

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)



# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

---

Legislative Document

No. 1238

H.P. 894

House of Representatives, April 19, 1989

Reference to the Committee on Legal Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative ADAMS of Portland.

Cosponsored by Representative JOSEPH of Waterville and Senator  
DUTREMBLE of York.

---

STATE OF MAINE

---

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

---

An Act to Increase the Enforcement Powers of the Board of Trustees  
of the Maine Criminal Justice Academy.

---



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

3 **Sec. 1. 25 MRSA §2803, sub-§1**, as amended by PL 1985, c. 432,  
5 is further amended to read:

7 1. **Training and licensing of deputy sheriffs and local law**  
9 **enforcement officers.** In accordance with the provisions of  
11 section 2805 to set standards for admission to the academy, set  
13 requirements for graduation from the academy, prescribe  
15 curriculum and ~~certify~~ license both graduates of the academy and  
17 persons for whom the board of trustees have waived the  
requirements of section 2805. The board of trustees may not set  
standards for admission to the academy until July 1, 1990, for  
persons required to be trained pursuant to Title 30, section  
6210, subsection 4, which standards are higher than those in  
force on the effective date of Title 30, section 6210, subsection  
4;

19 **Sec. 2. 25 MRSA §2803, sub-§3-A**, as enacted by PL 1985, c.  
21 742, §2, is amended to read:

23 3-A. **Training and licensing in court procedures.** To  
25 establish ~~certification~~ license standards and a program to  
certify license law enforcement officers as being familiar with  
current court procedures. This program must include:

27 A. Sufficient instruction in the basic training course  
29 approved by the trustees under section 2805 to satisfy  
~~certification~~ licensing standards upon successful completion  
of the course;

31 B. A method by which law enforcement officers whose basic  
33 training course did not contain the instruction required by  
35 paragraph A may satisfy the ~~certification~~ licensing  
standards; and

37 C. A requirement that in-service training programs required  
39 under section 2805 include instruction on current court  
procedures;

41 **Sec. 3. 25 MRSA §2803, sub-§10**, as amended by PL 1985, c. 155,  
43 §2, is further amended to read:

45 10. **Revocation or suspension of license.** To revoke or  
suspend a ~~certificate~~ license issued under this chapter, pursuant  
47 to section 2806; and

49 **Sec. 4. 25 MRSA §2805, sub-§1**, as amended by PL 1985, c. 155,  
§4, is further amended to read:

51 1. **Basic training.** As a condition to the continued  
employment of any person as a full-time law enforcement officer

1 by a municipality or county, that person shall successfully  
complete, within the first 6 months of his employment, a basic  
3 training course at the Maine Criminal Justice Academy. The board  
of trustees, under extenuating and emergency circumstances in  
5 individual cases, may extend that period for not more than 90  
7 days. In addition, the board of trustees may waive in individual  
cases such the basic training requirement when the facts indicate  
9 that an equivalent course has been successfully completed. Upon  
11 completion of the basic training course or the receipt of a  
13 waiver, the board of trustees shall issue to that person a law  
15 enforcement officer license, unless one of the grounds set forth  
in section 2806, subsection 1 exists. This section shall not  
apply to any person employed as a full-time local law enforcement  
officer in a municipality on September 23, 1971, or in a county  
on July 1, 1972.

17 As a condition to the continued employment of any person as a  
full-time corrections officer, as defined in subsection 2,  
19 paragraph C, by a municipality or county or by the State, the  
person shall successfully complete, within the first 6 months of  
21 his employment as a corrections officer, a basic training course  
of not less than 80 hours as approved by the Maine Criminal  
23 Justice Academy. The board of trustees, under extenuating and  
emergency circumstances in individual cases, may extend the  
25 period allowed for training for not more than 90 days. In  
addition, the board of trustees may, in individual cases, waive  
27 basic training requirements when the facts indicate that an  
equivalent course has been successfully completed in another  
29 state or federal jurisdiction within the last 2 years. Upon  
31 completion of the basic training course or the receipt of a  
33 waiver, the board of trustees shall issue to that person a  
35 corrections officer license, unless one of the grounds set forth  
37 in section 2806, subsection 1 exists. This paragraph shall apply  
to any person employed as a full-time corrections officer as ~~of~~  
39 ~~the effective date of this paragraph, except that full-time~~  
41 ~~corrections officers shall be exempt from the 12-months'~~  
~~requirement but shall successfully complete the basic training on~~  
~~or before January 1, 1980.~~ Administrators of facilities where  
there are corrections officers who are not full-time, as defined  
in subsection 2, paragraph C, are encouraged to develop an  
orientation program for those persons.

