

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
SECOND REGULAR SESSION

HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 828, L.D. 1114, Bill, "An Act to Amend the Laws Governing the Training and Certification of Law Enforcement Officers"

Amend the amendment by striking out everything after the title and before the statement of fact and inserting in its place the following:

'Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

'Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 25 MRSA §2802, as amended by PL 1985, c. 194, is further amended to read:

§2802. Board of trustees

There is created a board of trustees for the academy consisting of ~~15~~ 17 members as follows: The Commissioner of Public Safety, ex officio, the Attorney General, ex officio, the Game Warden Colonel in the Department of Inland Fisheries and Wildlife and the Commissioner of Corrections, ex officio, and the

following to be appointed by the Governor: A a commissioned officer of the State Police, a county sheriff, a chief of a municipal police department, 2 officers of municipal police departments, an educator who is not and has never been a sworn member of a law enforcement agency, a representative from a criminal justice agency not involved in the general enforcement of Maine criminal laws, a representative of a federal law enforcement agency, a-citizen 3 citizens each who are not and have never been sworn members of a law enforcement agency, a municipal officier official who is not and has never been a sworn member of a law enforcement agency and one nonsupervisory corrections officer representing a state or county correctional facility.

The Commissioner of Public Safety or ~~his~~ the commissioner's designee, and the Attorney General or ~~his~~ the Attorney General's designee, ~~shall be~~ the Game Warden Colonel in the Department of Inland Fisheries and Wildlife or the Game Warden Colonel's designee and the Commissioner of Corrections or the commissioner's designee are members of the board during their ~~term~~ terms of office. All of the other members of the board shall serve for a term of 3 years. Members of the board shall ~~be~~ be compensated are entitled to compensation in accordance with Title 5, chapter 379. Any vacancy on the board of trustees shall ~~be~~ must be filled in the same manner as the original appointment, but for the unexpired term.

Sec. 2. 25 MRSA §2803-A, sub-§1, as enacted by PL 1989, c. 521, §§4 and 17, is amended to read:

1. Training and certification of all law enforcement officers in State. In accordance with this chapter, to establish training and certification standards for all law enforcement officers, set requirements for board-approved courses, prescribe curriculum and certify both graduates of board-approved courses and persons for whom the board has waived the training requirements of this chapter. Certification shall ~~be~~ must be based on the officer's demonstration of having acquired specific knowledge and skills directly related to job performance.

No later than March 1, 1995, the board shall establish joint training and certification standards designed to combine into a single basic training course the present State Police course and the basic municipal and county course, provided there is no diminution of the training or certification standards effective prior to March 1, 1995. The board shall report its recommendations and the necessary implementing legislation for a basic training course to the Legislature by April 1, 1995. The Legislature must approve basic training courses and the associated costs before courses may be implemented.

Until the board establishes joint training and certification standards pursuant to this subsection, the Chief of the State Police shall approve the basic training requirements for enlisted personnel of the State Police for graduation from the academy.

The board shall certify State Police enlisted personnel who meet the approved basic training requirements;

Sec. 3. 25 MRSA §2803-A, sub-§2, as enacted by PL 1989, c. 521, §§4 and 17, is amended to read:

2. **Admission standards.** In accordance with the requirements of this chapter, to establish standards for admission to the board-approved courses, taking into account state hiring standards and procedures applicable to all state departments, ~~set requirements for board-approved courses; prescribe curriculum; and certify both graduates of the board-approved courses and persons for whom the board has waived the training requirements of this chapter.~~ The board may not set standards for admission to the board-approved courses until July 1, 1990, for persons required to be trained under Title 30, section 6210, subsection 4, which standards are higher than those in force on September 23, 1983. The board shall set basic admission standards that apply uniformly to all candidates applying for admission to the academy beginning January 1, 1996. These standards may reflect no diminution from any admission standards in effect prior to January 1, 1996;

Sec. 4. 25 MRSA §2803-A, sub-§6, as enacted by PL 1989, c. 521, §§4 and 17, is repealed.

Sec. 5. 25 MRSA §2803-B is enacted to read:

§2803-B. Requirements of law enforcement agencies

1. Law enforcement policies. All law enforcement agencies shall adopt written policies regarding procedures to deal with the following:

A. Use of force;

B. Barricaded persons and hostage situations;

C. Persons exhibiting deviant behavior;

D. Domestic violence;

E. Hate or bias crimes;

F. Police pursuits;

G. Citizen complaints of police misconduct; and

H. Criminal conduct engaged in by law enforcement officers.

Page 4

The chief administrative officer of each agency shall certify to the board that attempts are made to obtain public comment during the formulation of policies.

