other service required under the Maine Rules of Civil Procedure.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 466, §§20,21 (AMD). 1997, c. 466, §28 (AFF).

§2353. EXPEDITIOUS PROCEDURE DURING STAY

When a responsible parent has requested a stay under section 2352, subsection 4 and that stay has been granted because the parent seeks relief in a court, the parent shall request, within 30 days of filing the papers with the court, that the court set the matter for hearing on the next available court date. If the responsible

parent fails to make the request during that time, the department may remove the stay and proceed with the collection proceeding. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2354. INTEREST OF DEBT DUE

Interest of 6% per year on any support debt due or owing to the department under section 2301 may be collected by the commissioner. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2355. NOTICE OF REQUIREMENT OF PROMPT PAYMENT

In any case in which a debt is owed by a responsible parent under section 2301, the department shall notify the responsible parent, on any billing sent for the purpose of child support collection, that payment must be received in the month when due and that failure to make timely payment may result in child support being retained by the department that would otherwise be paid to that parent's child. The notice must have a readability score, as determined by a recognized instrument for measuring adult literacy levels, equivalent to no higher than a 6th-grade reading level. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2356. EXEMPTIONS

The following exemptions apply to weekly earnings. The maximum part of the aggregate disposable earnings of a responsible parent for any workweek that is subject to garnishment or income withholding may not exceed: [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

1. Supporting spouse or dependent child. When the individual is supporting that individual's spouse or dependent child, other than a spouse or child with respect to whose support that order is used, 50% of that individual's disposable earnings for that week; or

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Not supporting spouse or dependent child. When the individual is not supporting such a spouse or dependent child described in subsection 1, 60% of that individual's disposable earnings for that week.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

With respect to the disposable earnings of any individual for any workweek, the 50% specified in subsection 1 is deemed to be 55% and the 60% specified in subsection 2 is deemed to be 65% if and to the extent that such earnings are subject to garnishment to enforce a support order with respect to a period that is prior to the 12-week period that ends with the beginning of that workweek. In no event may the amount withheld exceed the limitations imposed by 15 United States Code, Section 1673. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2357. LIENS

1. Judgment. Twenty-one days after receipt by a responsible parent of a notice of debt under section 2352 or 30 days after the date of mailing to the responsible parent of a decision of the department that requires the responsible parent to pay child support, the amount stated in the notice of debt or in the decision is a judgment in favor of the department, the obligee, or both. The judgment is a lien against all property of the responsible parent. The lien is separate from and in addition to a lien filed under this section.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Filing. For real property, a lien is perfected when a notice of support lien is filed in the registry of deeds of the county or counties in which the real property is located. For personal property, including motor vehicles or other items for which a certificate of ownership is issued by the Secretary of State, the lien is perfected when a notice of support lien is delivered to the Secretary of State. The Secretary of State shall mark, hold and index the notice of support lien as if it were a financing statement within the meaning of Title 11, section 9-1102, subsection (39). The notice of support lien must state the name and address of the responsible parent, the amount of the child support debt accrued, the date of the decision or notice of debt by which the debt was assessed and the name and address of the authorized agent of the department who issued the notice.

[1999, c. 699, Pt. D, §17 (AMD); 1999, c. 699, Pt. D, §30 (AFF) .]

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

A. The commissioner waives or releases the lien in writing; or [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. A court of competent jurisdiction orders a release. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

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.

[1997, c. 669, §8 (AMD) .]

5. Notice and hearing prior to disposition. When the department is provided with reliable information that another person, in addition to the responsible parent, has an ownership interest in the property of the responsible parent subject to a support lien, the department shall provide written notice to the other person before the foreclosure or other disposition of the property explaining that:

A. The department has a support lien against the property; and [1997, c. 407, §1 (NEW); 1997, c. 407, §5 (AFF).]

B. The person may request a hearing to establish the value of that person's interest in the property before the foreclosure or other disposition of the property. [1997, c. 407, §1 (NEW); 1997, c. 407, §5 (AFF).]

[1997, c. 407, §1 (NEW); 1997, c. 407, §5 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 407, §1 (AMD). 1997, c. 407, §5 (AFF). 1997, c. 669, §8 (AMD). 1999, c. 699, §D17 (AMD). 1999, c. 699, §D30 (AFF).

§2358. ORDER TO WITHHOLD AND DELIVER

The commissioner shall proceed as follows with respect to any order to withhold and deliver. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

1. Service of order. The commissioner may serve on any person an order to withhold and deliver any property, including wages, that is due or belongs to the responsible parent when:

A. A lien has been filed pursuant to former Title 19, section 503 or 503-A or section 2357; or [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. Twenty-one days have elapsed from the date of receipt of a notice of debt under section 2352 or 30 days after the date of mailing to a responsible parent of a decision of the department that requires the responsible parent to pay child support. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Notice to responsible parent. When an order is issued, the department shall send a copy of the order to the responsible parent by regular mail at the responsible parent's last known address.

[1997, c. 466, §28 (AFF); 1997, c. 466, §22 (RPR) .]

3. Order; contents. The order to withhold and deliver must state the amount of the support debt accrued and accruing and the terms of former Title 19, section 503 or 503-A or sections 2357 and 2366 and demand a listing of property, including wages, that is due or belongs to the responsible parent.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

4. Answer. A person served with an order to withhold and deliver shall answer the order within 20 days of receipt of the order.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

5. Withhold and deliver. A person served with an order to withhold and deliver shall withhold immediately any property, including wages, due to or belonging to the responsible parent. After 20 days from the date of receipt of this order and upon demand of the commissioner, the property of the responsible parent must be delivered to the commissioner. An order to withhold and deliver issued by an out-of-state child support agency or court must be honored by a financial institution authorized to do business in this State as defined in Title 9-B, section 131, subsection 17-A or credit union authorized to do business in this State as defined in Title 9-B, section 131, subsection 12-A.

[2005, c. 352, §10 (AMD) .]

