

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1817

H. P. 1711

House of Representatives, January 18, 1980

Referred to the Committee on Education. Sent up for concurrence and 2,000 ordered printed.

EDWIN H. PERT, Clerk of the House

Presented by Mr. Birt of East Millinocket.

Cosponsors: Mr. Laffin of Westbrook and Mr. Soulas of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

AN ACT to Exempt Church-sponsored Schools and Schools of Religious Charter from Approval of the Department of Educational and Cultural Services.

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

20 MRSA c. 121 is enacted to read:

CHAPTER 121

CHURCH-SPONSORED SCHOOLS AND SCHOOLS OF RELIGIOUS CHARTER

§ 1601. Purpose

In accordance with the first amendment of the Constitution of the United States and with the Constitution of Maine, Article I, Section 3, and since historically "religion, morality and knowledge" are "necessary to good government and the happiness of mankind," it is the public policy of this State that "schools and the means of education shall forever be encouraged," without infringing upon individual rights of conscience and religious liberty.

§ 1602. Definitions

As used in this chapter the following terms have the following meanings.

1. Church-sponsored school. "Church-sponsored school" means a school

which exists for religious purposes and about which one or more of the following is true:

- A. The school is owned by and operated as a ministry of a church or group of churches;
- B. The school operates in church-owned or leased facilities;
- C. The school serves especially or solely the student constituency of a church or a group of churches;
- D. A substantial portion of school costs is borne by a church or group of churches;
- E. The legal responsibility for the school rests with church or denominational corporations or officers;
- F. The religious emphasis and practices in the school are a direct result of the teachings and practices of a church or group of churches; or
- G. The total number or a substantial number of staff members of the school are members of a church or churches involved in operating the school.

2. Department of Educational and Cultural Services' approval. "Department of Educational and Cultural Services' approval" means the current power of the Department of Educational and Cultural Services, as reflected in this Title and the departmental documents, including, but not limited to, "Procedures and Standards for Basic Approval of Schools - Public and Private," January 15, 1976; "Procedure for Implementing Self-evaluation of School Programs," March, 1977; "Secondary School Self-evaluation Manual," April, 1977; and "School Self-evaluation Manual K-8," March, 1976, to control or for input in religious school prerogative and policy, including, but not limited to:

- A. Permission to open a school;
- B. Educational philosophy and purpose;
- C. Financial status and policy;
- D. Curriculum;
- E. Teacher, administrator certification;
- F. School self-evaluation or accreditation;
- G. Instructional equipment;
- H. Instructional methodology;
- I. Graduation requirements;
- J. School facilities;
- K. Number of grades;

- L. Length of school day;
- M. School calendar;
- N. Selection of tests and measurements;
- O. Pupil-teacher ratio;
- P. Maintenance and transfer of student records;
- Q. Reports unrelated to attendance; and
- R. Required information for parents, staff or students.

3. Religious purpose. "Religious purpose" means the intention and practice of a school to advocate and transmit to students the religious doctrine, values and traditions of a church, group of churches or a group of parents.

4. School of religious charter. "School of religious charter" means a school which exists for religious purposes and about which one or both of the following is true:

- A. The school is not under the substantial legal or financial auspices of a church or group of churches; or
- B. The school operates and is controlled by a parent board.

§ 1603. Exemption

A church-sponsored school or a school of religious charter may elect to become exempt from the Department of Educational and Cultural Services' approval by transmission of an official letter to the commissioner of that department stating religious conviction against that approval. The written declaration of the objection constitutes the exemption.

Exempt schools are subject to school attendance requirements of section 911 and section 1281, subsection 3. Exempt schools are subject to reasonable and appropriate fire, health and safety laws.

The exemption may be declared during or between school terms or before a new school opens. An exemption is permanent unless a school notifies the Commissioner of Educational and Cultural Services of release of exemption by an appropriate official letter.

§ 1604. Standardized testing

Each exempt church-sponsored school or school of religious charter shall administer a nationally standardized test or a nationally standardized equivalent measurement to all students regularly attending grades 1, 2, 3, 6 and 8. The test or measurement shall be selected by the particular exempt school administration and shall measure achievement in English, grammar, reading, spelling and mathematics. As applicable, before the beginning of each school year, each exempt school shall submit to the Commissioner of Educational and Cultural

Services an official report detailing the academic achievement of grades 1, 2, 3, 6 and 8 students tested the previous school year, subject to parental consent.

§ 1605. High school competency testing

Each exempt church-sponsored school or school of religious charter shall administer a nationally standardized test or equivalent measurement to all students regularly attending grade 11. The test or measurement shall be selected by the particular exempt school administration and shall measure basic skill and knowledge competencies in the verbal and quantitative areas. As applicable, before the beginning of each school year, each exempt school shall submit to the Commissioner of Educational and Cultural Services an official report detailing the competency results of grade 11 students tested the previous school year, subject to parental consent.

§ 1606. Initiation; termination notice

A new church-sponsored school or school of religious charter shall notify the Commissioner of Educational and Cultural Services in writing of intent to operate. This notice shall include the name and address of the school, the name of the school's owner and chief administrative officer and the opening date or the date the school opened. An exempt school which ceases to operate shall notify the commissioner in writing.

§ 1607. Compulsory education

A school in compliance with this chapter shall be considered as offering equivalent instruction pursuant to section 911, subsection 3. Students attending exempt schools shall satisfy the compulsory attendance requirements of section 911 and section 1281, subsection 3. Schools exempt from the Department of Educational and Cultural Services' approval shall not be subject to any other educational provisions of the department.

STATEMENT OF FACT

This bill addresses the relationship between schools which are ministries of churches, or otherwise operated for religious purposes, and the Department of Educational and Cultural Services with regard to the separation of church and State and compelling state interest. This bill would make approval optional for church-sponsored schools or schools of religious charter. Such schools could elect to be exempt, thereby becoming ineligible for state aid or federal aid administered by the State. These schools would not be subject to approval, curriculum, certification, accreditation or graduation requirements of the Department of Educational and Cultural Services. Exempt schools would be in compliance with applicable fire, health and safety laws and would provide attendance information, subject to parental consent, to the Department of Educational and Cultural Services. Exempt schools would submit to the commissioner annually standardized test results, subject to parental consent.