2. Minimum policy standards. The board shall establish minimum standards for each law enforcement policy no later than June 1, 1995.

3. Agency compliance. The chief administrative officer of each law enforcement agency shall certify to the board no later than January 1, 1996 that the agency has adopted written policies consistent with the minimum standards established by the board pursuant to subsection 2. This certification must be accompanied by copies of the agency policies. The chief administrative officer of each agency shall certify to the board no later than June 1, 1996 that the agency has provided orientation and training for its members with respect to the policies.

4. Penalty. An agency that fails to comply with any provision of subsection 3 commits a civil violation for which the State Government or local government entity whose officer or employee committed the violation may be adjudged a forfeiture not to exceed \$500.

5. Annual standards review. The board shall review annually the minimum standards for each policy to determine whether changes in any of the standards are necessary to incorporate improved procedures identified by critiquing known actual events or by reviewing new enforcement practices demonstrated to reduce crime, increase officer safety or increase public safety.

Sec. 6. 25 MRSA §2804-C, as enacted by PL 1989, c. 521, §§5 and 17, is amended to read:

§2804-C. Basic law enforcement training; core curriculum requirements

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

2 ~~2. Core curriculum requirements. The board shall establish~~
3 ~~core curriculum requirements which must be satisfied by each law~~
4 ~~enforcement officer within 12 months of assuming law enforcement~~
5 ~~duties including the power to make arrests or the authority to~~
6 ~~carry a firearm in the course of duty. The board shall base the~~
7 ~~core curriculum requirements on the necessary knowledge, training~~
8 ~~and skills common to all law enforcement officers in this State.~~
9 ~~In establishing the requirements, the board shall cooperate with~~
10 ~~the State and local departments and agencies to which the~~
11 ~~preservice requirements apply to ensure that the standards are~~
12 ~~appropriate.~~

14 2-A. Probationary employment period. Upon being hired, a
15 law enforcement officer shall complete an employment probationary
16 period that lasts at least one year after graduation from the
17 academy.

18 3. Certification. The board shall certify each law
19 enforcement officer who meets the core curriculum training
20 requirements.

21 4. Courses. The board shall provide a training course, the
22 successful completion of which meets core curriculum
23 requirements. The board shall provide a basic training course
24 designed primarily for municipal and county law enforcement
25 officers.

26 A. Provide a training course, the successful completion of
27 which meets the basic training requirements;

28 B. Provide a structured residential program that balances
29 the goals of professional policing with public services
30 emphasis;

31 C. Incorporate a community policing philosophy in its
32 training program; and

33 D. Review the basic training requirements of the current
34 basic municipal and county training course and, no later
35 than March 1, 1995, establish a course of basic training for
36 all law enforcement positions that reflects no diminution in
37 quality or standards of the training courses established by
38 the board prior to March 1, 1995, pursuant to this section,
39 section 2803-A, subsection 5 and former section 2803-A,
40 subsection 6.

41 5. Application to currently certified law enforcement
42 officers. This section does not apply to any law enforcement
43 officer certified as meeting the law enforcement training
44 requirements or to any full-time law enforcement officer employed

by a state agency, including the University of Maine System, as
of July 1, 1990.

Sec. 7. 25 MRSA §2804-E, sub-§§1 and 2, as enacted by PL 1989,
c. 521, §§5 and 17, are amended to read:

1. **Required.** As a condition to the continued employment of
any a person as a law enforcement officer with the power to make
arrests or the authority to carry a firearm in the course of duty
by a municipality, county, the State or other nonfederal
employer, that person must successfully complete a minimum number
of hours of in-service recertification training as prescribed by
the board.

2. **Role of board.** The board shall establish in-service
recertification training requirements, consistent with subsection
1, coordinate delivery of in-service training with post-secondary
postsecondary schools and other institutions and law enforcement
agencies and administer in-service training programs. The
in-service recertification training requirements shall must
include information on new laws and court decisions and on new
enforcement practices demonstrated to reduce crime or increase
officer safety. The board shall consider and encourage the use
of telecommunications technology in the development and delivery
of in-service training programs. In establishing the
recertification training requirements, the board shall cooperate
with the State state and local departments and agencies to which
the in-service requirements apply to ensure that the standards
are appropriate. In-service training may not be applied to
satisfy in-service recertification training requirements unless
it is approved by the board.

Sec. 8. 25 MRSA §2804-E, sub-§4 is enacted to read:

4. Credit for continuing education. The board may grant
in-service training credits to be applied to in-service
recertification training requirements for courses completed at
accredited colleges and universities.