6. Delivery of money. If the money is due under an express or implied contract, or if money is held subject to withdrawal by the responsible parent, the money must be delivered by check payable to the Treasurer of State.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

7. Bond as alternative. Instead of the property of the responsible parent, the commissioner may accept a bond conditioned upon final determination of liability.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

8. Effect of honoring order. A person who honors an order to withhold and deliver is discharged from any liability or obligation to the responsible parent for that property. The department warrants that it will defend and hold harmless any such persons for honoring the order.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

9. Term of order. The order to withhold and deliver remains in effect, requiring withholding of each successive earnings disbursement, until the amount of debt stated in the order has been withheld.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

10. Priority of order. Notwithstanding any other provision of law, the order to withhold and deliver has absolute priority over previously filed orders against assets, earnings and assignments of earnings not for the enforcement of a child support obligation.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 466, §22 (AMD). 1997, c. 466, §28 (AFF). 2005, c. 352, §10 (AMD).

§2359. EXPEDITED INCOME WITHHOLDING

1. Order to withhold; commissioner may serve. The commissioner may direct any person by order to withhold property, including wages, that is due or belongs to the responsible parent when the responsible parent has failed to make payments under a support order and the amount in arrears is at least equal to the support payable for one month. The commissioner shall serve the order on the person directed to withhold.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Notice of order to withhold. Prior to implementation of the order to withhold, the department shall serve a notice of intention to withhold to the responsible parent.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

3. Content of notice. In addition to conforming with the requirements of Title 5, section 9052, subsection 4, the notice of intention to withhold must include the following statements:

A. The amount of the arrearage and the amount of the current support order; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. The amount that will be withheld or the formula by which that amount will be determined; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. That the withholding will apply to any current or subsequent period of employment; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

D. That the responsible parent may contest the withholding by requesting a review pursuant to section 2451; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

E. That the only basis for contesting the withholding is a mistake of fact; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

F. That the request for review must be filed within 20 days of receipt of the notice of intention and that failure to request a review within 20 days will result in the department notifying the responsible parent's employer or other person holding property belonging to the responsible parent to begin withholding; and [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

G. That at the review hearing the responsible parent will have an opportunity to present the responsible parent's case; that the hearing officer's decision will be based on an evaluation of the facts, including the responsible parent's statement of the responsible parent's case; that the responsible parent will be informed of the decision; if withholding is to occur, the time within which the withholding will begin; and the information to be given to the employer or other payor. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

4. Implementation of order to withhold. Upon receipt of an order to withhold issued by the department, the employer or other payor shall immediately begin withholding from the income of the responsible parent the amount specified in the order. Sums withheld must be remitted to the department within 10 days of the date the responsible parent is paid. A person who honors an order to withhold issued under this section is discharged from any liability or obligation to the responsible parent for such property. The department warrants that it will defend and hold harmless any such persons for honoring the order.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

5. Priority of order. Withholding initiated under this section has priority over any other legal process under state law against the same wages.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

6. Termination of withholding. The withholding must be terminated with regard to a current support obligation if:

A. The department is unable to forward funds to the obligee for 3 months. Funds not forwarded must be returned to the obligor and notice must be given to the obligor's employer or other payor to cease withholding; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

B. The child or spousal support obligation has been eliminated by a subsequent court order; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

C. The child has reached majority or has otherwise been emancipated; or [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

D. The child has been adopted. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

The withholding may not be terminated while an arrearage remains, unless other provisions acceptable to the department for its repayment have been made.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2360. SETOFF OF DEBTS AGAINST LOTTERY WINNINGS

1. Notice to Bureau of Alcoholic Beverages and Lottery Operations. The department shall periodically notify the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations, referred to in this section as the "bureau," of all persons who owe the department a child support debt that has been liquidated by judicial or administrative action. Prior to paying any state lottery winnings that must be paid directly by the bureau, the bureau shall determine whether the lottery winner is on the list of persons who owe a child support debt to the State that has been liquidated by judicial or administrative action. If the winner is on a list of persons who owe child support debts, the bureau shall

suspend payment of winnings and notify the winner of its intention to offset the winner's child support debt against the winnings. The bureau shall notify the winner of the winner's right to request a hearing before the department within 15 days of the winner's receipt of that notice. The hearing is limited to the questions of whether the debt is liquidated and whether post-liquidation events have affected the winner's liability. The decision of the department as to the existence of a liquidated debt constitutes final agency action. If, within 90 days of the notice of intended setoff to the winner, the department certifies to the bureau that the winner did not make a timely request for hearing or that a hearing was held and the debt was upheld, the bureau shall offset the liquidated debt against the winnings due to the winner. Any remaining winnings are paid to the winner. If the bureau does not hear from the department within 90 days of the notice of intended setoff to the winner, the bureau shall release all winnings to the winner.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Notice to Tri-state Lotto Commission. The department shall periodically notify the Tri-state Lotto Commission of all persons who owe the department a child support debt that has been liquidated by judicial or administrative action.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2360-A. LUMP-SUM SETTLEMENT; WORKERS' COMPENSATION CLAIMS

On a monthly basis, the department shall notify the Workers' Compensation Board, referred to in this section as the "board," of the names and social security numbers of all persons who owe the department child support debts that have been liquidated by judicial or administrative action. Before approving any lump-sum settlement, the board shall determine whether the person receiving the settlement is on the list of persons who owe to the department child support debts that have been liquidated by judicial or administrative action. If the person is on the list, the board shall notify the department of the pending settlement and inform the person of the notification to the department. [1997, c. 654, §1 (NEW) .]

SECTION HISTORY

1997, c. 654, §1 (NEW).

§2361. ORDER TO APPEAR AND DISCLOSE

1. Order. The commissioner may commence an action under Title 14, chapter 502 by directing a responsible parent to appear before the department to disclose under oath information that relates to the responsible parent's ability to pay child support. The commissioner may require a responsible parent who is directed to appear to provide documents, papers and other evidence about the responsible parent's income and assets for the purpose of enforcing a support order. Notwithstanding section 2254, an order to appear and disclose must be served on the responsible parent by personal service as provided for personal service of summons by the Maine Rules of Civil Procedure, Rule 4(d). Personal service within the State of an order to appear and disclose may be made by an authorized representative of the commissioner. Personal service outside the State of an order to appear and disclose may be made in the manner provided for personal service of summons outside the State by the Maine Rules of Civil Procedure, Rule 4(e).

[2009, c. 290, §32 (AMD) .]

