

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND TWELVE

H.P. 1199 - L.D. 1594

An Act To Clarify the Requirements of Income Withholding Orders

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

Sec. 1. 19-A MRSA §2651, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§2651. Income withholding

1. Immediate income withholding. ~~In any action~~ Every support order established or modified under this Title or Title 22 ~~in which a court establishes or modifies a support order, the court shall issue an~~ is subject to immediate income withholding ~~order~~ in accordance with the requirements of this subchapter, unless the court finds good cause or approves an alternative arrangement as provided in section 2657.

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 ~~include an~~ provide for immediate income withholding ~~order~~.

3. Immediate income withholding; implementation of orders. ~~An immediate~~ Immediate income withholding ~~order~~ 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. ~~An immediate~~ Immediate income withholding ~~order~~ 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.

Sec. 2. 19-A MRSA §2652, as amended by PL 1997, c. 537, §50 and affected by §62, is further amended to read:

§2652. Provisions of child support order

~~An immediate income withholding~~ Except as provided in section 2657, a child support order must provide for the 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 withholding support order must include:

1. Amount withheld. The amount of income to be withheld for payment of the obligor's current parental support obligation;

~~**2. Department member number.** The obligor's department support enforcement member number, if applicable, and if known to the court;~~

~~**3. Payor instructions.** An instruction to the payor that, upon receipt of a copy of the withholding order, the payor shall:~~

~~A. Immediately begin to withhold the obligor's income when the obligor is usually paid;~~

~~B. Send each amount withheld to the department at the address set forth in the order within 7 business days of the withholding; and~~

~~C. Identify each amount sent to the department by indicating the department's support enforcement member number, if known;~~

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;

3-B. Instructions. Instructions on where to obtain the payor notice required under section 2655;

4. Notice regarding collection of arrearages. A notice that the income withholding order may be used to collect arrearages in addition to current support;

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

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.

Sec. 3. 19-A MRSA §2654, as amended by PL 1997, c. 669, §10, is further amended to read:

§2654. Payor duty

A payor of income to an obligor named in a support order subject to immediate withholding order issued under this subchapter shall comply with the provisions of the withholding order upon receipt of a copy of the order 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.

Sec. 4. 19-A MRSA §2655, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§2655. Payor notice

The department shall ~~develop and~~ 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. ~~Whenever the department, an obligee or an obligor implements a withholding order issued under this subchapter, the party that implements the withholding order shall provide the obligor's payor of income with the payor notice at the time of service of the withholding order.~~

Sec. 5. 19-A MRSA §2657, first ¶, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

The court may elect not to ~~issue an~~ render a child support order subject to immediate income withholding order under this subchapter if:

Sec. 6. 19-A MRSA §2659, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§2659. Duration of withholding

1. Ended or released. ~~An immediate~~ Immediate income withholding under a support order is binding upon an obligor's payor of income until:

- A. The court orders withholding ended;
- B. If the withholding ~~order~~ was implemented by the obligee as a private withholding action, the obligee releases the payor from the terms of the order in writing; or
- 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.

2. Support paid; refund. The department, or obligee if the obligee implemented the withholding ~~order~~ 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.

~~An income~~ Income withholding order ~~issued~~ 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.

Sec. 7. 19-A MRSA §2660, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§2660. Priority of order

Notwithstanding any other provision of law, ~~an immediate income withholding order issued~~ 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.

Sec. 8. 19-A MRSA §2662, first ¶, as amended by PL 1997, c. 669, §11, is further amended to read:

Upon service of ~~an immediate income withholding order~~ 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 order as a private action, may maintain a civil action against the payor for the income the payor does not withhold and send to the department as required by the ~~withholding support~~ order and for the imposition of any of the civil penalties provided for in this section, plus attorney's fees and court costs.

Sec. 9. 19-A MRSA §2662, sub-§4, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

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 ~~the 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.

Sec. 10. 19-A MRSA §2664, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§2664. Copies

The clerk of the court shall send to the department ~~an attested~~ a copy of each order in which a child support obligation is established or modified ~~and an attested copy of the immediate income withholding order.~~

Sec. 11. 19-A MRSA §2667, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§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.

Sec. 12. 19-A MRSA §2668, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§2668. Other remedies

~~An income~~ Income withholding ~~order issued~~ 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.

Sec. 13. 19-A MRSA §2671, as enacted by PL 1997, c. 537, §52 and affected by §62, is repealed.

In House of Representatives, 2012

Read twice and passed to be enacted.

..... Speaker

In Senate, 2012

Read twice and passed to be enacted.

..... President

Approved 2012

..... Governor