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Legislative Document

No. 562

H.P. 407

House of Representatives, February 24, 2021

**An Act To Enhance Tribal-State Collaboration in the Enforcement
of Child Support**

Received by the Clerk of the House on February 22, 2021. Referred to the Committee on
Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative TALBOT ROSS of Portland.

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

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

3 **§2201-A. Notice to licensing boards and obligor; judicial review; Penobscot Nation**

4 **1. Notice.** The Penobscot Nation may serve notice upon a support obligor who is not
5 in compliance with an order of support that informs the obligor of the Penobscot Nation's
6 intention to submit the obligor's name to the appropriate board as a licensee who is not in
7 compliance with an order of support. The notice must inform the obligor that:

8 A. The obligor may request a court hearing in the Penobscot Nation Tribal Court to
9 contest the issue of compliance;

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

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

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

18 E. If the Penobscot Nation certifies the obligor to a board for noncompliance with an
19 order of support, the board must revoke the obligor's license and refuse to issue or
20 reissue a license until the obligor provides the board with a written confirmation of
21 compliance from the Penobscot Nation that states the obligor is in compliance with the
22 obligor's order of support. A revocation by an agency or a refusal by an agency to
23 reissue, renew or otherwise extend the license or certificate of authority is deemed a
24 final determination within the meaning of Title 5, section 10002; and

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

26 (1) Paying current support;

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

31 (3) Meeting the obligor's health insurance obligation.

32 The notice must include the address and telephone number of the Penobscot Nation's
33 support enforcement office that issues the notice and a statement of the need to obtain a
34 written confirmation of compliance from that office as provided in subsection 8. The
35 Penobscot Nation shall attach a copy of the obligor's order of support to the notice. Service
36 of the notice must be made in the manner provided for service of summons by the Maine
37 Rules of Civil Procedure, Rule 4. For purposes of this subsection, this must be deemed to
38 be an action pursuant to Chapter XIII of the Maine Rules of Civil Procedure.

39 **2. Written agreement to pay past-due support.** An obligor who is presently unable
40 to pay all past-due support may come into compliance with the support order by executing
41 a written payment agreement with the Penobscot Nation and by complying with that
42 agreement. A condition of a written payment agreement must be that the obligor pay the

1 current child support when due. Before a written payment agreement is executed, the
2 obligor shall:

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

6 B. Provide documentation to the Penobscot Nation concerning the obligor's financial
7 circumstances, including copies of the most recent state and federal income tax returns,
8 both personal and business, a copy of a recent pay stub representative of current income
9 and copies of other records that show the obligor's income and the present value of
10 assets held by the obligor.

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

14 **3. Failure to comply with written agreement.** Failure to comply with a written
15 payment agreement is grounds for license revocation unless the obligor notifies the
16 Penobscot Nation that the obligor is unable to comply with the agreement and provides the
17 Penobscot Nation with evidence of the obligor's current financial circumstances to support
18 the claim. The consequences of failing to comply with a written payment agreement and
19 the requirements to avoid license revocation, if the obligor cannot comply with the
20 agreement, must be stated in the agreement. If the obligor claims inability to comply with
21 a written payment agreement, the Penobscot Nation, upon motion to the Penobscot Nation
22 Tribal Court, may request the court to determine the obligor's ability to pay past-due
23 support. After notice and an opportunity for hearing, the court may make a finding of
24 money due, render judgment in that amount and order execution and levy, order installment
25 payments, order an employer or payor of earnings to make direct payments, order
26 attachment, order any other method of enforcement that may be used in a civil action or
27 order the judgment debtor to give security, post a bond or give some other guarantee to
28 secure payment of the judgment.

29 **4. Hearing.** An obligor may request a hearing in the Penobscot Nation Tribal Court
30 upon service of the notice described in subsection 1. The request for hearing must be made
31 in writing and must be received by the Penobscot Nation Tribal Court within 20 days of
32 service. The issues that may be determined at hearing are limited to whether the obligor is
33 required to pay child support under an order of support and whether the obligor is in
34 compliance with an order of support. The obligor may raise additional issues, including
35 the reasonableness of a payment agreement in light of the obligor's current circumstances,
36 to be preserved for appeal.

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

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

1 **7. Certification of noncompliance.** The Penobscot Nation may certify in writing to
2 the appropriate board that a support obligor is not in compliance with an order of support
3 if:

4 A. The obligor does not timely request a hearing upon service of a notice issued under
5 subsection 1 and is not in compliance with an order of support 21 days after service of
6 the notice;

7 B. The Penobscot Nation issues a decision after a hearing that finds the obligor is not
8 in compliance with an order of support and the obligor has not appealed the the order;

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

11 D. The obligor fails to comply with a written payment agreement, does not notify the
12 Penobscot Nation that the obligor is unable to comply with the agreement and does not
13 provide the Penobscot Nation with evidence of the obligor's current financial
14 circumstances.

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

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

22 **9. Written confirmation of compliance.** When an obligor who is served notice under
23 subsection 1 subsequently complies with the official order of support, the Penobscot Nation
24 shall provide the obligor with written confirmation that the obligor is in compliance with
25 the order of support.

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

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

31 **12. Motion to modify order of support; stay.** This section does not prohibit a support
32 obligor from filing a motion to modify support with the court.