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

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

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

A. The date, time and place of the disclosure proceeding; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. The amount of child support the responsible parent owes; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. That the department may file a record of the proceeding in court to collect the debt; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

D. That, if the department files a record of the proceeding in court, the court will notify the responsible parent by regular mail of the date, time and place of the court hearing; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

E. That, if a record of the proceeding is filed in court, the court may issue any lawful order, including a sale or turnover order, an order to seek employment or a civil order of arrest; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

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; [1997, c. 407, §2 (AMD); 1997, c. 407, §5 (AFF); 1997, c. 537, §46 (AMD); 1997, c. 537, §62 (AFF).]

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; [1997, c. 1, §17 (COR).]

H. That the responsible parent must provide to the department the name and last known address of any other person that has an ownership in any property in which the responsible parent has an ownership interest; and [1997, c. 1, §18 (COR).]

I. 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. [1997, c. 1, §19 (RAL).]

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

[1997, c. 1, §§17-19 (COR) .]

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

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

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

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

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

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

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

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

8. Failure to appear. If the responsible parent fails to appear after being served with an order to appear and disclose, the department may request a civil order of arrest pursuant to Title 14, sections 3134 and 3135 for violating the order to appear and disclose by filing a copy of the order to appear and disclose, proof of service of the order and an affidavit attesting that the responsible parent failed to appear for the administrative disclosure proceeding.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

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

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

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

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

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

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

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

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

13. Repeal.

[1997, c. 669, §9 (RP) .]

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.

[1997, c. 537, §48 (NEW); 1997, c. 537, §62 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). RR 1997, c. 1, §§17-19 (COR). 1997, c. 407, §§2,3 (AMD). 1997, c. 407, §5 (AFF). 1997, c. 466, §23 (AMD). 1997, c. 466, §28 (AFF). 1997, c. 537, §§46-48 (AMD). 1997, c. 537, §62 (AFF). 1997, c. 669, §9 (AMD). 2009, c. 290, §32 (AMD).

§2362. RELEASE OF EXCESS WITHHELD

If any person has, subject to an order to withhold and deliver, earnings, deposits, accounts or balances in excess of the amount of the debt claimed by the department plus \$100, that person may, without liability under this article, release the excess to the responsible parent. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2363. ADMINISTRATIVE SEIZURE AND DISPOSITION OF PROPERTY

The commissioner shall proceed as follows with respect to administrative seizure and disposition of property. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

1. Seizure and surrender. When a lien has been filed pursuant to former Title 19, section 503 or 503-A or section 2357, the commissioner may collect the debt stated in the lien by seizing, if this can be done without breach of the peace, or demanding surrender of, any property subject to the lien and disposing of that property.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Disposition; notice. The commissioner, as soon as practicable after seizure, shall notify the responsible parent and any person claiming an interest in the property about the seizure and proposed disposition.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

3. Disposition; optional methods. Either of the following methods may be used in the disposition of any property under this section:

A. The property seized may be disposed of in any commercially reasonable manner; or [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. The seized property may be turned over to the recipient of assistance for the express benefit of the dependent child involved, if the commissioner and the responsible parent agree on the value of the property. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

4. Bill of sale or deed. The commissioner may issue a bill of sale or deed to the purchaser. The bill of sale or deed is prima facie evidence of the right of the commissioner to make the sale and conclusive evidence of the regularity of the proceedings and transfers to the purchaser all right, title and interest of the responsible parent in the property.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2364. FORECLOSURE ON LIENS

The commissioner shall proceed as follows with respect to foreclosures on filed liens. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

1. Liens on real property. Actions to foreclose liens on real property filed under former Title 19, section 503 or 503-A or section 2357 may be brought in the county where the lien is filed pursuant to the procedures of Title 14, chapter 403, subchapter II.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Liens on personal property. Actions to foreclose liens on personal property filed under former Title 19, section 503 or 503-A or section 2357 may be brought in the county where the lien is filed pursuant to the procedures of Title 14, chapter 509, subchapter III.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

3. Liens; hearing to determine ownership interest. Before the foreclosure, the obligor and any other persons who claim an ownership interest in the property subject to the lien have a right to an administrative hearing to establish the value of their relative interest in the property. A request for a hearing must be in writing and must be received by the department within 10 calendar days of the notice of the foreclosure. Upon receiving a request for a hearing, the department shall notify all persons the department has reason to believe have an ownership interest in the property of the time, place and nature of the hearing. At the hearing, the hearing officer shall determine the value of the interests of all persons with an ownership interest in the property.

[1997, c. 407, §4 (NEW); 1997, c. 407, §5 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 407, §4 (AMD). 1997, c. 407, §5 (AFF).

§2365. RELEASE OF LIEN OR ORDER TO WITHHOLD

The commissioner may release a support lien or order to withhold and deliver on all or part of the property of the responsible parent or return seized property without liability, if the commissioner considers adequate an assurance of payment or if the collection of the debt will be facilitated. The release or return does not prevent further action to collect from the same or other property. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2366. EMPLOYER OR HOLDER RESPONSIBILITY AND LIABILITY

A person who fails to honor an order to withhold and deliver, an order for expedited withholding, or a duly executed assignment of earnings, or fails to surrender property under section 2363, is liable to the department for the greater of \$500 or the amount the person was required to remit to the department under a lien, order to withhold and deliver, order for expedited withholding, demand for surrender or assignment of earnings, together with costs, interest and reasonable attorney's fees. [1997, c. 332, §1 (AMD); 1997, c. 332, §2 (AFF).]

When an order to withhold and deliver or assignment of earnings is in effect and the obligor's employment is terminated or the periodic payment terminates, the obligor's employer or other payor of funds shall notify the department of the termination within 30 days of the termination date. The notice must include the obligor's last known home address, the obligor's social security number, the support enforcement case number and the name and address of the obligor's new employer or payor of funds, if known. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 332, §1 (AMD). 1997, c. 332, §2 (AFF).

