

MAINE STATE LEGISLATURE

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

HOUSE AMENDMENT "B" 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

R. of S.

HOUSE AMENDMENT "B" to COMMITTEE AMENDMENT "A" to H.P. 828, L.D. 1114

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

15 The Commissioner of Public Safety or his the commissioner's
16 designee, and the Attorney General or his the Attorney General's
17 designee, ~~shall be the Game Warden Colonel in the Department of~~
18 Inland Fisheries and Wildlife or the Game Warden Colonel's
19 designee and the Commissioner of Corrections or the
20 commissioner's designee are members of the board during their
21 term terms of office. All of the other members of the board shall
22 serve for a term of 3 years. Members of the board ~~shall be~~
23 compensated are entitled to compensation in accordance with Title
24 5, chapter 379. Any vacancy on the board of trustees shall must
25 be filled in the same manner as the original appointment, but for
26 the unexpired term.

27 **Sec. 2. 25 MRSA §2803-A, sub-§1**, as enacted by PL 1989, c.
28 521, §§4 and 17, is amended to read:

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

38 No later than March 1, 1995, the board shall design joint
39 training and certification standards combining into a single
40 basic training course the present State Police course and the
41 basic municipal and county course. The joint training course
42 must equal or exceed any curriculum training requirements of the
43 State Police effective on December 31, 1994. The board shall
44 report its recommendations and the necessary implementing
45 legislation for a basic training course to the Legislature by
46 April 1, 1995. The Legislature must approve the associated costs
47 of the joint training course before it may be implemented.

2 Until joint training and certification standards are implemented
4 pursuant to this subsection, the Chief of the State Police shall
6 approve the basic training requirements for enlisted personnel of
8 the State Police for graduation from the academy. The board
10 shall certify State Police enlisted personnel who meet the
12 approved basic training requirements;

14 **Sec. 3. 25 MRSA §2803-A, sub-§2,** as enacted by PL 1989, c.
16 521, §§4 and 17, is amended to read:

18 **2. Admission standards.** In accordance with the
20 requirements of this chapter, to establish standards for
22 admission to the board-approved courses, taking into account
24 state hiring standards and procedures applicable to all state
26 departments; ~~set requirements for board approved courses;~~
28 ~~prescribe curriculum; and certify both graduates of the~~
30 ~~board approved courses and persons for whom the board has waived~~
32 ~~the training requirements of this chapter.~~ The board may not set
34 standards for admission to the board-approved courses until July
36 1, 1990, for persons required to be trained under Title 30,
38 section 6210, subsection 4, which standards are higher than those
40 in force on September 23, 1983. The board shall set academic and
42 physical admission standards that apply uniformly to all
44 candidates applying for admission to the academy after December
46 31, 1995. These standards must equal or exceed any academic and
48 physical admission standards, including standards of the State
50 Police, in effect prior to January 1, 1996;

30 **Sec. 4. 25 MRSA §2803-A, sub-§6,** as enacted by PL 1989, c.
32 521, §§4 and 17, is repealed.

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

36 **§2803-B. Requirements of law enforcement agencies**

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

- 44 **A. Use of force;**
- 46 **B. Barricaded persons and hostage situations;**
- 48 **C. Persons exhibiting deviant behavior;**
- 50 **D. Domestic violence;**
- E. Hate or bias crimes;**

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F. Police pursuits;

G. Citizen complaints of police misconduct; and

H. Criminal conduct engaged in by law enforcement officers.

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 amended by PL 1993, c. 551, §2, is further 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 any other nonfederal employer, that person must successfully complete, within the first 12 months of employment, a basic training course approved by the board. Thereafter, as a condition of continued employment

R. O. S.

2 as a full-time law enforcement officer, the officer must
3 satisfactorily maintain the basic certification. The board,
4 under extenuating and emergency circumstances in individual
5 cases, may extend that period for not more than 90 days. The
6 board also, in individual cases, may waive the basic training
7 requirement when the facts indicate that an equivalent course has
8 been successfully completed. This section does not apply to any
9 person employed as a full-time law enforcement officer by a
10 municipality on September 23, 1971, or by a county on July 1,
11 1972.

12 ~~2. Core curriculum requirements. The board shall establish~~
13 ~~core curriculum requirements which must be satisfied by each law~~
14 ~~enforcement officer within 12 months of assuming law enforcement~~
15 ~~duties including the power to make arrests or the authority to~~
16 ~~carry a firearm in the course of duty. The board shall base the~~
17 ~~core curriculum requirements on the necessary knowledge, training~~
18 ~~and skills common to all law enforcement officers in this State.~~
19 ~~In establishing the requirements, the board shall cooperate with~~
20 ~~the State and local departments and agencies to which the~~
21 ~~preservice requirements apply to ensure that the standards are~~
22 ~~appropriate.~~

24 2-A. Probationary employment period. Upon being hired, a
25 law enforcement officer shall complete an employment probationary
26 period that lasts for at least one year after graduation from the
27 academy or the date the board waives the basic training
28 requirement.

30 3. Certification. The board shall certify each law
31 enforcement officer who meets the core curriculum training
32 requirements.

