

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 187

S.P. 121

In Senate, February 15, 1989

Submitted by the Department of Educational and Cultural Services pursuant to Joint Rule 24.

Reference to the Committee on Education suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator GILL of Cumberland.

Cosponsored by Representative FOSTER of Ellsworth, Representative O'GARA of Westbrook and Representative NORTON of Winthrop.

STATE OF MAINE

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

An Act to Amend the Laws Relating to Truants, Dropouts and Alternative Programs.



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

3 **Sec. 1. 4 MRSA §152, sub-§4,** as repealed and replaced by PL
5 1983, c. 796, §1, is amended to read:

7 **4. Exclusive jurisdiction.** Original jurisdiction, not
9 concurrent with that of the Superior Court, of mental health
11 commitment hearings under Title 34, chapter 229, mental
retardation certification hearings under Title 34, chapter 229,
habitual truancy actions under Title 20-A, chapters 119 and 211
and small claims actions under Title 14, chapter 738; and

13 **Sec. 2. 20-A MRSA §3271, sub-§2,** as enacted by PL 1985, c.
15 490, §8, is amended to read:

17 **2. Alternative instruction.** Alternative instruction may be
19 substituted for attendance in a day school in the following cases
when approved by the school principal.

21 A. The person is enrolled in an approved special education
program.

23 B. The person obtains equivalent instruction in any other
25 manner arranged or approved by the commissioner.

27 ~~C. A person 14 years of age or older, with permission of a
parent and approval of the commissioner, participates in a
suitable program of training or combined work and study.~~

29 **Sec. 3. 20-A MRSA §3271, sub-§3, ¶B,** as enacted by PL 1985, c.
31 490, §8, is amended to read:

33 B. A person who is at least 15 years old, has completed the
35 9th grade and has permission to leave school to participate
in a suitable program of training or combined work and study
from a parent and the commissioner; and

37 **Sec. 4. 20-A MRSA §3272, sub§-2,** as enacted by PL 1985, c.
39 490, §8, is amended to read:

41 **2. Habitual truancy.** A person is a ~~habitual~~ habitually
43 truant if the person is required to attend school or alternative
instruction under this chapter and ~~is absent, without excuse, for~~
45 has attained the equivalent of 10 full days of nonexcused
absences or ~~for at least 1/2 day on~~ 7 consecutive school days
47 within any 6 month period of nonexcused absences during a school
year.

49 **Sec. 5. 20-A MRSA §3273, sub-§1,** as enacted by PL 1985, c.
51 490, §8, is repealed and the following enacted in its place:

1 1. Civil violations. Having control of a person who is
3 habitually truant and being primarily responsible for that
 truancy constitutes a civil violation under this chapter.

5 Sec. 6. 20-A MRSA §3273, sub-§2, as enacted by PL 1985, c.
7 490, §8, is amended to read:

9 2. Jurisdiction. The District Court shall have
 jurisdiction over these offenses violations.

11 Sec. 7. 20-A MRSA §3273, sub-§3, as amended by PL 1985, c.
13 797, §29, is repealed and the following enacted in its place:

15 3. Process: Service of the petition on the parent shall be
 in accordance with the Maine Rules of Civil Procedure.

17 Sec. 8. 20-A MRSA §3273, sub-§4, as amended by PL 1985, c.
19 797, §30, is repealed.

21 Sec. 9. 20-A MRSA §3273, sub-§5 is enacted to read:

23 5. Disposition. Any person who commits a civil violation
25 under subsection 1 may be ordered to pay a forfeiture of not more
27 than \$200. In lieu of or in addition to this forfeiture the
 court may enter preliminary or permanent relief for one or more
 of the following:

29 A. Ordering the offender to comply with this chapter;

31 B. Ordering the offender to take specific action to ensure
 the student's attendance at school;

33 C. Enjoining the offender from engaging in specific conduct
35 which interferes with or may interfere with the student's
 attendance at school; or

37 D. Ordering the offender to undergo counseling by a
39 professional selected by the offender, with the court's
41 approval, or by the court. The counselor shall submit a
 written evaluation to the court and to the offender.

43 Sec. 10. 20-A MRSA §4502, sub-§5, ¶L, as amended by PL 1985, c.
 774, §§4 and 11, is further amended to read:

45 L. Prepare and implement an on-going school improvement
47 process and annually update a written school improvement
49 plan, including a fully developed staff development plan and
51 a plan addressing truants, dropouts, alternative education,
 prevention of truancy and return to school, citing progress
 and trends with respect to school improvement for
 identifying at-risk students in kindergarten through grade
 12 including, but not limited to, truants and dropouts, and

1 the development of appropriate alternative programs to meet
2 their needs.

