

MAINE STATE LEGISLATURE

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EDUCATION AND CULTURAL AFFAIRS

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STATE OF MAINE

SENATE

132ND LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 893, L.D. 2192, "An Act to Protect Students by Ensuring Schools Have Complete Information About School Employees and Applicants for Employment"

Amend the bill by striking out the title and substituting the following:

'An Act Regarding School Employee Investigations'

Amend the bill by inserting after the title and before the enacting clause the following:

'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation directs the Department of Education to convene a working group to further examine the issue of investigations into the conduct of school employees and determine whether additional procedures are necessary; and

Whereas, the working group must begin its work before the 90-day period expires in order that the work may be completed and a report submitted in time for submission to the next legislative session; and

Whereas, schools will benefit from timely receipt of information related to procedures for employee investigations; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

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

'Sec. 1. 20-A MRSA §13025, sub-§1, ¶D is enacted to read:

D. "Student" includes a student who has attained at least 18 years of age.

Sec. 2. 20-A MRSA §13025, sub-§2-A is enacted to read:

COMMITTEE AMENDMENT

1 2-A. Duties of superintendents. Upon receipt of a complaint related to alleged
2 misconduct by a credential holder, a superintendent of a school entity shall conduct a
3 preliminary investigation to determine whether a covered investigation is necessary. The
4 superintendent shall notify the department immediately upon initiating a preliminary
5 investigation and if a covered investigation is determined to not be necessary.

6 **Sec. 3. 20-A MRSA §13025, sub-§3,** as amended by PL 2019, c. 403, §1, is further
7 amended to read:

8 **3. Duties of school entities.** A school entity shall immediately place on paid leave a
9 credential holder who is the subject of a covered investigation. A school entity shall notify
10 the department immediately if a credential holder who is the subject of a covered
11 investigation leaves the school entity's employment for any reason prior to the conclusion
12 of the covered investigation. A school entity shall complete a covered investigation,
13 including, but not limited to, if the subject of the covered investigation resigns from, is
14 terminated from or otherwise leaves employment with the school entity prior to the
15 conclusion of the covered investigation. A school entity shall notify the department
16 immediately of the findings and final outcome of any covered investigation, including, but
17 not limited to, if the school entity determines that the allegations of misconduct were false
18 or unsubstantiated or if a credential holder is disciplined, suspended or terminated as a
19 result of a covered investigation in which the school entity determined that a student's
20 health, safety or welfare was endangered. The school entity shall provide to the department
21 any final report produced in support of the school entity's decision to discipline, suspend
22 or terminate the credential holder. The credential holder who is the subject of the report
23 may submit to the department a written rebuttal to the report. The written rebuttal must be
24 placed in the department's investigative file.

25 **Sec. 4. 20-A MRSA §13025, sub-§8** is enacted to read:

26 **8. Nondisclosure and resignation agreements prohibited.** A school entity may not
27 enter into a nondisclosure agreement or a resignation agreement with a credential holder
28 that prohibits disclosure of information related to a covered investigation if the covered
29 investigation determined that the credential holder engaged in conduct that involves
30 alcohol, illegal drugs, physical abuse, emotional abuse, inappropriate contact between the
31 credential holder and a student, stalking or similar behavior that endangers the health,
32 safety or welfare of a student.

33 **Sec. 5. Department of Education to convene working group; report.** The
34 Department of Education shall convene a working group to review the procedures for
35 investigations of credential holders in schools in accordance with this section.

36 1. The working group shall review how the investigation procedures established in the
37 Maine Revised Statutes, Title 20-A, section 13025 are being used in approved private
38 schools, school administrative units, public charter schools, education service centers,
39 schools in the unorganized territory and schools operated by the State. The working group
40 shall make recommendations to improve reporting requirements and the process by which
41 investigations are conducted.

42 2. The working group must include, but is not limited to, the following members:

- 43 A. A member representing the Maine School Management Association;
- 44 B. A member representing the Maine Education Association;

- 1 C. A member who is a licensed attorney in the State and has expertise in employment
- 2 law;
- 3 D. A member representing the Maine Children's Alliance;
- 4 E. A member representing the Maine Coalition Against Sexual Assault; and
- 5 F. Any other stakeholders the department considers appropriate.