§2367. EMPLOYEE PROTECTED

An employer may not discharge an employee because a support lien or order to withhold and deliver has been served against the employee's earnings. An aggrieved employee may maintain a civil action against an employer for violation of this section. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

An employer who, in contravention of this section, discharges from employment, refuses to employ or takes disciplinary action against a responsible parent because of the existence of a lien, order to withhold and deliver or assignment of earnings and the obligations or additional obligations that it imposes upon the employer is subject to a fine in an amount not to exceed \$5,000. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2368. ASSIGNMENT OF EARNINGS

A person employing a person owing a support debt shall honor a duly executed assignment of earnings presented by the commissioner. This requirement to honor the assignment of earnings and the assignment of earnings itself are applicable whether the earnings are to be paid currently or in the future and continue in force until released in writing by the commissioner. Payment pursuant to an assignment of earnings presented by the commissioner serves as full acquittance under any contract of employment, and the State shall defend

and hold harmless any person who honors the assignment of earnings. The commissioner is not liable for improper receipt of money under an assignment of earnings upon return of any money so received. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

Notwithstanding any other provision of law, an assignment of earnings presented by the commissioner has absolute priority over previously filed orders against earnings and assignments of earnings not for the enforcement of a child support obligation. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

An employee may not be discharged by reason of a presentation of an assignment of earnings. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2369. ASSIGNMENT OF RIGHT OF SUPPORT ENFORCEMENT

The receipt of public assistance for a child constitutes an assignment by the recipient to the department of all rights to support for the child and spousal support that accrue during the period that the recipient receives public assistance for the child. [2011, c. 34, §3 (AMD).]

The recipient is deemed to have appointed the commissioner as the recipient's attorney in fact to perform the specific act of endorsing over to the department all drafts, checks, money orders or other negotiable instruments for support of the child. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2001, c. 264, §13 (AMD). 2011, c. 34, §3 (AMD).

§2370. EMPLOYER; PAYOR COMPENSATION

The commissioner may by rule establish a processing fee that an employer or individual possessing property belonging to the responsible parent may charge for implementation of an order to withhold and deliver, assignment of earnings or expedited wage withholding. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

Subarticle 4: PROCEEDS HEADING: PL 1995, C. 694, PT. B, §2 (NEW); PT. E, §2 (AFF)

§2401. DISTRIBUTION OF PROCEEDS

1. Pro rata distribution when insufficient funds received. The following provisions apply when a responsible parent is under orders of support for more than one family of children and at least one family of children is either a recipient of public assistance or a beneficiary under section 2103. For purposes of this subsection, a "family of children" consists of all blood-related and adopted children of the responsible parent that reside apart from any other children that the responsible parent is under a court or administrative order to support.

A. If the department fails to receive sufficient funds to meet the responsible parent's current support obligation to all of the children of all of the families, the department shall distribute pro rata the funds received so that each family of children receives the percentage of the funds received that represents

that family's share of current support when calculated from the responsible parent's total current support obligation for all families. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. If the responsible parent makes a designation or otherwise directs a distribution to the families of children, the department shall distribute the funds received as provided in paragraph A if the designation or other direction would result in a distribution not in compliance with paragraph A. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. The department shall distribute the funds received as provided in paragraph A regardless of the source of the collection of the funds. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

D. The department must be held harmless as to any claim of the responsible parent for its distribution of funds received as provided in paragraph A. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Reduction of debt under section 2301. Any money realized by the department by proceedings under this article reduces the debt of a responsible parent under section 2301 and must be paid to the recipient of assistance for the express benefit of the dependent children to the extent permissible by federal law and regulations.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2402. DEDICATED FUNDS

Except as provided in section 2103, subsections 3 and 3-A, all collections, fees and incentive payments received by the department from child support collections must be dedicated to reduce the State's General Fund share of Temporary Assistance for Needy Families and to cover the costs of making such collections. The department may not expend more than \$5,500,000 in any fiscal year of incentive payment revenue for the purpose of covering the costs of making child support collections. [2013, c. 595, Pt. P, §1 (AMD) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 530, §A34 (AMD). 1999, c. 401, §S1 (AMD). 2011, c. 477, Pt. L, §3 (AMD). 2013, c. 595, Pt. P, §1 (AMD).

Subarticle 5: REVIEW HEADING: PL 1995,
C. 694, PT. B, §2 (NEW); PT. E, §2 (AFF)

§2451. ADMINISTRATIVE REVIEW

Within 30 days of receiving notice of any action under this article, including an administrative decision establishing an obligation to provide health insurance and payment for other medical expenses, the responsible parent or the department may move for a review of any action under this article by serving a request for review, together with an affidavit stating the grounds upon which the request is based, upon the other party. The department may review any action under this article without proceeding under this section. The department acting on behalf of another state or its instrumentality or a person residing in another state constitutes good cause within the meaning of Title 5, section 9057, subsection 5. [2005, c. 352, §11 (AMD) .]

1. Notice of hearing. If the responsible parent moves for a review, within 7 days of receipt of the request for review the department shall send, by registered or certified mail, the responsible parent a notice of hearing setting a hearing date not less than 15 nor more than 30 days from the date of service of the request for review.

If the department moves for a review, the department shall serve along with the request for review a notice of hearing, setting a date not less than 15 nor more than 30 days from the date of service of the notice.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Hearing. The conduct of the hearing and rendering of any decision is as follows.

A. The hearing must be conducted according to rules adopted by the commissioner. Except as provided by section 2304, subsection 4, paragraph F, the rules must provide both the moving and responding parties at least the right to confront and cross-examine witnesses, to present witnesses, to be represented by an attorney or other person and to be notified of these rights in writing. The decision must be limited to evidence presented at the hearing. [2005, c. 352, §12 (AMD) .]

B. If the hearing is on a notice of debt issued under section 2352, only the following issues may be considered:

- (1) The receipt of public assistance by the responsible parent;
- (2) Uncredited cash payments;
- (3) The amount of the debt accrued and accruing;
- (4) The accuracy of the terms of the court or administrative order as stated in the notice of debt; and
- (5) The maintenance of any required medical or dental insurance coverage. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

C. The hearing officer shall render a decision within 30 days of the date on which the hearing was held. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

D. Within 10 days of the decision being rendered, a copy of the decision together with a notice of the right to a judicial review must be sent to the responsible parent by ordinary mail. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

[2005, c. 352, §12 (AMD) .]

3. Stay. If a pleading is filed in any court that requests modification of an order for support after a final administrative decision under this section is served on the responsible parent, the department's collection action may not be stayed. If a pleading is filed for judicial review of agency action, the collection action may be stayed as provided in Title 5, section 11004.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2005, c. 352, §§11,12 (AMD) .

