

MAINE STATE LEGISLATURE

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1 (New Draft of H.P. 1424, L.D. 1869)
2 (New Title)

3 SECOND REGULAR SESSION
4

5 ONE HUNDRED AND ELEVENTH LEGISLATURE
6

7 Legislative Document

No. 2172

8
9 H.P. 1642

House of Representatives, March 6, 1984

10 Reported by Representative Webster from the Committee on Health and
11 Institutional Services and ordered printed under Joint Rule 2.

EDWIN H. PERT, Clerk

12 Presented by Representative Nelson of Portland.

13
14 STATE OF MAINE
15

16 IN THE YEAR OF OUR LORD
17 NINETEEN HUNDRED AND EIGHTY-FOUR
18

19 AN ACT to Correct Errors and
20 Inconsistencies in the School Immunization Law
21 and other Related Laws.
22

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

25 Sec. 1. 20-A MRSA §1001, sub-§11, as enacted by
26 PL 1981, c. 693, §§5 and 8, is repealed.

27 Sec. 2. 20-A MRSA §1001, sub-§11-A is enacted to
28 read:

29 11-A. Exposure to communicable disease. They
30 shall adopt a policy for enforcement by the superin-
31 tendent to safeguard the health of any student or em-
32 ployee who has contracted or been exposed to a commu-

1 nicable disease, in accordance with sections 6301,
2 6351-A and 6551, and Title 22, chapter 251.

3 Sec. 3. 20-A MRSA §6301, sub-§1, as enacted by
4 PL 1981, c. 693, §§5 and 8, is amended to read:

5 1. Duty of teacher. A teacher who believes that
6 a student is so filthy or diseased as to be offensive
7 or dangerous to others, or ~~because they are the~~
8 ~~bearers bearer~~ of vermin or parasites, or ~~have an in-~~
9 ~~fectious or contagious~~ has a communicable disease of
10 the skin, mouth or eyes, shall inform the superin-
11 tendent.

12 Sec. 4. 20-A MRSA §6301, sub-§2, as enacted by
13 PL 1981, c. 693, §§5 and 8, is amended to read:

14 2. Duty of superintendent. A superintendent in-
15 formed by a teacher under subsection 1 shall:

16 A. Inform the student's parent:

17 (1) To cleanse the clothing and bodies of
18 their children; and

19 (2) To furnish their children with the re-
20 quired home or medical treatment for the re-
21 lief of their trouble so defined in subsec-
22 tion 1; and

23 B. Exclude the student from the public schools
24 until the student is no longer offensive or dan-
25 gerous; and

26 C. Exclude the student from public school as
27 soon as safe and proper transportation home is
28 available.

29 Sec. 5. 20-A MRSA §6301, sub-§5, as enacted by
30 PL 1981, c. 693, §§5 and 8, is repealed.

31 Sec. 6. 20-A MRSA §6301, sub-§5-A is enacted to
32 read:

33 5-A. Notification. The superintendent shall
34 cause notice of the communicable disease to be given
35 to the Department of Human Services, in accordance

1 with the requirements of Title 22, chapter 251, and
2 rules issued under that chapter.

3 Sec. 7. 20-A MRSA §6351, as enacted by PL 1981,
4 c. 693, §§5 and 8, is repealed.

5 Sec. 8. 20-A MRSA §§6352 to 6358 are enacted to
6 read:

7 §6352. Immunization

8 To assure a safe and healthful school environ-
9 ment, the Legislature intends that the provisions of
10 this subchapter on immunization shall apply in the
11 schools of the State.

12 §6353. Definitions

13 As used in this subchapter, unless the context
14 indicates otherwise, the following terms have the
15 following meanings.

16 1. Certificate of immunization. "Certificate of
17 immunization" means a written statement from a physi-
18 cian, nurse or health official who has administered
19 an immunizing agent to a child, specifying the dosage
20 administered and the date it was administered.

21 2. Child. "Child" means and includes every child
22 entering school.

23 3. Disease. "Disease" means diphtheria, measles,
24 mumps, pertussis, poliomyelitis, rubella and tetanus.

25 4. Immunizing agent. "Immunizing agent" means a
26 vaccine, antitoxin or other substances used to in-
27 crease an individual's immunity to a disease.

28 5. Parent. "Parent" means a child's parent, le-
29 gal guardian or custodian. A person shall be regarded
30 as a child's custodian if that person is an adult and
31 has assumed legal charge and care of the child.

32 6. Public health official. "Public health offi-
33 cial" means a local health officer, the Director of
34 the Bureau of Health, Department of Human Services,
35 or any designated employee or agent of the Department
36 of Human Services.

1 7. School. "School" means any public or private
2 elementary or secondary school in the State.

3 8. Superintendent. "Superintendent" means the
4 superintendent of schools of a school administrative
5 unit, or a person designated by the superintendent,
6 and the chief administrative officer of a private
7 school.

8 §6354. Immunization

9 1. Immunization required. Except as otherwise
10 provided under this subchapter, every parent shall
11 cause to be administered to his child an adequate
12 dosage of an immunizing agent against each disease.

13 2. Immunizing agent to meet standards. Any such
14 immunizing agent shall meet standards for such bio-
15 logical products, approved by the United States Pub-
16 lic Health Service and the dosage requirement speci-
17 fied by the Department of Human Services.

18 §6355. Enrollment in school

19 No superintendent may permit any child to be en-
20 rolled in or to attend school without a certificate
21 of immunization for each disease or other acceptable
22 evidence of required immunization or immunity against
23 the disease, except as follows.

