

130th Maine Legislature
An Act To Enhance Tribal-State Collaboration in the Enforcement of Child Support
L.D.

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

Sec. 1. 19-A MRS §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, the following terms have the following meanings.

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A. "Board" means any bureau, board, or commission listed in 10 M.R.S.A. §§ 8001 or 8001-A, any other licenser that is affiliated with or is a part of the Department of Professional and Financial Regulation, and 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 has jurisdiction.

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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.

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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;

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

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

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 Penobscot Nation shall certify the obligor to the appropriate board for noncompliance with an order of support;

E. If the Penobscot Nation 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 Penobscot Nation 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

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F. 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 Penobscot Nation; and
- (3) Meeting the obligor's health insurance obligation.

The notice must include the address and telephone number of the Penobscot Nation'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 108. The Penobscot Nation 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.

32. 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 Penobscot Nation 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 Penobscot Nation in writing on a form prescribed by the Penobscot Nation the obligor's financial circumstances, including income from all sources, assets, liabilities and work history for the past year; and

B. Provide documentation to the Penobscot Nation 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.

After full disclosure, the Penobscot Nation 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.

43. Failure to comply with written agreement. Failure to comply with a written payment agreement described in subsection 3 is grounds for license revocation unless the obligor notifies the Penobscot Nation that the obligor is unable to comply with the agreement and provides the Penobscot Nation 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 cannot comply with the agreement, must be stated in the agreement. If the obligor claims inability to comply with a written payment agreement, the Penobscot Nation, upon motion to the Penobscot Nation Tribal Court, may request the tribal court to determine the obligor's ability to pay past-due support. After notice and an

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~~opportunity for hearing, the tribal court may make a finding of money due and render judgment in that amount and order execution and levy, order installment payments, order an employer or payor of earnings to make direct payments, order attachment, order any other method of enforcement that may be used in a civil action or order the judgment debtor to give security, post a bond or give some other guarantee to secure payment of the judgment.~~

54. Hearing. An obligor may request a hearing in the Penobscot Nation Tribal Court upon service of the notice described in subsection 24. The request for hearing must be made in writing and must be received by the Penobscot Nation Tribal Court within 20 days of service. 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.~~

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

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

87. Certification of noncompliance. The Penobscot Nation 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 42 and is not in compliance with an order of support 21 days after service of the notice;

B. The Penobscot Nation Tribal Court issues a ~~non-appealable, final judgment that decision after a hearing that finds~~ the obligor is not in compliance with an order of support ~~and the obligor has not appealed the the order;~~

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

D. The obligor fails to comply with a written payment agreement ~~described in subsection 3,~~ does not notify the Penobscot Nation that the obligor is unable to comply with the agreement and does not provide the Penobscot Nation with evidence of the obligor's current financial circumstances.

The Penobscot Nation 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. ~~The certification of~~

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noncompliance is prime facie evidence that the obligor is required to pay child support under an order of support and is not in compliance with that support order.

98. Notice from board. A board shall notify an obligor certified by the Penobscot Nation under subsection 87, 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 Penobscot Nation as a support obligor who is not in compliance with an order of support. The notice constitutes final agency action for the purposes of judicial review under Title 5, chapter 375, subchapter VII. Notwithstanding Title 5, section 11006, the Superior Court may supplement the record, including records of any proceedings before the Penobscot Nation that resulted in the certification under subsection 8.

109. Written confirmation of compliance. When an obligor who is served notice under subsection 42 subsequently complies with the official order of support, the Penobscot Nation shall provide the obligor with written confirmation that the obligor is in compliance with the order of support.

~~**10. Rules.** The Penobscot Nation shall adopt rules to implement and enforce the requirements of this section.~~

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

12. 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.

13. Reporting. 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 Penobscot Nation specified information in machine-readable or electronic form, according to standards established by the Penobscot Nation, 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;
- B. Address of record;
- C. Federal employer identification number or social security number;
- D. Type of license;
- E. Effective date of license or renewal;
- F. Expiration date of license; and

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G. Active or inactive status.

14. Commissioner of Inland Fisheries and Wildlife report. The Commissioner of Inland Fisheries and Wildlife shall provide annually to the Penobscot Nation in machine-readable or electronic form, according to standards established by the Penobscot Nation, watercraft, snowmobile and all-terrain vehicle 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;

B. Address of record;

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 all-terrain vehicle registered under Title 12, section 13155;

D. Type of registration;

E. Effective date of registration or registration renewal; and

F. Expiration of registration.

~~**15. Effect of noncompliance.** The Penobscot Nation, upon receipt of the licensee information referred to in subsection 13 and registration information referred to in subsection 14, 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 Penobscot Nation's designee for implementing this section and a certification by the Penobscot Nation that it has verified that the licensee or registrant is a support obligor subject to this section. When the Penobscot Nation notifies a board under this subsection, the Penobscot Nation 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 Penobscot Nation until the board receives a copy of the written confirmation of compliance specified in subsection 9.~~

156. 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 109. 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.

Sec. 2. 19-A MRS §2360-B is enacted to read:

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§2360-B. Setoff of debts against lottery winnings; Penobscot Nation Cooperative agreements between Department and Penobscot Nation

~~1. **Notice to Bureau of Alcoholic Beverages and Lottery Operations.** The Penobscot Nation 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 Penobscot Nation 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 Penobscot Nation 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 Penobscot Nation Tribal Court 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 order of the Penobscot Nation Tribal Court is final as to the debt owed. If, within 90 days of the notice of intended setoff to the winner, the Penobscot Nation 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 Penobscot Nation within 90 days of the notice of intended setoff to the winner, the bureau shall release all winnings to the winner.~~

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

~~In accordance with Title 45 of the Code of Federal Regulations, Sections 302.34 and 303.107, the Department shall enter into one or more cooperative arrangements with the Penobscot Nation governing the expedient and efficient administration and availability of the child support enforcement remedies in sections 2360 and 2360-A. The Department may also enter into a cooperative arrangement with the Penobscot Nation for the administration and availability of any other child support enforcement remedy in this Title.~~

~~Sec. 3. 19-A MRSA §2360-C is enacted to read:~~

§2360-C. Lump sum settlement; workers' compensation claims; Penobscot Nation

~~On a monthly basis, the Penobscot Nation 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 Penobscot Nation 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 Penobscot Nation child support debts that have been liquidated by judicial or administrative action. If the person is on the list, the board shall notify the Penobscot Nation of the pending settlement and inform the person of the notification to the Penobscot Nation.~~

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SUMMARY

This bill enacts new sections providing authority to the Penobscot Nation that is parallel to the authority the Department of Health and Human Services has to enforce child support with regard to the issuance or renewal of licenses by licensing boards and registrations of watercraft, snowmobiles and all-terrain vehicles by the Department of Inland Fisheries and Wildlife. It also provides for ~~parallel~~ [cooperative agreements regarding](#) setoffs of debts against lottery winnings and lump-sum workers' compensation payments.