3
4 **Sec. 11. 20-A MRSA §4729**, as enacted by PL 1983, c. 859, Pt.
5 C, §§5 and 7, is amended to read:

6 **§4729. Alternative programs**

7
8 ~~A school administrative unit may establish one or more~~
9 ~~programs to meet the needs of excused students, as identified in~~
10 ~~section 5002, and the needs of truants, dropouts and others, as~~
11 ~~identified in section 5104, as alternatives to the regular~~
12 ~~courses of study.~~

13
14 A school administrative unit may establish one or more
15 programs as alternatives to the regular course of study,
16 including options allowed in sections 5104 and 8605, to meet the
17 needs of at-risk students in accordance with section 4502,
18 subsection 5, paragraph L.

19
20 1. **Coordination.** These programs shall operate as part of
21 the elementary or secondary school program.

22
23 2. **Alternative schedules.** Alternative programs may allow,
24 for students of eligible age, to attend school part-time.
25 Alternative programs may be scheduled apart from the regular
26 school day.

27
28 **Sec. 12. 20-A MRSA 5001-A, sub-§2, ¶B**, as amended by PL 1985,
29 c. 123, §1, is repealed and the following enacted in its place:

30 B. A person who has:

31
32 (1) Reached the age of 15 years or completed the 9th
33 grade;

34 (2) Permission to leave school from that person's
35 parent;

36 (3) Been approved by the principal for a suitable
37 program of work and study or training;

38 (4) Permission to leave school from the school board
39 or its designee; and

40 (5) Agreed in writing with that person's parent and
41 the school board or its designee to meet annually until
42 that person's 17th birthday to review that person's
43 educational needs. When the request to be excused from
44 school has been denied pursuant to this paragraph, the
45 student's parent may appeal to the commissioner;

1
3 **Sec. 13. 20-A MRSA §5001-A, sub-§3, ¶B**, as amended by PL 1983,
c. 862, §56, is further amended to read:

5 B. A person may be excused ~~to attend an alternate program~~
under from attendance at a public day school pursuant to
7 section 5002 ~~or~~ 5104 or an ~~adult education program under~~
section 8605.

9 **Sec. 14. 20-A MRSA §5001-A, sub-§5**, as enacted by PL 1983, c.
11 806, §49, is amended to read:

13 5. **Adult responsibility.** ~~Any adults~~ An adult having a
person of compulsory school age under ~~their~~ that adult's control
15 shall cause the person to attend school as provided in this
section.

17 **Sec. 15. 20-A MRSA §5001-A, sub-§6**, as enacted by PL 1983, c.
19 806, §49, is repealed.

21 **Sec. 16. 20-A MRSA §5001-A, sub-§7** is enacted to read:

23 7. Purpose. Compulsory education is essential to the
preservation of the rights and liberties of the people and the
25 continued prosperity of our society and our nation. Maintaining
regular student attendance is necessary to achieve the goal of an
27 educated citizenry. Public schools should ensure the rights of
access for all school-age persons to an appropriate educational
29 opportunity and, when necessary, should develop alternatives to
regular school curricula for those children and youth at risk of
31 becoming dropouts and those who may have left school.

33 **Sec. 17. 20-A MRSA §5002**, as repealed and replaced by PL
1983, c. 806, §50, is repealed.

35 **Sec. 18. 20-A MRSA §5051**, as amended by PL 1983, c. 806, §§52
37 and 53, is further amended to read:

39 **§5051. Habitual truancy**

41 1. **Definition.** A student is ~~an habitual~~ habitually truant
if the student is:

43 A. Subject is subject to section 5001-A; and

45 B. ~~Absent from school without excuse for the equivalent of~~
47 ~~10 full days, or for at least 1/2 day on 7 consecutive~~
~~school days, within any 6 month period.~~ Has attained the
49 equivalent of 10 full days of nonexcused absences or 7
consecutive school days of nonexcused absences during a
51 school year.

1 2. Procedures. The following provisions govern the
2 procedure to be followed when a student is an ~~an-habitual~~ habitually
3 truant.

5 A. If a principal of a public school and the attendance
6 coordinator determines that a student is an ~~an--habitual~~
7 habitually truant, the principal shall inform the
8 superintendent. ~~The--superintendent--shall--first--try--to~~
9 ~~correct-the-problem-informally.~~

11 B. If the principal and the attendance coordinator are
12 unable to correct the problem ~~informally~~, the superintendent
13 shall refer the matter to the school board along with the
14 principal's attendance coordinator's report, the principal's
15 report and any other useful information.

17 C. The school board shall call a hearing and shall notify
18 the student's parent of the following in writing at least 7
19 days in advance:

21 (1) Date The date and time of the hearing;

23 (2) Purpose The purpose of the hearing;

25 (3) The parent's right to inspect the student's
26 attendance records, attendance coordinator's report and
27 principal's reports; and

29 (4) The necessity of the parent's and student's
30 presence at the hearing.

