

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 2120

H.P. 1556 House of Representatives, January 21, 1988
Reported by Representative PRIEST from the Committee on
Legal Affairs. Sent up for concurrence and ordered printed.
Approved by the Legislative Council on June 19, 1987.
Reference to the Committee on Legal Affairs suggested and
printing ordered under Joint Rule 19.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-EIGHT

1 AN ACT Concerning Law Enforcement
2 Education and Training and Funding for
3 Training.
4

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

7 PART A

8 Sec. 1. 25 MRSA §2801, as amended by PL 1983,

1 c. 812, §151, is further amended to read:

2 §2801. Maine Criminal Justice Academy; purpose

3 There is created within the Department of Public
4 Safety a law enforcement and criminal justice training
5 facility to be known as the "Maine Criminal Justice
6 Academy," as authorized by Title 5, section 12004,
7 subsection 8, which shall be established at some
8 convenient and suitable place in the Augusta area.

9 The purpose of the Maine Criminal Justice Academy
10 shall be to provide a central training facility for
11 all law enforcement and corrections personnel ~~of~~ in
12 the State and also for criminal justice personnel.
13 The academy shall serve to promote the highest levels
14 of professional law enforcement performance and to
15 facilitate coordination and cooperation between
16 various law enforcement and criminal justice agencies.

17 Sec. 2. 25 MRS §2801-A is enacted to read:

18 §2801-A. Definitions

19 As used in this chapter, unless the context
20 otherwise indicates, the following terms have the
21 following meanings.

22 1. Board. "Board" means the Board of Trustees of
23 the Maine Criminal Justice Academy.

24 2. Corrections officer and law enforcement
25 officer. The Board of Trustees of the Maine Criminal
26 Justice Academy shall be responsible for the
27 application of the terms in this subsection.

28 A. "Corrections officer" means:

29 (1) For state agencies, the following class
30 titles and their successor titles:

31 (a) Training School Counselor I and II;

32 (b) Training School Counselor
33 Supervisor;

- 1 (c) Corrections Officer I, II and III;
- 2 (d) Guard;
- 3 (e) Guard Sergeant;
- 4 (f) Guard Lieutenant; and
- 5 (g) Guard Captain; and

6 (2) For county, municipal and other agencies
7 subject to this chapter, the Maine Criminal
8 Justice Academy shall define the term
9 "corrections officer."

10 B. "Full-time corrections officer" means a person
11 who is employed as a corrections officer with the
12 reasonable expectation of earning at least \$6,000
13 in any one calendar or fiscal year for performing
14 corrections officer duties.

15 C. "Full-time law enforcement officer" means a
16 person who is employed as a law enforcement
17 officer with the reasonable expectation of earning
18 at least \$6,000 in any one calendar or fiscal year
19 for performing law enforcement duties. "Full-time
20 law enforcement officer" does not include any
21 person employed by a county and whose full-time
22 duties are those of corrections officers.

23 D. "Law enforcement officer" means any person who
24 by virtue of public employment is vested by law
25 with a duty to maintain public order, prosecute
26 offenders, serve criminal process, make arrests
27 for crimes or perform probation functions, whether
28 that duty extends to all crimes or is limited to
29 specific crimes. As used in this chapter, the
30 term does not include federal law enforcement
31 officers.

32 Sec. 3. 25 MRSA §2803, as amended by PL 1985,
33 c. 742, §2, is repealed.

34 Sec. 4. 25 MRSA §2803-A is enacted to read:

1 §2803-A. Powers and duties of the board of trustees

2 The board has the following powers and duties:

3 1. Training and certification of all law
4 enforcement officers in the State. In accordance with
5 sections 2804-B, 2804-C and 2804-E, to establish
6 training and certification standards for all law
7 enforcement officers. Certification shall be based on
8 the officer's demonstration of having acquired
9 specific knowledge and skills which can be directly
10 tied to job performance;