33 **13. Reporting.** As soon as economically feasible and at least annually, all boards
34 subject to this section and the Department of Professional and Financial Regulation,
35 Division of Administrative Services shall provide to the Penobscot Nation specified
36 information in machine-readable or electronic form, according to standards established by
37 the Penobscot Nation, about applicants for licensure and all current licensees. The
38 Department of Professional and Financial Regulation, Office of Securities shall provide the
39 specified information for only those current licensees that are residents of this State. The
40 information to be provided must include all of the following information about the licensee:

41 A. Name;

42 B. Address of record;

- 1 C. Federal employer identification number or social security number;
- 2 D. Type of license;
- 3 E. Effective date of license or renewal;
- 4 F. Expiration date of license; and
- 5 G. Active or inactive status.

6 **14. Commissioner of Inland Fisheries and Wildlife report.** The Commissioner of
7 Inland Fisheries and Wildlife shall provide annually to the Penobscot Nation in machine-
8 readable or electronic form, according to standards established by the Penobscot Nation,
9 watercraft, snowmobile and all-terrain vehicle registration information concerning obligors
10 who are residents of this State. The information to be provided must include all of the
11 following information about the registrant:

- 12 A. Name;
- 13 B. Address of record;
- 14 C. Make, model and identification number for each watercraft registered under Title
15 12, section 13052; each snowmobile registered under Title 12, section 13104; and each
16 all-terrain vehicle registered under Title 12, section 13155;
- 17 D. Type of registration;
- 18 E. Effective date of registration or registration renewal; and
- 19 F. Expiration of registration.

20 **15. Effect of noncompliance.** The Penobscot Nation, upon receipt of the licensee
21 information referred to in subsection 13 and registration information referred to in
22 subsection 14, shall identify and notify each board and the Department of Professional and
23 Financial Regulation, Division of Administrative Services, of the names of their licensees
24 and registrants who are support obligors subject to this section. The notice must include
25 the social security number and address of the support obligor, the name, address and
26 telephone number of the Penobscot Nation's designee for implementing this section and a
27 certification by the Penobscot Nation that it has verified that the licensee or registrant is a
28 support obligor subject to this section. When the Penobscot Nation notifies a board under
29 this subsection, the Penobscot Nation shall provide adequate notice of its action to the
30 obligor. The notice must inform the obligor of the right to request a hearing on the issue
31 of whether the obligor is in compliance with an order of support. The board may not issue
32 or renew a license or registration to a person whose name is on the most recent list from
33 the Penobscot Nation until the board receives a copy of the written confirmation of
34 compliance specified in subsection 9.

35 **16. Subsequent reissuance, renewal or other extension of license or certificate.**
36 The board may reissue, renew or otherwise extend the license or certificate of authority in
37 accordance with the board's rules after the board receives a copy of the written confirmation
38 of compliance specified in subsection 9. A board may waive any applicable requirement
39 for reissuance, renewal or other extension if it determines that the imposition of that
40 requirement places an undue burden on the person and that waiver of the requirement is
41 consistent with the public interest.

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

1 **§2360-B. Setoff of debts against lottery winnings; Penobscot Nation**

2 **1. Notice to Bureau of Alcoholic Beverages and Lottery Operations.** The
3 Penobscot Nation shall periodically notify the Department of Administrative and Financial
4 Services, Bureau of Alcoholic Beverages and Lottery Operations, referred to in this section
5 as "the bureau," of all persons who owe the Penobscot Nation a child support debt that has
6 been liquidated by judicial or administrative action. Prior to paying any state lottery
7 winnings that must be paid directly by the bureau, the bureau shall determine whether the
8 lottery winner is on the list of persons who owe a child support debt to the Penobscot Nation
9 that has been liquidated by judicial or administrative action. If the winner is on a list of
10 persons who owe child support debts, the bureau shall suspend payment of winnings and
11 notify the winner of its intention to offset the winner's child support debt against the
12 winnings. The bureau shall notify the winner of the winner's right to request a hearing
13 before the Penobscot Nation Tribal Court within 15 days of the winner's receipt of that
14 notice. The hearing is limited to the questions of whether the debt is liquidated and whether
15 post-liquidation events have affected the winner's liability. The order of the Penobscot
16 Nation Tribal Court is final as to the debt owed. If, within 90 days of the notice of intended
17 setoff to the winner, the Penobscot Nation certifies to the bureau that the winner did not
18 make a timely request for hearing or that a hearing was held and the debt was upheld, the
19 bureau shall offset the liquidated debt against the winnings due to the winner. Any
20 remaining winnings are paid to the winner. If the bureau does not hear from the Penobscot
21 Nation within 90 days of the notice of intended setoff to the winner, the bureau shall release
22 all winnings to the winner.

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

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

27 **§2360-C. Lump-sum settlement; workers' compensation claims; Penobscot Nation**

28 On a monthly basis, the Penobscot Nation shall notify the Workers' Compensation
29 Board, referred to in this section as "the board," of the names and social security numbers
30 of all persons who owe the Penobscot Nation child support debts that have been liquidated
31 by judicial or administrative action. Before approving any lump-sum settlement, the board
32 shall determine whether the person receiving the settlement is on the list of persons who
33 owe to the Penobscot Nation child support debts that have been liquidated by judicial or
34 administrative action. If the person is on the list, the board shall notify the Penobscot
35 Nation of the pending settlement and inform the person of the notification to the Penobscot
36 Nation.

37 **SUMMARY**

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