31 D. If the school board determines that the student is an
32 ~~habitual~~ habitually truant, it shall either:

35 (1) Instruct the student to attend school as required
36 by section 5001-A and advise the parents of their
37 responsibility under section 5001-A, subsection 5 to
38 assure the student's attendance; or

39 (2) Waive the requirements of section 5001-A, if the
40 student is ~~14~~ 15 years of age or older.

43 E. A parent may appeal to the commissioner the decision of
44 the school board which denies to an ~~an--habitual--truant~~ a
45 student who is habitually truant and at least 14 15 years
46 old a waiver of section 5001-A.

47 (1) The commissioner shall appoint a fair hearing
48 officer to hear the appeal.

1 (2) The fair hearing officer shall report to the
3 commissioner on the testimony presented and shall
recommend a disposition to the commissioner.

5 (3) The commissioner shall review the report and shall
7 affirm, modify or reverse the school board's decision
on a waiver of section 5001-A.

9 3. Reports. The following provisions apply to reports.

11 A. A superintendent shall submit an annual report to the
13 commissioner before October 1st. The report shall:

15 (1) Identify the number of habitual truants in the
unit in the preceding school year;

17 (2) Describe the unit's efforts to deal with habitual
19 truancy;

21 (3) Account for actions brought under this section;
and

23 (4) Include any other information on truancy requested
25 by the commissioner.

27 B. The commissioner shall submit an annual report to the
29 Governor and the Legislature before January 15th. The
report shall aggregate the information provided by
31 superintendents and shall evaluate the effect of state laws
on the incidence of truancy.

33 Sec. 19. 20-A MRSA §5052, as enacted by PL 1981, c. 693, §§5
and 8, is repealed.

35 Sec. 20. 20-A MRSA §5052-A is enacted to read:

37 §5052-A. Attendance coordinators

39 The following provisions apply to attendance coordinators.

41 1. Election. The following provisions apply to the
43 election of attendance coordinators.

45 A. A school board shall annually elect an attendance
47 coordinator or coordinators.

49 B. The attendance coordinator shall be elected at the first
51 meeting of the school board after its election.

C. Vacancies shall be filled as they occur.

1 2. Qualifications. An attendance coordinator shall be a
2 professionally certified or registered person in the mental
3 health, social welfare, law enforcement or educational system who
4 is qualified to carry out the duties in accordance with rules to
5 be established by the State Board of Education.

7 3. Duties. The duties of an attendance coordinator shall
8 include, but not be limited to, the following:

9
10 A. When notified by a principal that a student's attendance
11 is irregular, interviewing the student and the parent or
12 parents or guardian or guardians to determine the cause of
13 the irregular attendance and file a written report with the
14 principal;

15 B. Filing an annual report with the superintendent
16 summarizing school year activities, findings and
17 recommendations regarding truants; and

18 C. Serving as a member of the dropout prevention committee
19 in accordance with section 5103.

20 4. Department assistance. The department shall provide
21 technical assistance to school attendance coordinators for
22 carrying out these duties, through the Office of Truancy, Dropout
23 and Alternative Education.

24 Sec. 21. 20-A MRSA §5053, sub-§1, as amended by PL 1983, c.
25 806, §54, is repealed and the following enacted in its place:

26 1. Civil violation. Having control of a student who is
27 habitually truant and being primarily responsible for that
28 truancy constitutes a civil violation under this chapter.

29 Sec. 22. 20-A MRSA §5053, sub-§§2 and 3, as enacted by PL 1981,
30 c. 693, §§5 and 8, are amended to read:

31 2. Jurisdiction. The District Court shall have
32 jurisdiction of these offenses violations.

33 3. Process. ~~Warrants and legal process issued by a court~~
34 ~~to enforce this section may be directed to and executed by the~~
35 ~~attendance officer of the school administrative unit where the~~
36 ~~offense is alleged to have been committed.~~ Service of the
37 petition on the parent will be in accordance with the Maine Rules
38 of Civil Procedure.

39 Sec. 23. 20-A MRSA §5053, sub-§4, as enacted by PL 1981, c.
40 693, §§5 and 8, is repealed.

41 Sec. 24. 20-A MRSA §5053, sub-§5 is enacted to read:

1 5. Disposition. Any person who commits a civil violation
2 under subsection 1 may be ordered to pay a forfeiture of not more
3 than \$200. In lieu of or in addition to this forfeiture the
4 court may enter preliminary or permanent relief for one or more
5 of the following:

7 A. Ordering the offender to comply with this chapter;

9 B. Ordering the offender to take specific action to ensure
10 the student's attendance at school;

11 C. Enjoining the offender from engaging in specific conduct
12 which interferes with or may interfere with the student's
13 attendance at school; or

14 D. Ordering the offender to undergo counseling by a
15 professional selected by the offender, with the court's
16 approval, or by the court. The counselor shall submit a
17 written evaluation to the court and to the offender.