§2452. COMPLAINT AND INQUIRY UNIT

The department shall maintain a centralized system to receive and respond to complaints and inquiries from persons who are eligible for support enforcement services. The department shall also use the system to identify and eliminate chronic problems within the department's support enforcement program. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2453. JUDICIAL REVIEW

A person who is aggrieved by a final action of the commissioner under this article may file an action under the Maine Rules of Civil Procedure, Rule 80C seeking review of that action. Administrative remedies must be exhausted prior to such review. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

Subchapter 3: ENFORCEMENT BY COURT HEADING: PL 1995, C. 694, PT. B, §2 (NEW); PT. E, §2 (AFF)

§2601. CONTEMPT

Upon a motion to enforce a support order or costs, the court may issue summary process and may find the defaulting person guilty of contempt as provided under Title 14, section 252. [1997, c. 466, §24 (AMD); 1997, c. 466, §28 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 466, §24 (AMD). 1997, c. 466, §28 (AFF).

§2602. SUPPORT ORDERS

1. Installment payments. In a support order or costs, the court may include an order to pay specified installment payments as provided under Title 14, sections 3126-A to 3136.

[1999, c. 587, §11 (AMD) .]

2. Future obligations. The court may order installment payments for future obligations under the decree. The court may enforce its decree ordering installment payments as provided under Title 14, sections 3126-A to 3136. In enforcement actions under those sections, the person ordered to pay is deemed a judgment debtor and the person entitled to receive the payments a judgment creditor.

[1999, c. 587, §12 (AMD) .]

3. Disclosure hearing. The court may make an order under subsection 1 without a separate disclosure hearing, if the court has already determined the person's ability to pay and the person's receipt of money from a source other than a source that is otherwise exempt from trustee process, attachment and execution.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 466, §25 (AMD). 1997, c. 466, §28 (AFF). 1999, c. 587, §§11,12 (AMD).

§2603. ENFORCEMENT OF ORDERS

Upon a motion to enforce a judgment of spousal support, support or costs, after notice and an opportunity for hearing, the court may make a finding of money due, render judgment for that amount, and order: [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

1. Execution and levy. Execution and levy as provided under Title 14, chapter 403;

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Installment payments. Specified installment payments as provided under Title 14, sections 3126-A to 3136, without a separate disclosure hearing, if the court has already determined the judgment debtor's ability to pay and the debtor's receipt of money from a source other than a source that is otherwise exempt from trustee process, attachment and execution;

[1999, c. 587, §13 (AMD) .]

3. Order to employer or payor of earnings. The employer or other payor of earnings to make direct payments, if the court has ordered installment payments under section 2602 or otherwise. This order has absolute priority over all previously filed orders against earnings and assignments of earnings not relating to enforcement of spousal support, child support or costs;

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

4. Attachment. Attachment as provided under Title 14, chapter 507;

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

5. Execution. Execution as provided under Title 14, chapter 509;

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

6. Other methods. Any other method of enforcement that may be used in a civil action; or

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

7. Security. The judgment debtor to give security, post a bond or give some other guarantee to secure payment of the judgment.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1999, c. 587, §13 (AMD).

§2603-A. LICENSE REVOCATION FOR NONPAYMENT OF CHILD SUPPORT

Upon a motion to enforce a support order, after notice and an opportunity for a hearing, the court may make a finding of money due, render judgment for that amount and, to compel payment, order: [1997, c. 466, §26 (NEW); 1997, c. 466, §28 (AFF).]

1. Suspension of driver's license. Suspension of the obligor's driver's license or licenses and right to operate a motor vehicle;

[1997, c. 466, §26 (NEW); 1997, c. 466, §28 (AFF) .]

2. Revocation of occupational licenses. Revocation of the obligor's occupational, business, trade or professional licenses; and

[1997, c. 466, §26 (NEW); 1997, c. 466, §28 (AFF) .]

3. Revocation of recreational licenses. Revocation of the obligor's hunting, fishing, boating and other recreational or sporting licenses.

[1997, c. 466, §26 (NEW); 1997, c. 466, §28 (AFF) .]

The court may issue an order to prevent issuance or renewal of licenses under this section. An order to suspend, revoke or prevent issuance or renewal of licenses must be based on a finding by the court that the obligor has the present ability to pay all or part of the support owed. The court shall specify in its order ways to avoid the loss of licenses and requirements for obtaining licenses that are lost or may not be obtained as a result of an order issued under this section. [1997, c. 466, §26 (NEW); 1997, c. 466, §28 (AFF) .]

The court shall notify the Secretary of State of a driver's license suspension ordered pursuant to this section. Upon receipt of such an order, the Secretary of State shall immediately notify the person of the court order of suspension. The Secretary of State may not terminate a suspension issued pursuant to this section until the court orders reinstatement and the person pays a reinstatement fee to the Secretary of State. The court shall immediately notify the Secretary of State when a person complies with a child support order. The court orders of suspension and reinstatement must be on a form acceptable to the Secretary of State. [1997, c. 466, §26 (NEW); 1997, c. 466, §28 (AFF) .]

SECTION HISTORY

1997, c. 466, §26 (NEW). 1997, c. 466, §28 (AFF).

§2604. GARNISHMENT OF MILITARY RETIREMENT PAY

Spouses and ex-spouses of retired military personnel may garnish by order of the court up to 50% of the disposable retired or retainer pay to satisfy child support orders and spousal support orders. This section applies regardless of the date of the child support order or spousal support order or the residence of the spouse or ex-spouse. For purposes of this section, "disposable retired or retainer pay" means the total monthly retired or retainer pay to which a retired military person is entitled, other than the retired pay of a member retired for disability under 10 United States Code, Chapter 61, less amounts excluded by 10 United States Code, Chapter 71, Section 1408. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2605. ORDERS RELATING TO THE RECEIPT OF PUBLIC ASSISTANCE OR SUPPORT ENFORCEMENT SERVICES

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Public assistance" means public assistance as provided under Title 22, section 3173, 3271, 3762 or 3790. [1997, c. 530, Pt. A, §4 (AMD) .]

B. "Support enforcement services" means the services provided by the department under section 2103. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

C. "Support order" means a decree or order for support of a child, for support pending a divorce action or for alteration of a custody or support order. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

D. "Support payments" means money ordered to be paid directly to a parent for the support of a child. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

[1997, c. 530, Pt. A, §4 (AMD) .]

