

1	(New Draft of H.P. 865, L.D. 1152)
2 3	FIRST REGULAR SESSION
4 5	ONE HUNDRED AND ELEVENTH LEGISLATURE
6 7	Legislative Document No. 1505
8 9 10	H.P. 1141 House of Representatives, April 21, 1983 Reported by Representative Gwadosky from the Committee on State Government and printed under Joint Rule 2. Original bill sponsored by Representative Kelleher of Bangor.
11	EDWIN H. PERT, Clerk
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13 14	STATE OF MAINE
15 16 17	IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-THREE
18 19 20 21	AN ACT to Authorize the Maine Criminal Justice Academy to Revoke Officer Certification.
22 23	Be it enacted by the People of the State of Maine as follows:
24 25	Sec. 1. 25 MRSA §2803, sub-§1, as repealed and replaced by PL 1975, c. 579, §7, is amended to read:
26 27 28 29 30 31 32 33	1. Training and certification of deputy sheriffs and local law enforcement officers. In accordance with the provisions of section 2805 to set standards for admission to the academy, set requirements for graduation from the academy, prescribe curriculum and certify both graduates of the academy and persons for whom the board of trustees have waived the require- ments of section 2805;

Sec. 2. 25 MRSA §2803, sub-§2-A, as amended by PL 1981, c. 470, Pt. A, §139, is further amended to read:

4 Training and certification of corrections 2-A. 5 personnel. In accordance with section 2805, to approve training programs for corrections officers, 6 7 including prescription of curriculum and setting of 8 standards for graduation from those approved programs 9 and certification of persons graduating from the 10 basic training course prescribed in section 2805, 11 subsection 1;

12 Sec. 3. 25 MRSA §2803, sub-§§7 and 8, as 13 repealed and replaced by PL 1975, c. 579, §7, are 14 amended to read:

15 7. <u>Accept funds and grants</u>. With the approval of 16 the commissioner, to accept such federal funds or 17 grants as may be available to carry out the purposes 18 of the academy; and

19 8. <u>Acquire facilities.</u> With the approval of the 20 commissioner, to lease, rent or acquire adequate 21 facilities to conduct the academy's training pro-22 grams-;

23 Sec. 4. 25 MRSA §2803, sub-§9, as enacted by PL 24 1979, c. 261, §1, is amended to read:

9. <u>Certification of instructors</u>. To certify and set standards for certification of law enforcement and criminal justice instructors to be used in all academy basic and inservice in-service training programs as required by the trustees and over which the trustees have statutory control-; and

31 Sec. 5. 25 MRSA §2803, sub-§10 is enacted to 32 read:

33	10). R	evocatio	on	or su	spe	ension	of	cer	tifica-
34	tion.	То	revoke	or	suspend	a	a cert	ific	ate	issued
35	under	this	chapter	ε, Ξ	pursuant	to	sectio	n 28	06.	

36 Sec. 6. 25 MRSA §2806, sub-§1, as repealed and 37 replaced by PL 1977, c. 701, §9, is repealed and the 38 following enacted in its place:

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1 2	<u>1. Suspension or revocation. The board of trustees:</u>
3	A. May suspend the right to enforce the criminal
4	laws of the State or to act as a corrections
5	officer of any person found in violation of
6	section 2805, subsection 1;
7 8 9	B. May suspend or revoke the certificate issued pursuant to section 2803, 2805 or 2805-A of any person who:
10	(1) Has been found guilty of murder or any
11	Class A, Class B or Class C crime;
12	(2) Has been found guilty of any crime in
13	this or another jurisdiction for which the
14	maximum term of imprisonment prescribed by
15	law exceeds one year; or
16	(3) Has been found guilty of any crime in
17	this or another jurisdiction for which the
18	maximum term of imprisonment prescribed by
19	law is not less than 6 months and which
20	involves moral turpitude; and
21	C. Shall investigate a complaint, on its own
22	motion or otherwise, regarding the failure of a
23	law enforcement or corrections officer to comply
24	with the requirements of section 2805, subsection
25	3, and any rules promulgated pursuant thereto.
26	The board may, upon notice, conduct an informal
27	conference with the officer. If the board finds
28	that the factual basis of the complaint is true
29	and that further action is warranted, it may take
30	the following action:
31 32 33 34 35	(1) Enter into a consent agreement with the officer, which agreement may contain provisions to insure compliance, including voluntary surrender of the certificate and terms and conditions of recertification; or
36	(2) Refer the complaint to the Attorney
37	General for action in the Administrative
38	Court.

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- Sec. 7. 25 MRSA §2806, sub-§2, as repealed and replaced by PL 1979, c. 261, §3, is repealed and the following enacted in its place:
- 4 <u>2. Procedure. For action taken by the board</u> 5 <u>under subsection 1, the procedure shall be as fol-</u> 6 lows:
- 7 A. For paragraph A, in accordance with Title 5,
 8 chapter 375, subchapter IV;
- 9B. For paragraph B, if the officer is employed10as a law enforcement officer, upon petition of11the chief administrative officer of the employing12agency, in accordance with Title 5, section1310004; and

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14C. For paragraph C, in accordance with Title 5,15chapter 375, subchapter VI.

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STATEMENT OF FACT

17 The purpose of this new draft is to make certain 18 that all procedures undertaken by the Maine Criminal 19 Justice Academy Board of Trustees to enforce manda-20 tory training requirements are in compliance with the 21 Maine Administrative Procedure Act, Title 5, chapter 22 375.

23 The new draft treats all certificates issued by the board as licenses for purposes of the Maine 24 Administrative Procedure Act. 25 This treatment means 26 that should an officer fail to comply with the inservice training requirements of Title 25, section 27 2805, his case would be referred to the Administra-28 29 tive Court if a consent agreement could not be 30 reached. There is no current procedure to address 31 failure to continue required training.

Anyone previously certified who is convicted of a crime would face revocation by the board, based on a certified copy of the conviction. Currently, officers who receive basic training or a waiver therefrom cannot lose their certification or waiver even if they commit the most serious crimes. Finally, the board's current authority to suspend from work those officers who have not received basic training remains intact.

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