Sec. 9. 25 MRSA §2804-G is enacted to read:

§2804-G. Qualifications

1. **Age.** An applicant must be 21 years of age or older to
qualify for a position as a law enforcement officer unless the
applicant has an associate's degree or 60 credit hours of
postsecondary education, in which case the applicant must be at
least 20 years of age.

Sec. 10. 25 MRSA §2805-B, sub-§1, as enacted by PL 1989, c.
521, §§8 and 17, is amended to read:

2 **1. Annual report and records.** Within 30 days of the close
4 of each calendar year, the highest elected official of each
6 political subdivision and the head of each state department and
8 agency employing law enforcement or corrections officers subject
10 to this chapter shall provide the board with a report containing
12 a list of the names and dates of employment of all law
14 enforcement and corrections officers covered by this chapter.
16 The official or department or agency head shall maintain records
18 regarding the basic and in-service training of law enforcement
20 and corrections officers as provided in sections 2804-C to
22 2804-F. The report provided to the board must include the total
24 number of excessive force complaints received about law
26 enforcement or corrections officers during the reporting year by
28 the reporting jurisdiction and the total number of these
30 complaints that were determined to be founded and unfounded. The
32 board may adopt additional categories that law enforcement
34 agencies shall record and include in their annual report to the
36 board.

20 **Sec. 11. 25 MRSA §2805-C** is enacted to read:

22 **§2805-C. Complaint review committee**

24 **1. Committee.** The chair of the board shall appoint 3
26 members of the board to serve on the complaint review committee.
28 One of the members must be one of the citizen members of the
30 board. All members of the committee must be present for
32 deliberations. A majority vote is necessary to recommend taking
34 corrective or disciplinary action on a complaint.

36 **2. Investigation.** The committee shall investigate
38 complaints regarding any violation of this chapter or rules
40 established by the board by a law enforcement or corrections
42 officer and recommend appropriate action to the board.

44 **Sec. 12. 25 MRSA §2806, sub-§1, ¶B,** as repealed and replaced
46 by PL 1991, c. 790, §1, is amended to read:

48 B. May suspend or revoke the certificate issued pursuant to
50 former section 2803, 2805 or 2805-A or section 2803-A,
2804-B, 2804-C or 2804-D of any person who:

 (1) Has been found guilty of murder or any crime
classified in state law as a Class A, Class B, Class C
or Class D crime or a violation of any provision of the
Maine Criminal Code, chapter 15, 19, 25 or 45;

 (2) Has engaged in conduct that is prohibited or
penalized by state law as murder or a Class A, Class B,

2 Class C or Class D crime or by any provision of the
Maine Criminal Code, chapter 15, 19, 25 or 45;

4 (3) Has been found guilty of conduct specified in
6 subparagraph (2) in another state or other
8 jurisdiction, unless that conduct is not punishable as
a crime under the laws of that state or other
jurisdiction in which it occurred;

10 (4) Has engaged in conduct specified in subparagraph
12 (2) in another state or other jurisdiction, unless that
conduct is not punishable as a crime under the laws of
14 that state or other jurisdiction in which it occurred;
e#

16 (5) Has falsified or misrepresented material facts in
18 obtaining or maintaining the certificate; and or

20 (6) Has engaged in conduct that violates the standards
22 established by the board pursuant to section 2803-B,
24 subsection 1, provided that the conduct, when viewed in
26 light of the nature and purpose of the person's conduct
and circumstances known to the person, involves a gross
deviation from the standard of conduct that a
reasonable and prudent law enforcement officer would
observe in the same situation; and

28 **Sec. 13. 25 MRSA §2806, sub-§1-A, as enacted by PL 1991, c.**
30 **790, §2, is amended to read:**

32 **1-A. Investigation and notice of complaints.** Before
proceeding with a hearing to suspend or revoke a law enforcement
34 or corrections officer's certification under subsection 1,
paragraph B, subparagraph (2) ~~e#~~, (4) or (6), the board shall
36 notify the chief administrative officer of the agency employing
the officer that the board is contemplating suspension or
38 revocation of the officer's certification. The chief
administrative officer shall investigate ~~that~~ the alleged conduct
40 and shall report its findings to the board within 30 days of
receiving notice of the board's contemplation of suspension or
42 revocation. The board shall proceed with any suspension or
revocation action it determines appropriate after receiving the
44 chief administrative officer's report. This subsection does not
prevent preclude a chief administrative officer from
46 investigating conduct that may give rise to grounds for
suspension or revocation before receiving a request for an
48 investigation from the board, provided that the chief
administrative officer notifies the board following that
50 investigation if the investigation reveals reasonable cause to
believe that an officer has engaged in conduct described in
subsection 1, paragraph B, subparagraph (2) ~~e#~~, (4) or (6).

