



125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 318

S.P. 98

In Senate, February 8, 2011

An Act To Require Consideration of Higher Education for Children during Divorce Deliberations

Reference to the Committee on Judiciary suggested and ordered printed.

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator SULLIVAN of York.
Cosponsored by Representative NELSON of Falmouth.

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

2 **Sec. 1. 19-A MRSA §1001**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected
3 by Pt. E, §2, is amended to read:

4 **§1001. Parental rights and responsibilities**

5 The court entering an order for divorce may make an order awarding parental rights
6 and responsibilities with respect to a minor child of the parties in accordance with chapter
7 55. Before entering an order awarding parental rights and responsibilities, the court shall
8 consider the cost of postsecondary education and how the cost will be treated once each
9 minor child of the parties reaches grade 11 in secondary school.

10 **Sec. 2. 19-A MRSA §1653, sub-§2, ¶D**, as amended by PL 2009, c. 345, §1, is
11 further amended to read:

12 D. The order of the court awarding parental rights and responsibilities must include
13 the following:

14 (1) Allocated parental rights and responsibilities, shared parental rights and
15 responsibilities or sole parental rights and responsibilities, according to the best
16 interest of the child as provided in subsection 3. An award of shared parental
17 rights and responsibilities may include either an allocation of the child's primary
18 residential care to one parent and rights of parent-child contact to the other
19 parent, or a sharing of the child's primary residential care by both parents. If
20 either or both parents request an award of shared primary residential care and the
21 court does not award shared primary residential care of the child, the court shall
22 state in its decision the reasons why shared primary residential care is not in the
23 best interest of the child;

24 (2) Conditions of parent-child contact in cases involving domestic abuse as
25 provided in subsection 6;

26 (3) A provision for child support as provided in subsection 8 or a statement of
27 the reasons for not ordering child support;

28 (4) A statement that each parent must have access to records and information
29 pertaining to a minor child, including, but not limited to, medical, dental and
30 school records and other information on school activities, whether or not the
31 child resides with the parent, unless that access is found not to be in the best
32 interest of the child or that access is found to be sought for the purpose of causing
33 detriment to the other parent. If that access is not ordered, the court shall state in
34 the order its reasons for denying that access;

35 (5) A statement that violation of the order may result in a finding of contempt
36 and imposition of sanctions as provided in subsection 7;

37 (6) A statement of the definition of shared parental rights and responsibilities
38 contained in section 1501, subsection 5, if the order of the court awards shared
39 parental rights and responsibilities; ~~and~~

1 (7) If the court appoints a parenting coordinator pursuant to section 1659, a
2 parenting plan defining areas of parental rights and responsibilities within the
3 scope of the parenting coordinator's authority; and

4 (8) For minor children once they reach grade 11 in secondary school, an
5 explanation of how the costs of postsecondary education will be addressed.

6 An order modifying a previous order is not required to include provisions of the
7 previous order that are not modified.

8 **Sec. 3. 19-A MRSA §2006, sub-§8, ¶G**, as amended by PL 2009, c. 290, §15, is
9 further amended to read:

10 G. With regard to any initial or modified child support order that affects more than
11 one child and that was entered before January 18, 2005, unless that order states the
12 manner in which the order must be modified upon the events listed in subparagraphs
13 (1) to (4), that the order be automatically modified pursuant to this paragraph to
14 address any of the following events:

- 15 (1) Any child reaches 18 years of age and has graduated from secondary school;
- 16 (2) Any child reaches 19 years of age without having graduated from secondary
17 school;
- 18 (3) Any child obtains an order of emancipation; or
- 19 (4) Any child dies.

20 As of the date of an event listed in subparagraphs (1) to (4), the total child support
21 amount stated in the order must be decreased by the child support amount assigned to
22 that child in the worksheets accompanying the child support order or as set forth in
23 the order; ~~and~~

24 **Sec. 4. 19-A MRSA §2006, sub-§8, ¶H**, as enacted by PL 2009, c. 290, §16, is
25 amended to read:

26 H. A requirement that private health insurance must be provided for the benefit of
27 the child, if private health insurance for the child is available at reasonable cost. If
28 private health insurance for the child is not available at reasonable cost at the time of
29 the hearing, a requirement that private health insurance for the child must be provided
30 effective immediately upon being available at reasonable cost; and

31 **Sec. 5. 19-A MRSA §2006, sub-§8, ¶I** is enacted to read:

32 I. With respect to any minor children once they reach grade 11 in secondary school,
33 an explanation of how the costs of postsecondary education will be addressed.

34 SUMMARY

35 This bill requires that divorce decrees and other orders establishing parental rights
36 and responsibilities include an explanation of how the costs of postsecondary education
37 will be addressed. The explanation is required for orders pertaining to children when the
38 children reach grade 11 in secondary school.