2. Pleading public assistance or support enforcement services. In an action to establish a support order, enforce a support order, amend a support order or to collect support arrearages, if the child is receiving or has received public assistance in a relevant time period, the party bringing the action shall affirmatively plead that fact. If the party is receiving support enforcement services, the party shall affirmatively plead that fact.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

3. Notice to State. In an action to establish or vacate a paternity order or support order, enforce a support order, amend a support order or to collect support arrearages, if the action relates to a period when the child has received, is receiving or will receive public assistance or the party is receiving support enforcement services pursuant to section 2103, the party bringing the action must send a copy of the motion or petition and all accompanying documents by ordinary mail to the department when the motion or petition is filed with the court. If the party bringing the action fails to comply with this subsection, the court may allow the department additional time to file all necessary pleadings.

[2001, c. 554, §15 (AMD) .]

4. Health insurance. If a support order contains an order for a parent to provide health, medical or hospital insurance coverage and if the insured child is receiving public assistance, then the insuring parent shall provide the department with proof of the insurance coverage within 15 days of receipt of a copy of the order and with written notice of any change in that coverage within 15 days of the change.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

5. State reimbursement. If a child is receiving public assistance, the support order must require that support payments be made to the department for the period of public assistance.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 530, §A4 (AMD). 2001, c. 554, §15 (AMD).

§2606. DISCOVERY OF PAST INCOME IN DEPARTMENT SUPPORT ENFORCEMENT CASES

The responsible parent has an obligation to supply evidence regarding past income in order to calculate the debt owed the department or an applicant for services under section 2103 if the evidence is reasonably available. A request for evidence regarding past income may be made through a document request pursuant to the Maine Rules of Civil Procedure, Rule 34. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

Failure to provide the evidence in the time period set forth in the Maine Rules of Civil Procedure, Rule 34, absent a showing of good cause for failure to do so or notification to the department of good faith attempts to secure the information, allows the court to draw any reasonable inference from the evidence available, including an inference that the responsible parent had a greater earning capacity than the average weekly wage of a worker in this State as defined by the most recent Department of Labor statistics. This remedy is in addition to remedies available under rules of discovery. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2607. MODIFICATION OF SUPPORT ORDER

Modification of child support orders is governed by section 2009. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2608. EFFECT AND IMPLEMENTATION OF HEALTH INSURANCE OBLIGATIONS; FAILURE OF RESPONSIBLE PARTY TO COMPLY

1. Failure to obtain insurance. If an obligated parent fails to acquire health insurance coverage as required under section 1653, that parent is liable for any expenses incurred for that parent's dependent children that would have been paid by the insurance coverage, regardless of who has incurred the expenses. Incurred liability may be enforced as a child support debt under chapter 65, subchapter II, article 3 or by judicial action.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Direct payment; parental authorization. Upon receipt of a written authorization from an obligated parent to an insurer to make health insurance payments for that parent's dependent children to the obligee, the insurer shall make all payments directly to the obligee until the authorization is withdrawn. Upon receipt of such authorization from the obligated parent, the obligee is deemed subrogated to the rights of the obligated parent under the insurance policy for the children.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

3. Direct payment; court order. Upon receipt of a copy of the court order establishing the obligation of an obligated parent to provide health insurance coverage for that parent's dependent children, and of a demand in writing for the health insurance coverage from the obligee, the insurer shall make all health insurance payments for the children directly to the obligee until otherwise notified by the obligee. In all such cases, the obligee is deemed subrogated to the rights of the obligated parent under the insurance policy for the children.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§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. [1997, c. 537, §49 (NEW); 1997, c. 537, §62 (AFF).]

SECTION HISTORY

1997, c. 537, §49 (NEW). 1997, c. 537, §62 (AFF).

Subchapter 4: INCOME WITHHOLDING HEADING:
PL 1995, C. 694, PT. B, §2 (NEW); PT. E, §2 (AFF)

§2651. INCOME WITHHOLDING

1. Immediate income withholding. Every support order established or modified under this Title or Title 22 is subject to immediate income withholding in accordance with the requirements of this subchapter, unless the court finds good cause or approves an alternative arrangement as provided in section 2657.

[2011, c. 528, §1 (AMD) .]

2. Immediate income withholding; modification of orders. Upon the motion of an obligee, an obligor or the department, the court shall modify a support order issued before October 13, 1993 to provide for immediate income withholding.

[2011, c. 528, §1 (AMD) .]

3. Immediate income withholding; implementation of orders. Immediate income withholding may be implemented by the department for a recipient of the department's support enforcement services, by a support obligee who does not receive the department's support enforcement services or by a support obligor. Immediate income withholding is implemented by serving an attested copy of the support order, along with the notice required under section 2655, upon the obligor's payor of income. Notwithstanding this subsection, the department may implement immediate income withholding by serving the notice required under section 2655 upon the obligor's payor of income without providing an attested copy of the support order.

[2011, c. 528, §1 (AMD) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2011, c. 528, §1 (AMD) .

§2652. PROVISIONS OF CHILD SUPPORT ORDER

Except as provided in section 2657, a child support order must provide that the obligor is subject to immediate income withholding from the obligor's income of amounts payable as child support, effective from the date of the support order, regardless of whether child support payments by the obligor are past due. The support order must include: [2011, c. 528, §2 (AMD) .]

1. Amount withheld. The amount of income to be withheld for payment of the obligor's current parental support obligation;

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Department member number.

[2011, c. 528, §2 (RP) .]

3. Payor instructions.

[2011, c. 528, §2 (RP) .]

3-A. Notice about implementing income withholding. Notice that immediate income withholding can only be implemented by serving an attested copy of the support order, along with the notice required under section 2655, upon the obligor's payor of income. Notwithstanding this subsection, the department may implement immediate income withholding by serving the notice required under section 2655 upon the obligor's payor of income without providing an attested copy of the support order;

[2011, c. 528, §2 (NEW) .]

3-B. Instructions. Instructions on where to obtain the payor notice required under section 2655;

[2011, c. 528, §2 (NEW) .]

4. Notice regarding collection of arrearages. A notice that income withholding may be used to collect arrearages in addition to current support;

[2011, c. 528, §2 (AMD) .]

5. Limitation on withholding. A notice that the amount of the withholding may not exceed the limitations imposed by 15 United States Code, Section 1673(b); and

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

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

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 537, §50 (AMD). 1997, c. 537, §62 (AFF). 2011, c. 528, §2 (AMD).

