

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 1249

S.P. 466

In Senate, March 21, 1991

Submitted by the Department of Education 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 LUDWIG of Aroostook  
Cosponsored by Senator BRANNIGAN of Cumberland and Representative AULT of Wayne.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

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An Act Relating to the Education of Homeless Students.

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

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3           Sec. 1. 20-A MRSA §1, sub-§13-A is enacted to read:

4           13-A. Homeless student. "Homeless student" means a person  
5 eligible to attend elementary or secondary school pursuant to  
6 section 5201 who:

7           A. Lacks a fixed, regular and adequate nighttime residence;

8           B. Has a primary nighttime residence that is:

9                   (1) A supervised publicly or privately operated  
10 shelter designed to provide temporary living  
11 accommodations, including welfare hotels, congregate  
12 shelters and transitional housing for the mentally ill;

13                   (2) An institution that provides a temporary residence  
14 for individuals intended to be institutionalized; or

15                   (3) A public or private place not designed for, or  
16 ordinarily used as, a regular sleeping accommodation  
17 for human beings; or

18           C. Is the child of a parent or guardian to whom paragraphs  
19 A or B apply.

20           The term "homeless student" does not include a person housed in a  
21 correctional facility, jail or detention facility.

22           Sec. 2. 20-A MRSA §261, 2nd ¶, as enacted by PL 1989, c. 415,  
23 §2, is amended to read:

24           The commissioner may adopt rules to implement statutory  
25 policies regarding student residency, the right of a student to  
26 attend school in another administrative unit, homeless students  
27 and other exceptions to the general residency rules. Rules  
28 adopted by the commissioner pursuant to this section shall take  
29 precedence over any inconsistent or conflicting rules adopted by  
30 a school board pursuant to section 5201, subsection 4.

31           Sec. 3. 20-A MRSA §5205, sub-§7 is enacted to read:

32           7. Homeless students. Pursuant to section 261, the  
33 commissioner may adopt rules to ensure that each homeless student  
34 has unrestricted access to the free public education afforded by  
35 section 2, subsection 1. The rules must implement the  
36 requirements and policies of the Stewart B. McKinney Homeless  
37 Assistance Act, Public Law 100-77, Title VII, Subtitle B, as  
38 amended by the Stewart B. McKinney Homeless Assistance Amendments  
39 Act of 1988, Public Law 100-268, Title VII, Section 702, and may  
40 be adopted as part of or in conjunction with the required state  
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2 plan. The rules must include, but are not limited to, provisions  
4 for the resolution of disputes regarding the educational  
6 placement of homeless students according to the best interest of  
8 homeless students, provisions that homeless students receive  
10 services comparable to services offered to other students in the  
12 schools they attend, and other provisions required by United  
14 States Code, Title 42, Section 11432, Subsection e.

### 10 STATEMENT OF FACT

12 This bill implements the State's responsibilities under the  
14 federal Stewart B. McKinney Homeless Assistance Act to revise its  
16 laws to ensure that homeless students are afforded a free,  
18 appropriate public education. This bill authorizes the  
20 commissioner to adopt rules consistent with that Act that permits  
22 a homeless student to enroll in the school administrative unit  
where the best interests of the student are served. This bill  
creates another exception, not squarely dealt with by existing  
law, to the general principle that a child is entitled to a free  
public education only in the school unit where the child's parent  
or legal guardian resides.