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Date: (Filing No. H-)

JUDICIARY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 407, L.D. 562, “An Act To Enhance Tribal-State Collaboration in the Enforcement of Child Support”

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 19-A MRSA §2201-A is enacted to read:

§2201-A. Notice to licensing boards and obligor; judicial review; Penobscot Nation

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

A. "Board" means any bureau, board or commission listed in Title 10, section 8001 or 8001-A, any other licenser that is affiliated with or is a part of the Department of Professional and Financial Regulation and the Department of Inland Fisheries and Wildlife.

B. "Support obligor" or "obligor" means an individual who owes a duty of support and over whom the Penobscot Nation and the Penobscot Nation Tribal Court have jurisdiction.

C. "Support order" or "order of support" means a judgment, decree or order, whether temporary, final or subject to modification, issued by the Penobscot Nation Tribal Court for the support and maintenance of a child 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.

2. Notice. The Penobscot Nation may serve notice upon a support obligor who is not in compliance with an order of support that informs the obligor of the Penobscot Nation'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 a court hearing in the Penobscot Nation Tribal Court to contest the issue of compliance;

COMMITTEE AMENDMENT

1 B. A request for hearing must be made in writing and must be received by the
2 Penobscot Nation Tribal Court within 20 days of service;

3 C. If the obligor requests a hearing within 20 days of service, the Penobscot Nation
4 will stay the action to certify the obligor to a board for noncompliance with an order of
5 support pending a hearing;

6 D. If the obligor does not request a hearing within 20 days of service and is not in
7 compliance with an order of support, the Penobscot Nation will certify the obligor to
8 the appropriate board for noncompliance with an order of support;

9 E. If the Penobscot Nation certifies the obligor to a board for noncompliance with an
10 order of support, the board must revoke the obligor's license and refuse to issue or
11 reissue a license until the obligor provides the board with a written confirmation of
12 compliance from the Penobscot Nation that states the obligor is in compliance with the
13 obligor's order of support. The notice must state that revocation by a board or a refusal
14 to reissue, renew or otherwise extend the license or certificate of authority is deemed a
15 final determination within the meaning of Title 5, section 10002; and

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

17 (1) Paying current support;

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

22 (3) Meeting the obligor's health insurance obligation, if applicable.

23 The notice must include the address and telephone number of the Penobscot Nation's
24 support enforcement office that issues the notice and a statement of the need to obtain a
25 written confirmation of compliance from that office as provided in subsection 10. The
26 Penobscot Nation shall attach a copy of the obligor's order of support to the notice. Service
27 of the notice must be made in the manner provided for service of summons by the Maine
28 Rules of Civil Procedure, Rule 4. For purposes of this subsection, support enforcement
29 action must be deemed to be an action pursuant to Chapter XIII of the Maine Rules of Civil
30 Procedure.

31 **3. Written agreement to pay past-due support.** An obligor who is presently unable
32 to pay all past-due support may come into compliance with the support order by executing
33 a written payment agreement with the Penobscot Nation and by complying with that
34 agreement. A condition of a written payment agreement must be that the obligor pay the
35 current support when due. Before a written payment agreement is executed, the obligor
36 shall:

37 A. Disclose fully to the Penobscot Nation in writing on a form prescribed by the
38 Penobscot Nation the obligor's financial circumstances, including income from all
39 sources, assets, liabilities and work history for the past year; and

40 B. Provide documentation to the Penobscot Nation concerning the obligor's financial
41 circumstances, including copies of the most recent state and federal income tax returns,
42 both personal and business, a copy of a recent pay stub representative of current income

1 and copies of other records that show the obligor's income and the present value of
2 assets held by the obligor.

3 After full financial disclosure under this subsection, the Penobscot Nation shall determine
4 the obligor's ability to pay past-due support and request the obligor to execute a written
5 payment agreement consistent with the obligor's ability to pay, not to exceed the limits on
6 income withholding in section 2356.

7 **4. Failure to comply with written agreement.** Failure to comply with a written
8 payment agreement described in subsection 3 is grounds for license revocation unless the
9 obligor notifies the Penobscot Nation that the obligor is unable to comply with the
10 agreement and provides the Penobscot Nation with evidence of the obligor's current
11 financial circumstances to support the claim. The consequences of failing to comply with
12 a written payment agreement and the requirements to avoid license revocation, if the
13 obligor cannot comply with the agreement, must be stated in the agreement. If the obligor
14 claims inability to comply with a written payment agreement, the Penobscot Nation, upon
15 motion to the Penobscot Nation Tribal Court, may request the tribal court to determine the
16 obligor's ability to pay past-due support. After notice and an opportunity for hearing, the
17 tribal court may make a finding of money due and render judgment in that amount.

18 **5. Hearing.** An obligor may request a hearing in the Penobscot Nation Tribal Court
19 upon service of the notice described in subsection 2. The request for hearing must be made
20 in writing and must be received by the Penobscot Nation Tribal Court within 20 days of
21 service. The issues that may be determined at hearing are whether the obligor is required
22 to pay support under an order of support and whether the obligor is in compliance with an
23 order of support.

24 **6. Order.** The Penobscot Nation Tribal Court shall issue an order after hearing without
25 undue delay as to whether the obligor is in compliance with the obligor's order of support.
26 The order must be based on the hearing record. The Penobscot Nation Tribal Court shall
27 send an attested copy of the order to the obligor by regular mail to the obligor's most recent
28 address of record.

29 **7. Stay.** If an obligor timely requests a hearing to contest the issue of compliance, the
30 Penobscot Nation may not certify the name of the obligor to a board for noncompliance
31 with an order of support until the Penobscot Nation Tribal Court issues an order after
32 hearing that finds the obligor is not in compliance with an order of support.