11 2. Admission standards and graduation
12 requirements; curriculum. In accordance with sections
13 2804-B, 2804-C and 2804-E, to establish standards for
14 admission to the academy, set requirements for
15 graduation from the academy, prescribe curriculum and
16 certify both graduates of the academy and persons for
17 whom the board has waived the requirements of sections
18 2804-B, 2804-C and 2804-E. The board may not set
19 standards for admission to the academy until July 1,
20 1990, for persons required to be trained under Title
21 30, section 6210, subsection 4, which standards are
22 higher than those in force on September 23, 1983;

23 3. Certification of police chiefs. To certify
24 and set standards for certification of police chiefs;

25 4. Training and certification of sheriffs. To
26 establish training programs for sheriffs within the
27 curriculum, set requirements for graduation of
28 sheriffs from the academy and certify sheriffs who
29 graduate from the academy;

30 5. Training and certification of corrections
31 personnel. In accordance with sections 2804-D and
32 2804-F, to approve training programs for corrections
33 officers, including prescription of curriculum and
34 setting of standards for graduation from those
35 approved programs and certification of persons
36 graduating from the basic training course prescribed
37 in section 2804-D;

1 6. Training and certification of State Police
2 enlisted personnel. With the approval of the Chief of
3 the State Police, to establish suitable training
4 programs for enlisted personnel of the State Police
5 and set requirements for graduation of such personnel
6 from the academy. The board shall certify State
7 Police enlisted personnel who graduate from the
8 academy;

9 7. Training and certification in court
10 procedures. To establish certification standards and
11 a program to certify law enforcement officers as being
12 familiar with current court procedures. This program
13 must include:

14 A. Sufficient instruction in the basic training
15 course approved by the board of trustees under
16 section 2804-C to satisfy certification standards
17 upon successful completion of the course;

18 B. A method by which law enforcement officers
19 whose basic training course did not contain the
20 instruction required by paragraph A may satisfy
21 the certification standards; and

22 C. A requirement that in-service training
23 programs required under section 2804-E include
24 instruction on current court procedures;

25 8. Other training programs. To establish, within
26 the limits of funds available and with the approval of
27 the commissioner, additional training programs
28 considered to be beneficial to law enforcement
29 officers, corrections officers and criminal justice
30 personnel;

31 9. Establish fees. To establish, with the
32 approval of the commissioner, reasonable fees for
33 attendance in order to defray at least part of the
34 costs of operation of the academy;

35 10. Formulate a budget. To formulate a budget
36 for the academy, which shall be presented to the
37 commissioner for approval and inclusion in the budget
38 of the Department of Public Safety;

1 11. Accept funds and grants. With the approval
2 of the commissioner, to accept such federal funds or
3 grants as may be available to carry out the purposes
4 of the academy;

5 12. Acquire facilities. With the approval of the
6 commissioner, to lease, rent or acquire adequate
7 facilities to conduct the academy's training programs;

8 13. Certification of instructors. To certify and
9 set standards for certification of law enforcement and
10 criminal justice instructors to be used in all academy
11 preservice, basic and in-service training programs as
12 required by the board of trustees and over which the
13 board has statutory control;

14 14. Revocation or suspension of certification.
15 To revoke or suspend a certificate issued under
16 section 2806; and

17 15. Provide assistance and materials. To provide
18 to municipal and county officers and municipal and
19 county law enforcement officers any assistance or
20 instructional materials the board deems necessary to
21 fulfill the purposes of this chapter and Title 30,
22 sections 951 and 2365.

23 Sec. 5. 25 MRSA §§2804-B to 2804-F are enacted
24 to read:

25 §2804-B. Preservice law enforcement training

26 1. Required. A person shall not serve as a law
27 enforcement officer with the power to make arrests or
28 the authority to carry a firearm in the course of duty
29 until certified by the board as satisfying all
30 preservice training requirements.

31 2. Preservice training standards. The board
32 shall establish standards for preservice training
33 certification which are equivalent to the 100-hour
34 reserve officer training course as of November 1,
35 1987. In establishing the standards, the board shall
36 consider the use of apprenticeship with a certified,

1 experienced officer, to be followed by an examination
2 given by the board, as an alternative to part or all
3 of the preservice training course leading to
4 preservice certification.