43 **Sec. 5. 25 MRS A §2805, sub-§3-A** is enacted to read:

45 3-A. Licenses; expiration; renewal. Licenses issued under  
47 this section expire annually on December 31st and become invalid  
49 at midnight, January 31st of the following year. The board of  
51 trustees may, in individual cases, determine upon good cause  
shown that a license shall remain valid until midnight March 31st  
of that year. The Maine Criminal Justice Academy shall notify  
any person licensed under this section of the date of expiration  
of the license. The notice shall be sent to that

1 person's last known place of employment or last known home  
2 address at least 30 days in advance of the expiration of the  
3 license. A licensee shall be responsible for notifying the  
4 academy of any change of address. Renewals are contingent upon  
5 evidence that the full-time local law enforcement officer or  
6 full-time corrections officer has fulfilled the in-service  
7 training requirements set forth in subsection 3. No license may  
8 be renewed if any of the grounds set forth in section 2806,  
9 subsection 1 exists. The holding of a valid license is a  
10 condition to continued employment as a full-time local law  
11 enforcement officer or a full-time corrections officer.

13 **Sec. 6. 25 MRSA §2805, sub-§4**, as amended by PL 1979, c. 261,  
14 §2, is further amended to read:

15  
16 **4. Employment list.** ~~Within 30 days of the close of~~ On or  
17 before December 31st of each calendar year, the highest elected  
18 official of each political subdivision and the head of each state  
19 department and agency employing corrections officers subject to  
20 this chapter shall provide the academy board of trustees with a  
21 list of the names and dates of employment of all full-time law  
22 enforcement and corrections officers covered by this section. The  
23 On or before December 31st of each year the official department  
24 and agency head shall further maintain and provide to the academy  
25 records regarding the basic and in-service training of  
26 corrections officers, as provided for in subsections 1 and 3.

27  
28 Whenever a full-time local law enforcement officer or a full-time  
29 corrections officer is newly appointed, such the highest elected  
30 official, or department and agency head, shall send notice of  
31 appointment within 30 days to the trustees on a form approved for  
32 that purpose. The form shall be deemed an application for  
33 admission to the academy for any officer who is required to be  
34 trained by this chapter.

35 **Sec. 7. 25 MRSA §2805, sub-§5** is enacted to read:

36  
37 **5. Reinstatement.** Licenses that have expired or have not  
38 been renewed may be reinstated as follows.

39  
40 **A.** Any person whose license has expired or has not been  
41 renewed because of failure to complete the in-service  
42 training requirement set forth in subsection 3, shall have  
43 one year from January 31st of the year in which the license  
44 became invalid to complete the in-service training  
45 requirement. Upon completion of that requirement, the board  
46 of trustees shall reinstate the license without requiring  
47 the applicant to satisfy the basic training requirements.  
48 No license may be reinstated if any of the grounds set forth  
49 in section 2806, subsection 1 exists. This provision does  
50 not entitle any person to continue employment as a full-time  
51 local law enforcement officer or a full-time corrections  
52 officer after the license has become invalid and prior to  
53 license reinstatement.

54  
55

1            B. Any person whose license has expired or has not been  
3            renewed because of failure to complete the in-service  
5            training requirement as set forth in subsection 3 and who  
7            fails to complete the in-service training requirement within  
9            the time period set forth in paragraph A shall be required  
11           to complete the in-service training requirement and obtain a  
13           waiver of the basic training requirements under subsection 1  
15           before the license may be reinstated. The standards for  
17           determining when basic training may be waived shall be  
19           contained in rules promulgated by the board of trustees. No  
21           license may be reinstated if any of the grounds set forth in  
23           section 2806, subsection 1 exists.

25           **Sec. 8. 25 MRSA §2805-A**, as amended by PL 1985, c. 155, §5,  
27           is further amended to read:

29           **§2805-A. Standards for reserve and other part-time law enforcement**  
31           **officers**

33           1. Purpose. The purpose of this section is to establish  
35           standards and training programs for reserve and other part-time  
37           law enforcement officers and to ~~certify~~ license these officers.

39           2. Powers and duties. The board of trustees of the Maine  
41           Criminal Justice Academy shall have the following powers and  
43           duties.