Nothing in this subsection prevents precludes the board from investigating conduct of a law enforcement officer on its own or referring a matter of such conduct to another agency for investigation.

Sec. 14. 25 MRSA §2806, sub-§2, ¶A, as corrected by RR 1991, c. 2, §97, is amended to read:

A. For subsection 1, paragraph A and subsection 1, paragraph B, subparagraph (2), (4) ~~or~~, (5) or (6), in accordance with Title 5, chapter 375, subchapter IV;

Sec. 15. 30-A MRSA §2701, as amended by PL 1991, c. 182, is further amended to read:

§2701. Employee probation periods

Except as specifically provided otherwise by charter or ordinance, any reference to cause and hearing in this Part only applies to an employee who has completed a reasonable probation period established by the municipality. Periods of probation may not exceed 6 calendar months or the length of time in effect in a municipality on January 1, 1984, whichever is greater, except ~~that in the case of police officers, a longer probationary period not to exceed one year may be established as the result of collective bargaining or provided for by the municipality in the absence of a bargaining agent~~ who upon being hired, shall complete an employment probationary period that lasts at least one year after graduation from the Maine Criminal Justice Academy.

Sec. 16. Transition provisions; Board of Trustees of the Maine Criminal Justice Academy; retroactivity. All current members of the existing Board of Trustees of the Maine Criminal Justice Academy may continue to serve as members of the board until their terms expire or until the terms are otherwise vacated, regardless of the changes defined in the Maine Revised Statutes, Title 25, section 2802. Any appointments made after April 1, 1994 must be made in accordance with Title 25, section 2802.

This section applies retroactively to April 1, 1994.

Sec. 17. Study of the use of reserve and part-time law enforcement officers. Subject to the available funding, the Board of Trustees of the Maine Criminal Justice Academy shall conduct a study that surveys and analyzes the demographics, number and use of reserve and part-time law enforcement officers in the State and that explores the appropriateness and sufficiency of the level of training presently required for those officers. The board shall invite the participation of the Maine Municipal Association the Maine Chiefs of Police Association and

the Maine Sheriffs Association in conducting its study. The board shall incorporate a report of its findings in its annual report to the Legislature in 1996.

Sec. 18. Study to create a plan to implement the transition of the student body of the Maine Criminal Justice Academy from individuals who are previously employed by law enforcement agencies to individuals who are not previously employed by law enforcement agencies. The Board of Trustees of the Maine Criminal Justice Academy shall create a plan to implement the transition of the Criminal Justice Academy's current student body of individuals employed by law enforcement agencies prior to enrollment to individuals who are not previously employed by law enforcement agencies prior to enrollment. The board shall evaluate the options of implementing a complete transition of its student body, so that all students are not employed by law enforcement agencies prior to enrollment and a partial transition of its student body, so that some students are previously employed by law enforcement agencies and some are not. The board shall compare the findings from both evaluations to the current system of enrollment and make recommendations regarding resources and procedures that would be necessary to accomplish the transition. The board shall report its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over legal affairs and the Executive Director of the Legislative Council no later than January 1996.

Sec. 19. Study of the use of psychological examination for admission to the academy basic training course. Subject to available funding, the Board of Trustees of the Maine Criminal Justice Academy shall conduct a study to explore the requirement of successful completion of a psychological examination prior to admission to the Maine Criminal Justice Academy's basic training course. The report must include findings regarding the appropriateness of using psychological testing as a prerequisite to admission to the academy's basic training course, specific recommendations for the use of psychological testing, any legislation necessary to carry out its recommendations and the costs of any recommendations.

The Board of Trustees of the Maine Criminal Justice Academy shall submit its report and any proposed legislation to the joint standing committee of the Legislature having jurisdiction over legal affairs and the Executive Director of the Legislative Council no later than November 1, 1994.'

Further amend the bill by inserting at the end before the statement of fact the following:

2 **FISCAL NOTE**

4 The Maine Criminal Justice Academy will incur some
6 additional costs to increase the number of board members, to
8 conduct several studies, to develop plans and to establish a
10 complaint review committee. No additional funding is being
12 requested at this time. Future General Fund appropriations
beginning in fiscal year 1995-96 may be required to implement
these new requirements. The amounts can not be determined at
this time.