5 3. Certification. The board shall certify each
6 person who meets the preservice training standards as
7 eligible to serve as a law enforcement officer with
8 the power to make arrests or the authority to carry a
9 firearm in the course of duty, subject to additional
10 certification as required by this chapter.

11 4. Course. The board shall provide a training
12 course, the successful completion of which must meet
13 the preservice training standards. The board may work
14 with post-secondary institutions within the State to
15 deliver the preservice training course throughout the
16 State as often as reasonable demand requires.

17 5. Agency sponsorship. The board shall evaluate
18 the use of law enforcement agency sponsorship and
19 screening of preservice training applicants and
20 students and the availability of preservice training
21 before employment.

22 6. Completion of basic law enforcement training
23 sufficient. The board shall certify law enforcement
24 officers who successfully complete basic law
25 enforcement training under section 2804-C before being
26 empowered to make arrests or given the authority to
27 carry a firearm in the course of duty as having
28 satisfied the preservice training standards.

29 7. Reserve and other part-time law enforcement
30 officers. The board shall certify law enforcement
31 officers who successfully complete preservice law
32 enforcement training as reserve or part-time law
33 enforcement officers. The board shall maintain a
34 roster of all currently certified reserve or part-time
35 law enforcement officers. The roster shall be
36 available for inspection by the public at the academy
37 during regular working hours.

38 §2804-C. Basic law enforcement training

1 1. Required. As a condition to the continued
2 employment of any person as a full-time law
3 enforcement officer by a municipality, a county, the
4 State or other nonfederal employer, that person must
5 successfully complete, within the first 6 months of
6 employment, a basic training course approved by the
7 board. The board, under extenuating and emergency
8 circumstances in individual cases, may extend that
9 period for not more than 90 days. In addition, the
10 board may waive in individual cases the basic training
11 requirement when the facts indicate that an equivalent
12 course has been successfully completed. This section
13 does not apply to any person employed as a full-time
14 law enforcement officer by a municipality on September
15 23, 1971, or by a county on July 1, 1972.

16 2. Core curriculum requirements. The board shall
17 establish core curriculum requirements which must be
18 satisfied by each law enforcement officer within 6
19 months of assuming law enforcement duties which
20 include the power to make arrests or the authority to
21 carry a firearm in the course of duty. The board
22 shall base the core curriculum requirements on the
23 necessary knowledge, training and skills common to all
24 law enforcement officers in this State.

25 3. Certification. The board shall certify each
26 law enforcement officer who meets the core curriculum
27 training requirements.

28 4. Courses. The board shall provide a training
29 course, the successful completion of which meets core
30 curriculum requirements. The board shall provide a
31 basic training course designed primarily for municipal
32 and county law enforcement officers.

33 §2804-D. Basic corrections training

34 1. Required. As a condition to the continued
35 employment of any person as a full-time corrections
36 officer by a municipality, a county, the State or
37 other nonfederal employer, that person must
38 successfully complete, within the first 6 months of
39 employment, a basic training course of not less than
40 80 hours as approved by the Board of Trustees of the

1 Maine Criminal Justice Academy. The board, in
2 individual cases, may waive basic training
3 requirements when the facts indicate that an
4 equivalent course has been successfully completed in
5 another state or federal jurisdiction within the last
6 2 years. This section shall apply to any person
7 employed as a full-time corrections officer as of July
8 6, 1978, except that full-time corrections officers
9 shall be exempt from the 6-month requirement, but
10 shall successfully complete the basic training on or
11 before January 1, 1980. Administrators of facilities
12 where there are corrections officers who are not full
13 time are encouraged to develop an orientation program
14 for those persons.

15 §2804-E. In-service law enforcement training

16 1. Required. Beginning July 1, 1989, as a
17 condition to the continued employment of any person as
18 a law enforcement officer by a municipality, a county,
19 the State or other nonfederal employer, that person
20 shall successfully complete a minimum of 20 hours per
21 year of in-service training.