45           A. The board of trustees shall establish standards of  
47           admission to training for reserve and part-time officers  
49           which may include, but are not limited to, standards of work  
51           experience and physical and mental condition. The board of  
                 trustees may also establish educational standards but shall  
                 not establish graduation from high school as a standard.

                 B. The board of trustees shall approve training programs  
                 for the purpose of qualifying reserve and part-time  
                 officers, including prescription of curriculum and setting  
                 standards for graduation from such these programs and for  
                 ~~certification~~ licensing as a reserve or part-time officer.  
                 In addition, the academy may approve other training programs  
                 for reserve and part-time officers.

                 The board of trustees shall ~~certify-in-writing~~ license any  
                 person who, subsequent to the effective date of this  
                 section, has satisfied the requirements for ~~certification~~  
                 licensing it has established.

                 The board of trustees may ~~certify-in-writing~~ license without  
                 requiring additional training or testing a person who, prior  
                 to the effective date of this section, has completed a  
                 training program substantially similar to the training  
                 requirement established by the board of trustees and who

1 substantially meets all other requirements for ~~certification~~  
2 licensing at the time of his ~~certification~~ licensing.

3  
4 The board of trustees may ~~certify--in-writing~~ license by  
5 requiring additional training or testing only in selected  
6 subjects a person who, prior to the effective date of this  
7 section, has completed a training program substantially  
8 similar to the training requirement established by the  
9 academy, except for training in those selected subjects, and  
10 substantially meets all other requirements for ~~certification~~  
11 licensing at the time of his ~~certification~~ licensing. An  
12 example of such a person would be one who, in addition to  
13 meeting other requirements, completed a training course in  
14 another state which is substantially similar to the course  
15 required by this section, except for instruction of the  
16 criminal and traffic law of the other state.

17  
18 C. The board of trustees may establish fees to be assessed  
19 for testing and ~~certification~~ licensing in order to defray  
20 part of the costs of operation of this section and may  
21 accept grants from governmental and nongovernmental sources  
22 for this purpose.

23  
24 D. The board of trustees shall maintain a roster of all  
25 currently ~~certified~~ licensed reserve and part-time officers.  
26 The roster shall be available for inspection during regular  
27 working hours by the public at the academy.

28  
29 3. Standards and training requirements. The standards and  
30 training requirements established and approved by the board of  
31 trustees shall not be greater than the standards and training  
32 requirements required for full-time law enforcement officers  
33 employed in the jurisdiction for which a reserve or part-time  
34 officer is training to be employed.

35  
36 The board of trustees may establish different standards and  
37 training requirements for a municipality or classes of  
38 municipalities and for a county sheriff's department or classes  
39 of sheriff's departments. The board of trustees may establish  
40 classes of reserve or part-time officers, which reflect  
41 attainment of different levels of standards and training,  
42 provided that these levels relate to the different requirements  
43 of a municipality or classes of municipalities and a county  
44 sheriff's department or classes of county sheriff's departments.

45  
46 4. Licensing required. As a condition to the continued  
47 employment of any person as a reserve or part-time law  
48 enforcement officer by a municipality or county, except a law  
49 enforcement officer without the power to arrest and without the  
50 authority to carry a weapon, the person must receive from the  
51 academy, within the first 6 months of his employment,  
~~certification a license~~ or a waiver of ~~certification~~ the

1 licensing requirements as a reserve or part-time law enforcement  
3 officer. The board of trustees, under extenuating and emergency  
circumstances in individual cases, may extend this period for not  
5 more than 90 days.

7 5. Employment list. ~~Within 30 days of~~ By the close of each  
calendar year, the highest elected official of each political  
9 subdivision shall provide the academy board of trustees with a  
list of the names and dates of employment of all reserve and  
11 part-time law enforcement officers covered by this section.

13 Whenever a reserve or part-time local law enforcement officer is  
newly appointed, such the highest elected official, or department  
15 and agency head, shall send notice of appointment within 30 days  
to the trustees on a form approved for that purpose. The form  
shall be deemed an application for admission to the training  
17 program or for other certification licensing as required by this  
section.