6 3. The department shall submit a report to the joint standing committee of the
 7 Legislature having jurisdiction over education matters by January 15, 2027. The report
 8 must include the number of investigations reported to the department, the outcomes of those
 9 investigations, the number of preliminary and covered investigations, a summary of how
 10 mandated reporting requirements impact covered investigations, whether consequences for
 11 not reporting should be established, a summary of how the department identifies
 12 individuals during the employment process who have been subjects of covered
 13 investigations, a summary and recommendations on training for school employees to
 14 conduct investigations, a summary of findings related to current practices for investigations
 15 of credential holders and recommendations of the working group, including any suggested
 16 legislation, to improve those practices. The joint standing committee may report out a bill
 17 related to the report to the 133rd Legislature in 2027.'

18 Amend the bill by adding before the summary the following:

19 '**Emergency clause.** In view of the emergency cited in the preamble, this legislation
 20 takes effect when approved.'

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

23 **SUMMARY**

24 This amendment replaces the bill and changes the title. The amendment clarifies that
 25 a covered investigation includes conduct that endangers the health, safety or welfare of a
 26 student, including a student who has attained 18 years of age.

27 The amendment provides that, upon learning of allegations of misconduct by a
 28 credential holder, a superintendent must conduct a preliminary investigation to determine
 29 whether a covered investigation is necessary and requires a superintendent to notify the
 30 Department of Education immediately upon initiating a covered investigation. The
 31 amendment requires a school entity to immediately place the subject of a covered
 32 investigation on paid leave and complete any covered investigation, regardless of whether
 33 the subject resigns, is terminated or otherwise leaves employment with the school entity.
 34 The amendment requires a school entity to report the findings of any covered investigation
 35 to the department and prohibits a school entity from entering into a nondisclosure
 36 agreement with a credential holder that prohibits the disclosure of information related to a
 37 covered investigation if the covered investigation determined that the credential holder
 38 engaged in conduct that involves alcohol, illegal drugs, physical abuse, emotional abuse,
 39 inappropriate contact between a credential holder and a student, stalking or similar behavior
 40 that endangers the health, safety or welfare of a student, including a student who has
 41 attained 18 years of age.

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The amendment also directs the department to convene a working group to examine investigation procedures and make recommendations to improve the investigation process. The working group must include certain stakeholders and is required to submit a report to the Legislature by January 15, 2027. The amendment also adds an emergency preamble and emergency clause.

FISCAL NOTE REQUIRED
(See attached)



132nd MAINE LEGISLATURE

LD 2192

LR 2853(02)

An Act to Protect Students by Ensuring Schools Have Complete Information About School Employees and Applicants for Employment

Fiscal Note for Bill as Amended by Committee Amendment "A" (S 623)

Committee: Education and Cultural Affairs

Fiscal Note Required: Yes

Fiscal Note

Potential current biennium cost increase - School Administrative Units

Fiscal Detail and Notes

This bill may create additional costs for school entities, including school administrative units, in the course of conducting investigations into alleged employee conduct that endangers the health, safety, or welfare of a student. School entities will be required to place any employee under investigation on paid leave, which may increase costs for substitute teachers or other coverage. School entities will also be required to complete all investigations, even if the subject of the investigation leaves the employment of the school. Currently, school entities do not necessarily complete investigations when the subject leaves the school, and so requiring all investigations to be completed may require additional resources of school entities. While the total number of investigations carried out by schools in a year is not known, the Department of Education (department) is notified of approximately 20 to 50 investigations per year, including those investigations which are not completed, and there are approximately 250 school administrative units in the State. Therefore, this fiscal note assumes that the number of additional investigations that will need to be completed by any single school administrative unit in a given year is likely to be very low. Any additional costs to the Department of Education to implement the provisions of this bill are expected to be minor and can be absorbed within existing budgeted resources.