14 This bill also includes several requirements on local law
16 enforcement agencies that include developing policies for certain
18 law enforcement procedures with public input and additional
20 reporting requirements. The additional costs of this state
mandate are not expected to be significant. Pursuant to the
mandate preamble, the 2/3 vote of all members elected to each
House exempts the State from the constitutional requirement to
fund 90% of the additional local costs.

22 This bill also establishes new civil violations. The
24 additional workload and administrative costs associated with the
26 minimal number of new cases filed in the court system can be
28 absorbed within the budgeted resources of the Judicial
Department. The collection of additional fines may increase
General Fund revenue by minor amounts.' '

30 **STATEMENT OF FACT**

32 The amendment replaces Committee Amendment "A."

34 This amendment makes the following changes to the laws
36 governing the training and certification of law enforcement
officers.

38 1. The amendment increases the membership of the Board of
40 Trustees of the Maine Criminal Justice Academy to include 2
42 additional citizen members. It also adds the requirement that
44 the 3 citizens members, the educator member and the municipal
46 official member may not be currently and may never have been
sworn officers of a law enforcement agency. The current members
of the board who do not meet the new standards may serve until
their terms expire.

48 2. The amendment requires the board to set uniform training
and certification standards no later than March 1, 1995 and
requires the board to report its recommendations and the
50 necessary implementing legislation for a basic training course to
the Legislature no later than April 1, 1995. The Legislature

1 must approve the training course and any associated costs before
2 the course may be implemented. It also requires the board to
3 establish minimum standards for each law enforcement policy no
4 later than June 1, 1995 and procedures for agency compliance with
5 the policies.

6
7 3. The amendment eliminates the requirement that the Chief
8 of the State Police approve the basic training requirements
9 established by the board of trustees, except that until the new
10 joint training and certification standards are established, the
11 Chief of the State Police shall approve the basic training
12 requirements for enlisted personnel of the State Police for
13 graduation from the academy.

14
15 4. The amendment requires all law enforcement agencies to
16 adopt policies regarding procedures for using force and dealing
17 with barricaded persons, persons with variant social
18 capabilities, domestic violence, hate or bias crimes, police
19 pursuits, citizens' complaints of police misconduct and criminal
20 conduct engaged in by law enforcement officers. The chief
21 administrative officer of each agency shall certify to the board
22 that attempts are made to obtain public comment during the policy
23 formulation period.

24
25 5. The amendment specifies that the employment probationary
26 period of a law enforcement officer begins upon being hired and
27 lasts for at least one year after graduation from the academy.

28
29 6. The amendment requires that a person must be at least 21
30 years of age or older to qualify for a position as a law
31 enforcement officer unless the person has an associate's degree
32 or 60 credit hours of postsecondary education, in which case the
33 person must be at least 20 years of age.

34
35 7. The amendment requires that annual reports from law
36 enforcement agencies to the board must include the total number
37 of excessive force complaints. The board may choose other
38 categories that agencies shall record and report.

39
40 8. The amendment establishes a complaint review committee
41 to review certain complaints and make recommendations to the
42 board.

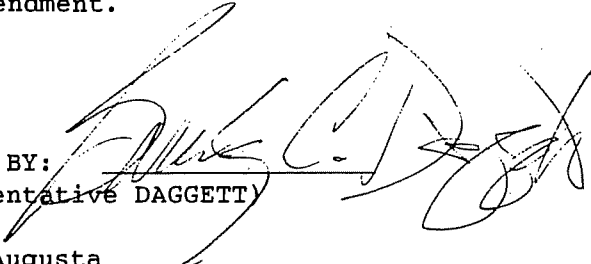
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44 9. The amendment permits the board to suspend or revoke the
45 certificate of any person who has engaged in conduct that
46 violates the standards established by the board pursuant to the
47 Maine Revised Statutes, Title 25, section 2803-B, subsection 1.

48
49 10. The amendment requires that the Board of Trustees of
50 the Maine Criminal Justice Academy, subject to available funding,
study the use of reserve and part-time law enforcement officers.

2 11. The amendment requires that the Board of Trustees of
the Maine Criminal Justice Academy, subject to available funding,
4 study the use of psychological examination for admission to the
Maine Criminal Justice Academy basic training course.

6
8 12. The amendment requires the Board of Trustees of the
Maine Criminal Justice Academy create a plan to implement a
transition in the composition of the student body of the Maine
10 Criminal Justice Academy.

12 The amendment also replaces the allocation and fiscal note
in the amendment.

14
16
18 SPONSORED BY: 
(Representative DAGGETT)

20 TOWN: Augusta
22