19 ~~6. Transition. The provisions of this section that apply  
21 to the required training and certification of part-time and  
reserve law enforcement officers shall become effective on  
23 January 1, 1986. This subsection shall not be construed to mean  
that the date for training and certification is extended for  
25 persons newly employed by a municipality or county as law  
enforcement officers. Any person newly employed by a  
27 municipality or county as a part-time or reserve law enforcement  
officer on or after September 23, 1983, shall be required, within  
29 the first year of employment, to obtain the required training or  
certification by the Maine Criminal Justice Academy, as provided  
31 in this section.~~

33 **Sec. 9. 25 MRSA §2806, sub-§1**, as repealed and replaced by PL  
1983, c. 244, §6, is repealed and the following enacted in its  
35 place:

37 1. Suspension; revocation; refusal to renew. The board of  
39 trustees may suspend, revoke or refuse to renew a license issued  
or renewed pursuant to section 2803, 2805 or 2805-A without a  
41 hearing in accordance with the terms of Title 5, section 10004.  
Notwithstanding Title 5, section 10051, the board may, after a  
43 hearing held in accordance with Title 5, chapter 375, subchapter  
IV, deny, modify, suspend, revoke or refuse to renew, any license  
45 required under this chapter for any of the following grounds:

47 A. A conviction in this or any other jurisdiction for a  
crime punishable by imprisonment for one year or more;

49 B. Any conviction relative to a violation of Title 17-A,  
51 chapters 19, 25 and 45 or similar provisions in other  
jurisdictions, or any crime involving dishonesty or a false  
53 statement in this or any other jurisdiction; or



1 C. A professional diagnosis of a mental condition that the  
2 board of trustees determines has resulted in, or may result  
3 in, the person performing duties in a manner which  
4 immediately endangers the health or safety of the citizenry.

5  
6 **Sec. 10. 25 MRSA §2806, sub-§2**, as repealed and replaced by PL  
7 1983, c. 244, §7, is repealed and the following enacted in its  
8 place:

9  
10 **2. Failure to comply.** The board of trustees shall  
11 investigate, on its own initiative or upon complaint, the  
12 possible failure of a law enforcement officer or corrections  
13 officer to comply with the requirements of section 2805,  
14 subsection 3-A, and any rules promulgated pursuant to that  
15 subsection. If the board makes an initial finding that the law  
16 enforcement officer or corrections officer failed to complete the  
17 in-service training, then the board shall not renew the license.  
18 A person whose license has not been renewed for failure to  
19 fulfill the in-service training requirement of section 2805,  
20 subsection 3-A may, within 10 days of notice of nonrenewal from  
21 the board, request an informal conference with the board or a  
22 hearing.

23  
24 If an informal conference is requested, the board shall attempt  
25 to execute a consent agreement to resolve the matter without  
26 further proceedings. The board, upon good cause shown, shall  
27 have the authority to extend the validity of a license until  
28 midnight, March 31st of that year. Any remedy otherwise  
29 available by law may be achieved by a consent agreement,  
30 including temporary or permanent surrender of the right to  
31 enforce the criminal laws of the State or the right to act as a  
32 corrections officer. A consent agreement is not subject to  
33 review or appeal. A consent agreement is enforceable by an  
34 action in Superior Court. In the absence of a consent agreement,  
35 the person whose license has not been renewed may request a  
36 hearing in accordance with Title 5, section 10003.

37  
38 **Sec. 11. 25 MRSA §2806, sub-§4-A**, as enacted by PL 1979, c.  
39 261, §7, is amended to read:

40 **4-A. Injunction.** In the event of any violation or continued  
41 violation of section 2803, 2805 subsequent to a final decision by  
42 the board of trustees or judicial review by the Superior Court or  
43 2805-A, the Attorney General may institute injunctive  
44 proceedings to enjoin that any violation or continued violation.

45  
46 **Sec. 12. 25 MRSA §2806, sub-§7** is enacted to read:

47  
48 **7. Transition.** All persons holding valid certificates of  
49 eligibility as of January 1, 1990, shall be issued a license on  
50 that date. All persons who are in the process of fulfilling the  
51 requirements of section 2805, subsection 3-A shall be deemed to

1 basic training course for a certificate of eligibility shall be  
2 eligible for the issuance of a license provided all other  
3 provisions of this chapter are met. All rules previously adopted  
4 under this chapter by the Maine Criminal Justice Academy shall  
5 continue in full force and effect except to the extent they are  
6 inconsistent with this chapter.

7  
8       Sec. 13. 25 MRSA §2806-A is enacted to read:

9  
10       §2806-A. Eligibility for license and criminal convictions

11       Notwithstanding the provisions of Title 5, chapter 341, a  
12 conviction of a type listed in section 2806, subsection 1, may  
13 constitute grounds for denial, nonrenewal, suspension or  
14 revocation of a license under this chapter for a period of not  
15 less than 3 years from the date of the applicant's final  
16 discharge from the correctional system.