19 Sec. 25. 20-A MRSA §5101, as enacted by PL 1981, c. 693, §§5
20 and 8, is repealed.

21 Sec. 26. 20-A MRSA §5102, as enacted by PL 1981, c. 693, §§5
22 and 8, is amended to read:

23 §5102. Definitions

24 As used in this subchapter, unless the context otherwise
25 indicates, a "dropout" means any person ~~under the age of 17~~ who
26 has withdrawn for any reason except death, or been expelled from
27 school before graduation or completion of a program of studies
28 and who has not enrolled in another educational institution or
29 program.

30 Sec. 27. 20-A MRSA §5103, as enacted by PL 1981, c. 693, §§5
31 and 8, is repealed and the following enacted in its place:

32 §5103. Dropout prevention committee

33 The following provisions apply to the dropout prevention
34 committee.

35 1. Committee. Each superintendent, with school board
36 approval, shall annually establish a separate dropout prevention
37 committee for each individual school unit under the
38 superintendent's supervision.

39 2. Membership. The dropout prevention committee shall be
40 composed of the following members:

41 A. A member of the school board;

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- B. A school administrator;
- C. A teacher and a school counselor;
- D. A parent;
- E. A high school student;
- F. A dropout;
- G. A school attendance coordinator from the district; and
- H. A community resident of the district.

A dropout prevention committee may increase its membership by majority vote.

3. Terms and vacancies. Members shall serve in accordance with policy established by the school board.

4. Chair. The dropout prevention committee shall select a chair from among its members.

5. Responsibilities. The following provisions apply to responsibilities of the dropout prevention committee.

A. The dropout prevention committee shall:

- (1) Study the problem of dropouts, habitual truancy and need for alternative programs, kindergarten to grade 12;
- (2) Make recommendations for addressing the problems; and
- (3) Submit a plan of action to the school board, in accordance with section 4502, subsection 5, paragraph L.

B. The dropout prevention committee shall consider the following when developing its plan:

- (1) Reasons why students drop out of school;
- (2) Maintenance of continuing contacts with recent dropouts in order to extend opportunities for alternate educational programs, counseling and referral;
- (3) Education of teachers and administrators about the dropout problem;
- (4) Use of human services programs to help dropouts;

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(5) The school administrative unit's policies on suspension, expulsion and other disciplinary action; and

(6) Discriminatory practices and attitudes within the school administrative unit.

6. Annual report. The dropout prevention committee shall meet at least annually to review its plan and to make recommendations to the school board.

7. Department assistance. The department shall provide technical assistance to a dropout prevention committee on request to the Office of Truancy, Dropout Prevention and Alternative Education.

Sec. 28. 20-A MRSA §5104, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

Sec. 29. 20-A MRSA §5104-A is enacted to read:

§5104-A. Alternative programs outside the school administrative unit

1. Alternative programs. If the superintendents approve, a school administrative unit may enroll a student in an alternative program in another school administrative unit or in an approved private alternative program.

2. Student count. A student properly approved for enrollment under subsection 1 shall be counted as a 1.0 student on school administrative unit counts for each semester, or its equivalent, of alternative program.

3. Rules. The commissioner shall adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, to administer this section.

Sec. 30. 20-A MRSA §8605, sub-§1, ¶¶A and B, as enacted by PL 1981, c. 693, §§5 and 8, are amended to read:

A. The commissioner shall grant exceptions under this subsection in admitting students to adult education programs at the local level to a student who has ~~left~~ withdrawn from school under the provisions of section 5001 ~~5001-A~~, subsection 2, paragraph B, on the recommendations of the school board.

B. Prior to requesting an exception, the school board shall seek and consider the recommendations of the positive-action dropout prevention committee.

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STATEMENT OF FACT

The purposes of this bill are to amend and repeal certain sections of the Maine Revised Statutes, Title 20-A, to strengthen the compulsory attendance provisions and to clarify the procedures by which school units develop appropriate alternative programs for students at risk of school failure or dropping out. Under this bill waiver of compulsory attendance provisions for persons under 15 years of age is repealed and the attendance coordinator's role is clarified and strengthened.

Under current law, remedies available in the District Court are limited to civil forfeiture and an order to undergo counseling. This bill authorizes the District Court to enter preliminary and permanent injunctive relief directing an offender to comply with the compulsory attendance laws, direct an offender to take specific action to ensure the student's attendance or direct an offender to refrain from engaging in specific conduct which interferes with or may interfere with the student's attendance.