

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1079

H. P. 858

House of Representatives, March 14, 1975

Speaker laid before the House and on Motion of Mrs. Lewis of Auburn referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Lewis of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT to Provide Alternatives to the Compulsory Attendance Law.

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

Sec. 1. 15 MRSA § 2611, last ¶, as enacted by PL 1973, c. 522, § 1, is amended to read:

The juvenile court shall not commit a juvenile to the Men's Correctional Center, the Women's Correctional Center, the Boys Training Center or the Stevens School if the offense or act committed by the juvenile would not be an offense under the criminal statutes of this State, if committed by a person 18 years of age or over unless such commitment is pursuant to Title 20, section 911.

Sec. 2. 20 MRSA § 911, as last amended by PL 1973, c. 571, § 29, is repealed and the following enacted in place thereof:

§ 911. Compulsory education; neglect; subnormal child

Every child between the 7th and 17th anniversaries of his birth shall attend some public day school during the time such school is in session, and an absence therefrom of ½ day or more shall be deemed a violation of this requirement. The first sentence of this section shall not apply to a child who has been graduated from high school before his 17th anniversary. Necessary absence may be excused by the school committee, school directors or superintendent of schools or teachers acting by the direction of either. Such attendance shall not be required if the child obtains equivalent instruction, for a like period of time, in a private school in which the course of study and

methods of instruction have been approved by the commissioner, or in any other manner arranged for by the school committee or the school directors with the approval of the commissioner. Children shall not be credited with attendance at a private school until a certificate showing their names, residence and attendance at such school, signed by the person or persons having such school in charge, shall be filed with the school officials of the administrative unit in which said children reside. The school committee or school directors may exclude from the public schools any child whose physical or mental condition makes it inexpedient for him to attend.

The administration of the compulsory school attendance law as stated in this section shall be the responsibility of the local school committee or board of directors; said committee or board shall promulgate reasonable rules and regulations to carry out this responsibility. When a child is habitually truant, as defined in Title 20, section 914, the principal shall confer with the superintendent of schools or his designee to determine what steps, if any, shall be taken to bring the child into compliance. The principal shall provide a full report to the superintendent of schools at this time and said report shall include an evaluation, if done, on the child, documentation of all action previously taken by the school to bring the child into compliance, and any recommendations concerning the future of the child.

If, after reviewing the report submitted by the principal, the superintendent or his designee determines that he is unable to resolve the problem and further action is necessary, the matter shall be presented to the local school committee or board of directors for their consideration. The parents of the child shall be notified in writing at least 10 days in advance of the time and place of the meeting at which their child's case will be presented, the purpose of the meeting, and of their right to inspect the child's records. Information presented to the local school committee or board of directors shall include, but not be limited to, the report presented to the superintendent of schools or his designee, an evaluation of the child, and any recommendations.

Guidelines for the type of information to be presented to the local school committee or the board of directors will be available from the Department of Educational and Cultural Services. Procedures shall be established for the conduct of this meeting and shall be provided to the child's parents at the time notice is given.

If, after consideration of the facts presented and a discussion with the child and the parents or guardians, the school committee or board of directors determines by a majority vote that the public interest demands further action, the committee or board may do the following:

1. Issue instructions. Instruct the child to return to school and to follow a regular attendance pattern as required by statute, and inform the parents or guardians of their legal responsibilities in this regard. The failure of the child or the parents or guardians to comply shall be grounds for further action by the committee or board;

2. Waive the compulsory school attendance law. Waive the compulsory school attendance law for the child provided he or she is 14 years of age or

older and has completed the 8th grade. If the parent or guardian wishes to appeal this decision of a committee or board, such appeal may be taken by notifying the State Board of Education and said board may appoint an official to hear the appeal by conducting a hearing and reviewing the decision. After the hearing, the State Board of Education or its designated official may affirm, modify, or reverse the decision of the local board of directors;

3. Institute legal proceedings. Instruct the superintendent of schools to make application to the juvenile court to institute legal proceedings against the truant child or the parents or guardian, or against both the truant child and the parents or guardian. This application should include written documentation of all previous action taken to resolve the child's attendance problem including a summary of deliberations by the school committee or board of directors and its recommendations.

Upon such application, the juvenile court will make a preliminary inquiry of all pertinent data provided by the superintendent of schools to determine whether the interests of the public or the child requires further action.

If further action is deemed necessary, the juvenile court may proceed as provided in Title 15, chapter 405. The juvenile court may dispose of the truancy case pursuant to Title 15, chapter 405, and in addition utilize one or more of the following:

A. Waiver to be in best interests of child and those concerned. That the compulsory school attendance law be waived for such a period of time that would be in the best interests of the child and others concerned, provided that he or she is 14 year of age or older and has completed the 8th grade;

B. Parents subject to penalties. That the parents be subject to penalties as provided in this section;

C. Commitment to correctional institutions. That the child be placed in the Boys Training Center or the Stevens School if he or she is of the proper age.

All persons having children under their control shall cause them to attend school as provided in this section, and any person having control of a child who is an habitual truant as defined in section 914 and being in any way responsible for such truancy, and any person who induces a child to absent himself from school, or harbors or conceals such child when he is absent, shall be punished by a fine of not more than \$25 or by imprisonment for not more than 30 days for each offense. A child between the ages of 15 and 17 who, because of subnormal mental capacity, is unable to successfully pass the tests necessary to allow a regular work permit to be issued, may under conditions deemed proper, receive a work permit issued jointly by the Commissioner of Educational and Cultural Services and the Director of the Bureau of Labor and Industry, such persons to be employed in nonhazardous occupations.

If, in the judgment of the principal, a suitable program of work or work-study or training is available, pupils 16 years of age may be excused from school attendance with the consent of parent or guardian and approval of the school committee or board of directors.

STATEMENT OF FACT

This proposed legislation is designed to provide flexibility in the compulsory school attendance law and equity in dealing with truancy for both pupils and local educational agencies in meeting educational, social, and personal needs. Every attempt is intended to be made by parents, pupils, and local educational agencies to foster, and participate in, suitable educational programs.

Even though sincere efforts are made to provide individualized educational opportunities, there will be a small number of pupils who will violate the law in regard to school attendance. Currently, due to a recent change in the juvenile statutes, the courts usually will not hear truancy cases. This Act establishes procedures which will allow for a judicial review in cases where local educational agencies had not been able to resolve the problem of habitual truancy.