22 2. Role of board. The board shall establish
23 in-service training requirements, coordinate delivery
24 of in-service training with post-secondary
25 institutions and law enforcement agencies and
26 administer in-service training programs. The
27 in-service training requirements shall include
28 information on new laws and court decisions.

29 3. Additional certificates. The board may offer
30 additional certificates to be awarded for completion
31 of additional education, experience and certified
32 academy training.

33 §2804-F. In-service corrections training

34 1. Required. As a condition to the continued
35 employment of any person as a full-time corrections
36 officer by a municipality, a county, the State or
37 other nonfederal employer, that person shall
38 successfully complete a minimum of 20 hours per year
39 of in-service training.

1 2. Role of board. The board shall establish
2 in-service training requirements, including the
3 content and time periods in which in-service training
4 shall take place, and conduct in-service training
5 programs. The in-service training requirements shall
6 include information on new laws and court decisions.

7 3. Provision of in-service training. In-service
8 training programs which meet the requirements
9 established under subsection 2 may be provided by the
10 Maine Criminal Justice Academy or the agency employing
11 the corrections officer.

12 **Sec. 6.** 25 MRSA §2805, as amended by PL 1985,
13 c. 155, §4, is repealed.

14 **Sec. 7.** 25 MRSA 2805-A, as amended by PL 1985,
15 c. 155, §5, is repealed.

16 **Sec. 8.** 25 MRSA §2805-B is enacted to read:

17 §2805-B. Employment and training records

18 1. Annual report and records. Within 30 days of
19 the close of each calendar year, the highest elected
20 official of each political subdivision and the head of
21 each state department and agency, employing law
22 enforcement or corrections officers subject to this
23 chapter, shall provide the board with a list of the
24 names and dates of employment of all law enforcement
25 and corrections officers covered by this chapter. The
26 official or department or agency head shall maintain
27 records regarding the basic and in-service training of
28 law enforcement and corrections officers as provided
29 in sections 2804-C to 2804-F.

30 2. New officers. Whenever a law enforcement
31 officer or a full-time corrections officer is newly
32 appointed, the official or department or agency head
33 shall send notice of appointment within 30 days to the
34 board on a form provided for that purpose. The form
35 shall be deemed an application for admission to the
36 academy for any officer who is required to be trained
37 under this chapter.

1 Sec. 9. 25 MRSA §2806, sub-§1, as repealed and
2 replaced by PL 1983, c. 244, §6, is amended to read:

3 1. Suspension or revocation. The board of
4 trustees:

5 A. May suspend the right to enforce the criminal
6 laws of the State or to act as a corrections
7 officer of any person found in violation of
8 section 2805, subsection 1 2804-B, 2804-C or
9 2804-D;

10 B. May suspend or revoke the certificate pursuant
11 to section ~~2803, 2805 or 2805-A~~ 2803-A, 2804-B,
12 2804-C or 2804-D of any person who:

13 (1) Has been found guilty of murder or any
14 Class A, Class B or Class C crime;

15 (2) Has been found guilty of any crime in
16 this or another jurisdiction for which the
17 maximum term of imprisonment prescribed by
18 law exceeds one year; or

19 (3) Has been found guilty of any crime in
20 this or another jurisdiction for which the
21 maximum term of imprisonment prescribed by
22 law is not less than 6 months which involves
23 moral turpitude; and

24 C. Shall investigate a complaint, on its own
25 motion or otherwise, regarding the failure of a
26 law enforcement or corrections officer to comply
27 with the requirements of section 2805,
28 subsection 3 2804-E or 2804-F, and any rules
29 promulgated pursuant thereto adopted under those
30 sections. The board may, upon notice, conduct an
31 informal conference with the officer. If the
32 board finds that the factual basis of the
33 complaint is true and that further action is
34 warranted, it may take the following action:

35 (1) Enter into a consent agreement with the
36 officer, which agreement may contain

1 provisions to insure compliance, including
2 voluntary surrender of the certificate and
3 terms and conditions of recertification; or

4 (2) Refer the complaint to the Attorney
5 General for action in the Administrative
6 Court.

