

§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 parents 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.

[PL 2015, c. 296, Pt. C, §21 (AMD); PL 2015, c. 296, Pt. D, §1 (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 [PL 1997, c. 466, §12 (NEW); PL 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. [PL 1997, c. 466, §12 (NEW); PL 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.

[PL 1997, c. 466, §12 (NEW); PL 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.

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

2. Notice. 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; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 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; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 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; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 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; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 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; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 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 [PL 2009, c. 158, §4 (AMD).]

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

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.

[PL 2009, c. 158, §§4, 5 (AMD); PL 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.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 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.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 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.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 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.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 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; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 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; [PL 1997, c. 466, §13 (AMD); PL 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; [PL 1997, c. 466, §13 (AMD); PL 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 [PL 1997, c. 466, §14 (NEW); PL 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. [PL 1997, c. 466, §14 (NEW); PL 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.

[PL 1997, c. 466, §§13, 14 (AMD); PL 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.

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

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

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 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.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 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.

[PL 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; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- B. The number of obligors served notice under this section who request a hearing; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 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; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 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 [PL 1995, c. 694, Pt. B, §2 (NEW); PL 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. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
[PL 1995, c. 694, Pt. B, §2 (NEW); PL 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.
[PL 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.
[PL 2007, c. 448, §6 (NEW).]

SECTION HISTORY

PL 1995, c. 694, §B2 (NEW). PL 1995, c. 694, §E2 (AFF). PL 1997, c. 466, §§12-14 (AMD). PL 1997, c. 466, §28 (AFF). PL 2003, c. 20, §K1 (AMD). PL 2003, c. 689, §B6 (REV). PL 2007, c. 448, §§5, 6 (AMD). PL 2009, c. 158, §§4-6 (AMD). PL 2009, c. 290, §23 (AMD). PL 2015, c. 296, Pt. C, §21 (AMD). PL 2015, c. 296, Pt. D, §1 (AFF).

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