§2653. ADMINISTERING AGENCY

The department shall adopt and administer procedures to receive, document and distribute all support payments collected pursuant to this subchapter. The commissioner may establish by rule a fee for use of these services. Except as provided in section 2103, subsections 3 and 3-A, the department shall retain all fees and apply them toward the administration of the division of support enforcement and recovery. [2011, c. 477, Pt. L, §4 (AMD).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2011, c. 477, Pt. L, §4 (AMD).

§2654. PAYOR DUTY

A payor of income to an obligor named in a support order subject to immediate withholding issued under this subchapter shall comply with the provisions of the order upon receipt of the notice required under section 2655. 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 7 business days from the date of withholding. [2011, c. 528, §3 (AMD).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 669, §10 (AMD). 2011, c. 528, §3 (AMD).

§2655. PAYOR NOTICE

The department shall make available to the court and the public a payor notice, which also constitutes an income withholding order, that conforms to standard formats prescribed by the federal Secretary of Health and Human Services and complies with the requirements of the Social Security Act, Title IV-D and the regulations issued under that Act. [2011, c. 528, §4 (AMD).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2011, c. 528, §4 (AMD).

§2656. PAST-DUE SUPPORT

1. Withholding order. Upon meeting the conditions of this section, the department or an obligee may use an income withholding order issued under this subchapter to collect past-due support. Past-due support may be collected in addition to or apart from current support. Notwithstanding the provisions of this section, the court may order payment of past-due support by income withholding upon a determination by the court of the amount past due. If the court so orders, the department or obligee need not proceed in accordance with this section and may issue the withholding order to collect the past-due support immediately.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Collection of past-due support by department. Before the department may implement an income withholding order issued under this section to collect past-due support, the department must establish the amount of support past due, unless the amount has been established by judicial or administrative action, agreement of the parties or by operation of law.

A. If the obligor's debt for past-due support has been established by judicial or administrative action, agreement of the parties or by operation of law, the department shall serve the income withholding order upon the obligor's payor of income to collect the past-due support. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. If the obligor's debt for past-due support is not established, the department may establish the amount past due by proceeding under section 2352, by asking the court to determine the amount past due or by reaching agreement with the obligor as to the amount past due. Once the obligor's debt for past-due support has been established, the department shall serve the income withholding order upon the obligor's payor of income to collect the past-due support. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

3. Collection of past-due support by private action. To collect past-due support by an income withholding order issued under this subchapter, an obligee who does not receive support enforcement services from the department must:

A. Determine that the amounts payable under the support order are equal to or greater than the amount due for 30 days; and [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. Serve written notice of the obligee's determination of past-due support upon the obligor at least 20 days before service of the determination of past-due support and a copy of the income withholding order upon the obligor's payor of income. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

An obligee may serve an income withholding order upon the obligor's payor of income 21 days after service of the obligee's determination of past-due support upon the obligor unless the obligor files a motion for determination of past-due support with the court and an ex parte request for a stay of withholding in

accordance with subsection 4. If the obligor does not file a motion for determination of past-due support with the court and request the court to issue an ex parte stay of withholding, the obligee may serve a copy of the obligee's determination of past-due support and a copy of the withholding order upon the obligor's payor of income. The obligee shall send copies of the determination of past-due support and the withholding order served upon the payor of income to the department by regular mail at the time of service. Upon receipt of the copies, the department shall issue a letter to the obligor and obligee that confirms receipt, provides a support enforcement case number to identify payments and explains the department's role as the administering agency.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

4. Stay. The court may grant a stay of the withholding of past-due support claimed upon request of the obligor as long as the obligor timely files a motion for determination of past-due support. A stay issued by the court under this subsection must expire in 60 days and may be reissued only upon a showing by the obligor that the obligor has made reasonable efforts to obtain a hearing on the motion for determination of past-due support during the stay.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2657. GOOD CAUSE; ALTERNATIVE ARRANGEMENTS

The court may elect not to render a child support order subject to immediate income withholding under this subchapter if: [2011, c. 528, §5 (AMD).]

1. Written agreement. A written agreement between the parties providing an alternative arrangement is filed with and approved by the court; or

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Demonstration of good cause. A party demonstrates and the court finds that there is good cause not to require immediate income withholding. For purposes of this subsection, a finding of good cause by the court must be based on a determination that immediate income withholding would not be in the best interest of the child and a showing by the responsible parent that any previously ordered support was paid timely. The court shall explain the basis for a finding of good cause in the support order.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2011, c. 528, §5 (AMD).

§2658. SERVICE OF PROCESS

Service under this subchapter must be made in the manner provided for service of summons by the Maine Rules of Civil Procedure, Rule 4. For purposes of this section, this service must be deemed to be an action pursuant to Chapter XIII of the Maine Rules of Civil Procedure. When the department is providing child support services, personal service within the State of an income withholding order may be made by an authorized representative of the commissioner. [2009, c. 290, §33 (AMD).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2009, c. 290, §33 (AMD).

§2659. DURATION OF WITHHOLDING

1. Ended or released. Immediate income withholding under a support order is binding upon an obligor's payor of income until:

A. The court orders withholding ended; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. If the withholding was implemented by the obligee as a private withholding action, the obligee releases the payor from the terms of the order in writing; or [2011, c. 528, §6 (AMD).]

C. The department releases the payor from the terms of the support order in writing. The department shall issue a release to end immediate income withholding if the department is unable to forward funds to the obligee for 3 months, in which case the department shall return the funds to the obligor. [2011, c. 528, §6 (AMD).]

[2011, c. 528, §6 (AMD) .]

2. Support paid; refund. The department, or obligee if the obligee implemented the withholding as a private action, shall issue promptly a release of the withholding provisions of the support order in all cases in which there is no longer a current support obligation and all past-due support has been paid. The department or obligee, as applicable, shall refund the obligor amounts withheld improperly because a release is not issued timely. An obligee is liable to the department for amounts received from the department that the obligee is not entitled to receive.

Income withholding ordered under this subchapter may not be released or ended if the obligor has a current parental support obligation or owes a debt for past-due support, unless the court finds good cause or approves an alternative arrangement for payment of support in accordance with section 2657.

[2011, c. 528, §6 (AMD) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2011, c. 528, §6 (AMD).

§2660. PRIORITY OF ORDER

Notwithstanding any other provision of law, immediate income withholding ordered under this subchapter has priority over any previously filed attachment, execution, garnishment or assignment of income that is not made for the purpose of enforcing or paying child or spousal support. [2011, c. 528, §7 (AMD).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2011, c. 528, §7 (AMD).