7 **Sec. 10.** 25 MRSA §2806, sub-§4-A, as enacted by
8 PL 1979, c. 261, §7 is amended to read:

9 4-A. Injunction. In the event of any continued
10 violation of section 2805 2804-B, 2804-C, 2804-D,
11 2804-E or 2804-F subsequent to to a final decision by
12 the board of trustees or judicial review by the
13 Superior Court, the Attorney General may institute
14 injunction proceedings to enjoin that continued
15 violation.

16 **Sec. 11.** 25 MRSA §2808, sub-§1, ¶B, as enacted
17 by PL 1985, c. 506, Pt. A, §50, is amended to read:

18 B. "Training" means the ~~initial~~ preservice and
19 basic training provided to part-time and full-time
20 law enforcement officers by the Maine Criminal
21 Justice Academy, as described in section 2805,
22 subsection 17 and section 2805-A sections 2804-B
23 and 2804-C.

24 **PART B**

25 **Sec. 12.** 4 MRSA §1057, as enacted by PL 1987,
26 c. 339, is amended to read:

27 §1057. Criminal Justice Operations Surcharge Fund

28 1. Fund established. There is hereby
29 established a fund to be known as the ~~Jail~~ Criminal
30 Justice Operations Surcharge Fund. This fund shall be
31 maintained by the Treasurer of State for the ~~sole~~
32 purpose purposes of reimbursing counties for costs
33 associated with operations of the jail system,
34 reimbursing municipalities and counties for costs
35 associated with law enforcement training and providing
36 funds for the Maine Criminal Justice Academy to

1 provide law enforcement training.

2 2. Surcharge imposed. A surcharge of 10% shall
3 be added to every fine, forfeiture or penalty imposed
4 by any court in this State. All funds collected as a
5 result of this surcharge shall be deposited monthly in
6 the ~~Jail~~ Criminal Justice Operations Surcharge Fund.

7 3. Reimbursement to counties. Monthly, the
8 Treasurer of State shall make payments from this fund
9 to each county in direct proportion to the amount of
10 revenue obtained from all courts within each county,
11 provided a county may not receive an amount greater
12 than the prior year's expenditure on its jail. The
13 amount of total payments made to counties shall equal
14 2% of the total fines, forfeitures and penalties,
15 including this surcharge, received by the Treasurer of
16 State. The balance remaining in the Jail Operations
17 Surcharge Fund at the end of each month shall accrue
18 to the General Fund.

19 4. Reimbursement to municipalities and counties
20 for law enforcement training. Monthly, the Treasurer
21 of State shall make payments from this fund to each
22 municipality and each county which demonstrates the
23 expenditure of funds in furtherance of law enforcement
24 training required under Title 25, Part 8, chapter
25 341. The amount of the payment made to each
26 municipality or county shall equal the amount expended
27 by that municipality or county for tuition and
28 additional salary costs incurred because of the
29 officer's attendance at training.

30 5. Balance to the Maine Criminal Justice
31 Academy. The balance remaining in the Criminal
32 Justice Operations Surcharge Fund at the end of each
33 month shall accrue to the General Fund for the use of
34 the Maine Criminal Justice Academy.

35 Sec. 13. 4 MRSA §1156, 2nd ¶, as amended by PL
36 1987, c. 339, §4, is further amended to read:

37 The Administrative Court Judge shall maintain a
38 record of all fines and surcharges received by the
39 court and shall pay the fines into the General Fund of

1 the State Treasury and the surcharges into the ~~fall~~
2 Criminal Justice Operations Surchage Fund on or
3 before the 15th day of each month.

4 STATEMENT OF FACT

5 This bill is the result of a study on the
6 content, timing and funding of law enforcement
7 training conducted by a subcommittee of the Joint
8 Standing Committee on Legal Affairs between the First
9 Regular Session and Second Regular Session of the
10 113th Legislature. This bill contains only the
11 legislative recommendations of the committee. The
12 committee study report contains all recommendations,
13 as well as the background and reasoning which support
14 the changes in this bill.