17  
18  
19                               **STATEMENT OF FACT**

20  
21       This bill replaces the present system of certifying law  
22 enforcement officers with a licensing system. Under the new  
23 licensing system, failure to complete the required in-service  
24 training will automatically result in nonrenewal of the license  
25 to act as a law enforcement officer or corrections officer. The  
26 bill also makes modifications to the enforcement provision of the  
27 existing law and provides an exemption from the Maine Revised  
28 Statutes, Title 5, chapter 341.

29  
30       Sections 1 to 4 and section 8 make technical changes to the  
31 current law by substituting the word "license" and its variations  
32 where the word "certify" and its variations appear.

33  
34       Section 5 sets forth annual renewal requirements and time  
35 limitations. Under this section, all licenses will expire on  
36 December 31st, unless evidence has been provided to the Maine  
37 Criminal Justice Academy of the fulfillment of the in-service  
38 training requirements. All licensees are, however, given a  
39 one-month period in which to provide the necessary documentation,  
40 during which time the licensee may continue to work. This  
41 one-month period will allow the academy, the agencies and the  
42 officers an opportunity to ensure that all paperwork is current.  
43 The board of trustees may extend the license upon good cause  
44 shown until March 31st of that year.

45  
46       Section 6 of the bill changes the deadline for the provision  
47 of employment lists to the academy to December 31st of each year.

48  
49       Section 7 of the bill permits a law enforcement officer or  
50 corrections officer whose license has not been renewed the  
51

1 opportunity to return to employment within one year without a  
waiver of the basic training requirement. This section also  
3 provides that a person whose license has not been renewed for  
more than one year must fulfill the in-service training  
5 requirement for the years missed and obtain a waiver of the basic  
training requirements.

7  
Section 9 of the bill provides to the board of trustees the  
9 option of suspending, revoking or refusing to renew a license  
without a hearing in accordance with Title 5, section 10004, or  
11 granting the licensee an adjudicatory hearing consistent with the  
requirements of the Maine Administrative Procedure Act. This  
13 section substantially changes the existing law by expanding the  
types of convictions which may be used as the basis for  
15 suspending, revoking or refusing to renew a license. Title 25,  
section 2806, subsection 1, paragraph B, gives the board of  
17 trustees the authority to suspend, revoke or refuse to renew a  
license on the basis of certain Class D or Class E convictions.  
19 Title 25, section 2806, subsection 1, paragraphs A and B relate  
to convictions in this or any other jurisdiction. Title 25,  
21 section 2806, subsection 1, paragraph C, gives the board of  
trustees the power to suspend, revoke or refuse to renew the  
23 license of an individual with a professional diagnosis of a  
mental condition which could endanger the health or safety of the  
25 citizenry.

27 Current law provides that upon its investigation of an  
officer the board may either enter into a consent agreement with  
29 the officer or it may refer the complaint to the Attorney General  
for action in the Administrative Court. Section 10 of the bill  
31 alters this procedure by providing that the board may either  
enter into a consent agreement or hold an adjudicatory hearing  
33 pursuant to Title 5, section 10003. This eliminates the board's  
bringing an action in Superior Court in order to suspend, revoke  
35 or refuse to renew a license for failure to receive the required  
in-service training.

37  
Section 11 of the bill permits the Attorney General to  
39 request an injunction for a violation of Title 25, section 2803  
or 2805-A. It also deletes language requiring a final decision  
41 by the board of trustees or judicial review by the Superior Court  
in order to seek an injunction.

43  
Section 12 of the bill provides for the orderly transition  
45 from certificates of eligibility to licenses as of January 1,  
1990. All individuals who at that time are in the process of  
47 fulfilling the requirements of the basic training course will  
receive a license. This section also recognizes that the academy  
49 formerly adopted rules which pertain to this Act.

51 Section 13 of the bill removes the board of trustees of the  
Maine Criminal Justice Academy from the requirements of Title 5,

1 chapter 341, which require that after 3 years, exoffender  
3 applicants with no subsequent convictions are to be treated as  
5 though no prior criminal record exists. Because of the unique  
nature of law enforcement, it would be contrary to common sense  
and public policy for the board to be required to ignore an  
applicant's criminal record.