§2661. NOTICE OF TERMINATION

When a payor of income is unable to continue withholding from an obligor's income because the relationship between the payor and obligor ends, the payor shall send the department a written notice of termination within 15 days. The notice must include: [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

1. Obligor's identification. The obligor's name, last known address and social security number;

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Department case number. The obligor's department support enforcement case number;

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

3. Termination date. The date of termination of the relationship; and

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

4. New payor. If known, the name and address of a new payor of income to the obligor.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2662. PAYOR LIABILITY

Upon service of the notice required under section 2655, a payor is liable for any income that the payor knowingly fails to withhold and send to the department within 7 business days of the day on which the obligor is usually paid. The department, or obligee if the obligee implemented the withholding 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 support order and for the imposition of any of the civil penalties provided for in this section, plus attorney's fees and court costs. [2011, c. 528, §8 (AMD) .]

1. Failure to withhold. A payor who knowingly fails to withhold income when income is usually paid to the obligor commits a civil violation for which a forfeiture not to exceed \$100 for each failure to withhold may be adjudged.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Failure to send income withheld. A payor who knowingly fails to send income withheld to the department within 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.

[1997, c. 669, §12 (AMD) .]

3. Failure to notify. A payor who knowingly fails to send the notification required by section 2661 commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

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

[2011, c. 528, §9 (AMD) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 669, §§11,12 (AMD). 2011, c. 528, §§8, 9 (AMD).

§2663. PAYOR FEE

The commissioner may establish by rule a fee for the administrative cost of each withholding that a payor may deduct in addition to the amount withheld for support. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2664. COPIES

The clerk of the court shall send to the department a copy of each order in which a child support obligation is established or modified. [2011, c. 528, §10 (AMD).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2011, c. 528, §10 (AMD).

§2665. APPLICATION FOR SERVICES

The department shall furnish and the clerk of the court shall make available to all individuals awarded child support application forms and blank contracts for the department's support enforcement services. The department shall also furnish the clerk with forms that enable an individual to refuse services. The clerk shall send to the department all application forms, contracts and refusal forms submitted together with the attested copies of the orders that the clerk is required to send the department under section 2664. Each individual who is awarded child support by the court must complete either the application form and contract or the form for refusal of services. The court shall inform a person who is awarded child support that that person must complete either the application and contract for services or the form to refuse services and submit them to the clerk. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2666. SPOUSAL SUPPORT

Awards for spousal support are subject to immediate income withholding under this subchapter if the award is for a period during which child support is awarded. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2667. PAYOR IMMUNITY

A payor of income who honors a child support order subject to income withholding, an income withholding order under this subchapter or a notice under section 2655 may not be held liable by the obligor for income withheld in compliance with the order. [2011, c. 528, §11 (AMD).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2011, c. 528, §11 (AMD).

§2668. OTHER REMEDIES

Income withholding ordered under this subchapter is an additional remedy to enforce a support order and does not limit the use of other legal remedies that may be available for collection of child and spousal support. [2011, c. 528, §12 (AMD).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2011, c. 528, §12 (AMD).

§2669. RULEMAKING

The department shall adopt rules to implement its responsibilities under this subchapter. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§2670. INCOME WITHHOLDING ORDERS ISSUED BY OTHER STATES

1. Use of this State's income withholding law. When a payor receives an income withholding order issued by another state for an obligor whose principal place of employment is in this State, the payor shall apply the provisions of this subchapter when determining:

- A. The payor's fee for processing an income withholding order; [1997, c. 537, §51 (NEW); 1997, c. 537, §62 (AFF).]
- B. The maximum amount permitted to be withheld from the obligor's income; [1997, c. 537, §51 (NEW); 1997, c. 537, §62 (AFF).]
- C. The time in which the payor must implement the income withholding order and forward the child support payment; [1997, c. 537, §51 (NEW); 1997, c. 537, §62 (AFF).]
- D. The priorities for withholding and allocating income withheld for multiple child support obligees; and [1997, c. 537, §51 (NEW); 1997, c. 537, §62 (AFF).]
- E. Any withholding terms or conditions not specified in the order. [1997, c. 537, §51 (NEW); 1997, c. 537, §62 (AFF).]

[2009, c. 290, §34 (AMD) .]

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.

[1997, c. 537, §51 (NEW); 1997, c. 537, §62 (AFF) .]

SECTION HISTORY

1997, c. 537, §51 (NEW). 1997, c. 537, §62 (AFF). 2009, c. 290, §34 (AMD).

§2671. STANDARD FORMAT OF ORDERS AND NOTICES

(REPEALED)

SECTION HISTORY

1997, c. 537, §52 (NEW). 1997, c. 537, §62 (AFF). 2011, c. 528, §13 (RP).

§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. [1997, c. 537, §52 (NEW); 1997, c. 537, §62 (AFF).]

SECTION HISTORY

1997, c. 537, §52 (NEW). 1997, c. 537, §62 (AFF).

§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. [1997, c. 537, §52 (NEW); 1997, c. 537, §62 (AFF).]

SECTION HISTORY

1997, c. 537, §52 (NEW). 1997, c. 537, §62 (AFF).

§2674. MAXIMUM AMOUNT PERMITTED TO BE WITHHELD

The maximum amount permitted to be withheld from the obligor's income must be determined in accordance with section 2356. [2009, c. 290, §35 (NEW).]

SECTION HISTORY

2009, c. 290, §35 (NEW).

§2675. ALLOCATING INCOME WITHHELD FOR MULTIPLE CHILD SUPPORT OBLIGEES

A payor of earnings that receives 2 or more withholding orders for the purpose of enforcing or paying a child support obligation with respect to the earnings of the same obligor shall withhold the full amount of all current support obligations before withholding the obligor's support arrear. If the payor is prohibited by section 2356 from withholding the full amount of current support obligations, the payor satisfies the terms of the orders if the payor withholds a pro rata amount of current support pursuant to each order. If the payor is prohibited by this section or section 2356 from withholding the full amount of support arrear, the payor satisfies the terms of the orders if the payor withholds a pro rata amount of support arrear pursuant to each order. [2009, c. 290, §36 (NEW).]

SECTION HISTORY

2009, c. 290, §36 (NEW).

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