

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

—
H.P. 407 - L.D. 562

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

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

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 licensor 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;

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

C. If the obligor requests a hearing within 20 days of service, the Penobscot Nation will 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 will 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. The notice must state that revocation by a board or a refusal 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

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, if applicable.

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 10. 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, support enforcement action must be deemed to be an action pursuant to Chapter XIII of the Maine Rules of Civil Procedure.

3. 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 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 financial disclosure under this subsection, 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.

4. 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 opportunity for hearing, the tribal court may make a finding of money due and render judgment in that amount.

5. Hearing. An obligor may request a hearing in the Penobscot Nation Tribal Court upon service of the notice described in subsection 2. 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 whether the obligor is required to pay support under an order of support and whether the obligor is in compliance with an order of support.

6. 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.

7. 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.

8. 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 2 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 nonappealable, final judgment that the obligor is not in compliance with an order of support;

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

9. Notice from board. A board shall notify an obligor certified by the Penobscot Nation under subsection 8, 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 7. 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.

10. Written confirmation of compliance. When an obligor who is served notice under subsection 2 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.

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

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 Penobscot Nation Tribal 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 who 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
- 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 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. Subsequent reissuance, renewal or other extension of license or certificate. A board may reissue, renew or otherwise extend the license or certificate of authority of the obligor in accordance with the board's rules after the board receives a copy of the written confirmation of compliance specified in subsection 10. 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 obligor and that waiver of the requirement is consistent with the public interest.

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

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

In accordance with 45 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, and any other child support enforcement remedy available in this Title.