24 1. Written assurance. The parent provides a
25 written assurance the child will be immunized within
26 90 days by private effort or provides, where applica-
27 ble, a written consent to the child's immunization by
28 a health officer, physician, nurse or other autho-
29 rized person in public or private employ.

30 2. Physician's statement. The parent or the
31 child provides a physician's written statement that
32 immunization against one or more of the diseases may
33 be medically inadvisable.

34 3. Moral, philosophical or personal reasons. The
35 parent states in writing a sincere religious belief
36 which is contrary to the immunization requirement of
37 this subchapter or an opposition to the immunization
38 for moral, philosophical or other personal reasons.

1 §6356. Exclusion from school

2 1. Public health official action. When a public
3 health official has reason to believe that the con-
4 tinued presence in a school of a child who has not
5 been immunized against one or more diseases presents
6 a clear danger to the health of others, the public
7 health official shall notify the superintendent of
8 the school. The superintendent shall cause the child
9 to be excluded from school during the period of dan-
10 ger or until the child receives the necessary immu-
11 nizing agent.

12 Whenever, as a result of this section, a child is ab-
13 sent from the public school for more than 10 days,
14 the superintendent shall make arrangements to meet
15 the educational needs of the child.

16 2. Superintendent's action. Notwithstanding the
17 provisions of this subchapter on immunization against
18 specified diseases, a superintendent shall exclude
19 from the public schools any child because of filth or
20 communicable disease, in accordance with section
21 6301, and the superintendent shall exclude from
22 school any child or employee who has contracted or
23 has been exposed to a communicable disease as di-
24 rected by a local health officer, the Department of
25 Human Services or the school physician.

26 §6357. Records; report

27 1. Record keeping. Each superintendent shall
28 keep uniform records of the immunizations and
29 immunization status of each child based on the cer-
30 tificate of immunization, other acceptable evidence
31 and other available documents. The records shall be
32 part of the child's permanent education records.
33 These records shall be confidential, except that
34 state and local health personnel shall have access to
35 them in connection with an emergency, as provided by
36 the United States Family Educational Rights and Pri-
37 vacancy Act of 1974, Public Law 93-380, United States
38 Code, Title 20, Section 1232g(b) (1) (I) and regula-
39 tions adopted under that Act.

40 2. Annual report of immunization status. By De-
41 cember 15th of each year, each superintendent shall

1 submit to the Director of the Bureau of Health, De-
2 partment of Human Services, and to the commissioner a
3 summary report of immunization status of the children
4 entering school, as prescribed by rule.

5 §6358. Rules; requirements; reports

6 1. Rules authorized. The commissioner and the
7 Director of the Bureau of Health, Department of Human
8 Services, shall jointly issue rules necessary for the
9 effective implementation of this subchapter, includ-
10 ing, but not limited to, rules establishing
11 immunization requirements for each disease, school
12 record keeping and reporting requirements or guide-
13 lines and procedures for the exclusion of
14 nonimmunized children from school.

15 2. Local requirements authorized. Immunization
16 requirements more stringent than the provisions of
17 this subchapter may be adopted by ordinance enacted
18 by a municipality, by regulation of a school board or
19 by policy of a private school's governing board.

20 Sec. 9. 22 MRSA §1032, as enacted by PL 1977, c.
21 304, §2, is amended to read:

22 §1032. Confidentiality

23 The names and related information which may iden-
24 tify individuals having or suspected of having a
25 notifiable communicable disease shall be confidential
26 and may be released only to other public health offi-
27 cial, agents or agencies, or to school officials
28 where a child is enrolled, for a public health pur-
29 pose. All other information submitted pursuant to
30 this article may be made available to the public.

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STATEMENT OF FACT

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This new draft is intended to correct some errors and inconsistencies in the Revised Statutes, Title 20-A and Title 22, relating to immunization of school children and disease reporting. Specifically, the bill is intended to do the following.

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Sections 1 and 2 repeal a law predating the school immunization law which contained provisions inconsistent with that law and replaces it with language requiring school boards to adopt policies on immunization and disease testing consistent with other provisions of the Revised Statutes, Title 20-A.

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Section 3 replaces long-standing statutory language concerning "infectious and contagious" diseases with the terminology "communicable" disease, to be consistent with terminology in the Revised Statutes, Title 22. The meaning of the section does not change.

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Sections 4, 5 and 6 repeal duplicative language on student exclusions, place a duty concerning exclusions more logically with the superintendent's duties and require school officials to notify the Department of Human Services of communicable diseases, as is required by the Revised Statutes, Title 22, chapter 251.

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Section 7 repeals and replaces the current school immunization law.

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In section 8, definitions are added or replaced for added clarity. The record-keeping obligations for all schools are made clear, correcting an error in recodification. Language concerning exclusion of students from school is made consistent with the Revised Statutes, Title 20-A, section 6301 and the Revised Statutes, Title 22, chapter 251. In addition, the possibility of enforcement through supervision of the commissioner is strengthened by requiring a timely report to the commissioner each year of the immunization status of all school children.

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Also, that portion of section 8 of the bill enacting the Revised Statutes, Title 20-A, section 6358 clarifies the authority of municipalities and school

1 officials to adopt policies on immunization more
2 stringent than the statute.

3 In this new draft, the reference in L.D. 1869 to
4 immunization against mumps is deleted because these
5 matters have been and may continue to be specified
6 through administrative rule making.

7 This new draft also deletes the reference in the
8 current law which excuses adolescent girls from the
9 immunization law pertaining to rubella. The statement
10 of fact in L.D. 1869 outlines the rationale for the
11 proposed change. This new draft allows any physician
12 to obtain an immunization exemption for a patient
13 when the physician believes that immunization may be
14 medically inadvisable.

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