15 Part A of the bill amends the sections of the law
16 specifically dealing with law enforcement training and
17 the Maine Criminal Justice Academy. Part B of the
18 bill amends the law concerning the fund created by the
19 10% surcharge on all fines, penalties and forfeitures.

20 Section 1 of Part A clarifies that the purpose of
21 the Maine Criminal Justice Academy is to provide
22 training for all law enforcement and corrections
23 officers in the State, whether they are municipal,
24 county or state personnel.

25 Section 2 creates a definition section, using the
26 current definitions of law enforcement officer,
27 corrections officer and full-time employment.

28 Sections 3 and 4 repeal and replace the section of
29 the law which spells out the powers and duties of the
30 Board of Trustees of the Maine Criminal Justice
31 Academy. This section clarifies and expands the
32 authority of the board to cover all law enforcement
33 officers, not just municipal and county. It also
34 requires the board to set certification standards
35 based on the officer demonstrating the acquisition of
36 specific knowledge and skills which can be directly
37 tied to job performance. The rest of the powers and
38 duties are included in current law.

1 Section 5 requires preservice training
2 certification before any person is given the power to
3 make arrests or the authority to carry a firearm in
4 the course of duty. The bill leaves the specific
5 requirements to the board of trustees, but the
6 requirements should be roughly equivalent to the
7 current 100-hour course for reserve officers. The
8 board must consider the use of apprenticeship with an
9 experienced officer as an alternative to completing
10 all or part of the preservice training. The board
11 will be responsible for administering an examination
12 at the end of the apprenticeship period to ensure that
13 the apprentice officer has obtained the knowledge and
14 skills necessary for preservice certification.
15 Preservice certification is sufficient training for
16 reserve and part-time officers, not including
17 in-service training requirements. Officers who are
18 employed by an agency which requires completion of
19 full basic training before assuming law enforcement
20 duties shall be certified as meeting the preservice
21 requirements, without completing the preservice
22 course, once they complete the basic training course
23 and are certified as meeting the core curriculum
24 requirements. The board of trustees shall also
25 evaluate the use of agency sponsorship of nonemployees
26 to attend preservice training. This will allow
27 persons who are interested in pursuing careers as law
28 enforcement officers to obtain the preliminary
29 training at their own expense, therefore making
30 themselves more marketable and giving municipalities
31 an opportunity to defray some expenses.

32 Section 5 also creates a section on basic law
33 enforcement training, although the only major change
34 from current law is to require basic training of all
35 full-time law enforcement officers, not merely
36 municipal and county officers.

37 Section 5 also creates a separate section on basic
38 corrections training which consists of the current law.

39 Section 5 also creates separate sections for
40 in-service law enforcement training and in-service
41 corrections training. The section on in-service

1 corrections training basically incorporates current
2 law. The section on in-service law enforcement
3 training sets a minimum of 20 hours annually of
4 in-service training beginning July 1, 1989, for all
5 law enforcement officers. It further requires the
6 board of trustees to set requirements within that 20
7 hours, and to coordinate and administer the program.
8 The law includes coordination with the post-secondary
9 institutions around the State to actually deliver the
10 in-service training programs, as opposed to
11 centralized classes at the academy. The in-service
12 training programs must include updating the officers
13 on new laws and court decisions which are relevant.

14 Sections 6 and 7 repeal the 2 sections of current
15 law most of which are contained in section 5.

16 Section 8 reenacts current language covering
17 employment and training records. It adds records
18 pertaining to law enforcement officers to the current
19 requirements for corrections officers.

20 Sections 9, 10 and 11 correct references involving
21 the repealed and new sections.

22 Part B of the bill renames the fund created by the
23 10% surcharge on all fines, penalties and forfeitures
24 to be the Criminal Justice Operations Surcharge Fund.
25 The county share for jail expenses is not altered.
26 The remainder of the fund shall be used to help
27 reimburse municipalities and counties for their costs
28 incurred to comply with the training requirements.
29 These costs specifically include the substitute or
30 overtime pay necessary to cover the officer in
31 training. What remains in the fund shall be turned
32 into the General Fund for the use of the Maine
33 Criminal Justice Academy to provide and administer
34 training.

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