33 **8. Certification of noncompliance.** The Penobscot Nation may certify in writing to
34 the appropriate board that a support obligor is not in compliance with an order of support
35 if:

36 A. The obligor does not timely request a hearing upon service of a notice issued under
37 subsection 2 and is not in compliance with an order of support 21 days after service of
38 the notice;

39 B. The Penobscot Nation Tribal Court issues a nonappealable, final judgment that the
40 obligor is not in compliance with an order of support;

41 C. The obligor abandons a timely request for a hearing on the Penobscot Nation's
42 notice of noncompliance and is not in compliance with the support order; or

43 D. The obligor fails to comply with a written payment agreement described in
44 subsection 3, does not notify the Penobscot Nation that the obligor is unable to comply

1 with the agreement and does not provide the Penobscot Nation with evidence of the
2 obligor's current financial circumstances.

3 The Penobscot Nation shall send by regular mail a copy of a certification of noncompliance
4 filed with a board to the obligor at the obligor's most recent address of record. The
5 certification of noncompliance is prima facie evidence that the obligor is required to pay
6 support under an order of support and is not in compliance with that order of support.

7 **9. Notice from board.** A board shall notify an obligor certified by the Penobscot
8 Nation under subsection 8, without undue delay, that the obligor's application for the
9 issuance or renewal of a license may not be granted or that the obligor's license has been
10 revoked because the obligor's name has been certified by the Penobscot Nation as a support
11 obligor who is not in compliance with an order of support. The notice constitutes final
12 agency action for the purposes of judicial review under Title 5, chapter 375, subchapter 7.
13 Notwithstanding Title 5, section 11006, the Superior Court may supplement the record,
14 including records of any proceedings before the Penobscot Nation that resulted in the
15 certification under subsection 8.

16 **10. Written confirmation of compliance.** When an obligor who is served notice
17 under subsection 2 subsequently complies with the official order of support, the Penobscot
18 Nation shall provide the obligor with written confirmation that the obligor is in compliance
19 with the order of support.

20 **11. Agreements.** The Penobscot Nation and the various boards may enter into
21 agreements that are necessary to carry out the requirements of this section.

22 **12. Motion to modify order of support; stay.** This section does not prohibit a support
23 obligor from filing a motion to modify support with the Penobscot Nation Tribal Court.

24 **13. Reporting.** As soon as economically feasible and at least annually, all boards
25 subject to this section and the Department of Professional and Financial Regulation,
26 Division of Administrative Services shall provide to the Penobscot Nation specified
27 information in machine-readable or electronic form, according to standards established by
28 the Penobscot Nation, about applicants for licensure and all current licensees. The
29 Department of Professional and Financial Regulation, Office of Securities shall provide the
30 specified information for only those current licensees who are residents of this State. The
31 information to be provided must include all of the following information about the licensee:

32 A. Name;

33 B. Address of record;

34 C. Federal employer identification number or social security number;

35 D. Type of license;

36 E. Effective date of license or renewal;

37 F. Expiration date of license; and

38 G. Active or inactive status.

39 **14. Commissioner of Inland Fisheries and Wildlife report.** The Commissioner of
40 Inland Fisheries and Wildlife shall provide annually to the Penobscot Nation in machine-
41 readable or electronic form watercraft, snowmobile and all-terrain vehicle registration

1 information concerning obligors who are residents of this State. The information to be
2 provided must include all of the following information about the registrant:

3 A. Name;

4 B. Address of record;

5 C. Make, model and identification number for each watercraft registered under Title
6 12, section 13052; each snowmobile registered under Title 12, section 13104; and each
7 all-terrain vehicle registered under Title 12, section 13155;

8 D. Type of registration;

9 E. Effective date of registration or registration renewal; and

10 F. Expiration of registration.

11 **15. Subsequent reissuance, renewal or other extension of license or certificate. A**
12 **board may reissue, renew or otherwise extend the license or certificate of authority of the**
13 **obligor in accordance with the board's rules after the board receives a copy of the written**
14 **confirmation of compliance specified in subsection 10. A board may waive any applicable**
15 **requirement for reissuance, renewal or other extension if it determines that the imposition**
16 **of that requirement places an undue burden on the obligor and that waiver of the**
17 **requirement is consistent with the public interest.**

18 **Sec. 2. 19-A MRSA §2360-B** is enacted to read:

19 **§2360-B. Cooperative agreements between department and Penobscot Nation**

20 In accordance with 45 Code of Federal Regulations, Sections 302.34 and 303.107, the
21 department shall enter into one or more cooperative arrangements with the Penobscot
22 Nation governing the expedient and efficient administration and availability of the child
23 support enforcement remedies in sections 2360 and 2360-A, and any other child support
24 enforcement remedy available in this Title.'

25 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
26 number to read consecutively.

27 **SUMMARY**

28 This amendment is the majority report of the committee. It replaces the bill to clarify
29 the procedures authorizing the Penobscot Nation to enforce child support obligations
30 against obligors over which the Penobscot Nation Tribal Court has jurisdiction with regard
31 to the issuance or renewal of licenses by licensing boards and registrations of watercraft,
32 snowmobiles and all-terrain vehicles by the Department of Inland Fisheries and Wildlife.
33 It also directs the Department of Health and Human Services to enter into one or more
34 cooperative agreements with the Penobscot Nation governing the expedient and efficient
35 administration and availability of child support enforcement remedies with regard to the
36 setoff of lottery winnings and workers' compensation lump-sum settlements and any other
37 child support enforcement remedy available in the Maine Revised Statutes, Title 19-A.

38 **FISCAL NOTE REQUIRED**

39 **(See attached)**