34 4. Courses. The board shall provide a training course, the
35 successful completion of which meets core curriculum
36 requirements. The board shall provide a basic training course
37 designed primarily for municipal and county law enforcement
38 officers:

- 40 A. Provide a training course, the successful completion of
41 which meets the basic training requirements;
- 42
- 43 B. Provide a structured residential program that balances
44 the goals of professional policing with public services
45 emphasis;
- 46
- 47 C. Incorporate a community policing philosophy in its
48 training program; and

HOUSE AMENDMENT

R. of S

2 D. Review the basic training requirements of the current
3 basic municipal and county training course and, no later
4 than March 1, 1995, design a course of basic training for
5 all law enforcement positions the content, quality and
6 standards of which equal or exceed those of training courses
7 established by the board prior to March 1, 1995, pursuant to
8 this section, section 2803-A, subsection 1 and former
9 section 2803-A, subsection 6.

10 **5. Application to currently certified law enforcement**
11 **officers.** This section does not apply to any law enforcement
12 officer certified as meeting the law enforcement training
13 requirements or to any full-time law enforcement officer employed
14 by a state agency, including the University of Maine System, as
15 of July 1, 1990.

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

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

25 **2. Role of board.** The board shall establish in-service
26 recertification training requirements, consistent with subsection
27 1, coordinate delivery of in-service training with post-secondary
28 postsecondary schools and other institutions and law enforcement
29 agencies and administer in-service training programs. The
30 in-service recertification training requirements shall must
31 include information on new laws and court decisions and on new
32 enforcement practices demonstrated to reduce crime or increase
33 officer safety. The board shall consider and encourage the use
34 of telecommunications technology in the development and delivery
35 of in-service training programs. In establishing the
36 recertification training requirements, the board shall cooperate
37 with the State state and local departments and agencies to which
38 the in-service requirements apply to ensure that the standards
39 are appropriate. In-service training may not be applied to
40 satisfy in-service recertification training requirements unless
41 it is approved by the board.

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

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

R. of S.

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

4 **§2804-G. Qualifications**

6 1. Age. An applicant must be 21 years of age or older to
8 qualify for a position as a law enforcement officer unless the
10 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.

12 Sec. 10. 25 MRSA §2805-B, sub-§1, as enacted by PL 1989, c.
14 521, §§8 and 17, is amended to read:

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

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

36 **§2805-C. Complaint review committee**

38 1. Committee. The chair of the board shall appoint 3
40 members of the board to serve on the complaint review committee.
42 One of the members must be one of the citizen members of the
44 board. All members of the committee must be present for
 deliberations. A majority vote is necessary to recommend taking
 corrective or disciplinary action on a complaint.

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

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

R. of S.

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

6 (1) Has been found guilty of murder or any crime
8 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;

10 (2) Has engaged in conduct that is prohibited or
12 penalized by state law as murder or a Class A, Class B,
14 Class C or Class D crime or by any provision of the
Maine Criminal Code, chapter 15, 19, 25 or 45;

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

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

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

30 (6) Has engaged in conduct that violates the standards
32 established by the board pursuant to section 2803-B,
34 subsection 1, provided that the conduct, when viewed in
36 light of the nature and purpose of the person's conduct
38 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

40 Sec. 13. 25 MRSA §2806, sub-§1-A, as enacted by PL 1991, c.
42 790, §2, is amended to read:

44 1-A. Investigation and notice of complaints. Before
proceeding with a hearing to suspend or revoke a law enforcement
46 or corrections officer's certification under subsection 1,
paragraph B, subparagraph (2) e#, (4) or (6), the board shall
48 notify the chief administrative officer of the agency employing
the officer that the board is contemplating suspension or
revocation of the officer's certification. The chief
50 administrative officer shall investigate that the alleged conduct

R. of S.

2 and shall report its findings to the board within 30 days of
3 receiving notice of the board's contemplation of suspension or
4 revocation. The board shall proceed with any suspension or
5 revocation action it determines appropriate after receiving the
6 chief administrative officer's report. This subsection does not
7 prevent preclude a chief administrative officer from
8 investigating conduct that may give rise to grounds for
9 suspension or revocation before receiving a request for an
10 investigation from the board, provided that the chief
11 administrative officer notifies the board following that
12 investigation if the investigation reveals reasonable cause to
13 believe that an officer has engaged in conduct described in
14 subsection 1, paragraph B, subparagraph (2) ~~or~~ (4) or (6).
15 Nothing in this subsection ~~prevents~~ precludes the board from
16 investigating conduct of a law enforcement officer on its own or
17 referring a matter of such conduct to another agency for
18 investigation.

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

21 A. For subsection 1, paragraph A and subsection 1,
22 paragraph B, subparagraph (2), (4) ~~or~~ (5) or (6), in
23 accordance with Title 5, chapter 375, subchapter IV;
24

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

27 **§2701. Employee probation periods**

28
29 Except as specifically provided otherwise by charter or
30 ordinance, any reference to cause and hearing in this Part only
31 applies to an employee who has completed a reasonable probation
32 period established by the municipality. Periods of probation may
33 not exceed 6 calendar months or the length of time in effect in a
34 municipality on January 1, 1984, whichever is greater, except
35 that in the case of police officers, ~~a longer probationary period~~
36 ~~not to exceed one year may be established as the result of~~
37 ~~collective bargaining or provided for by the municipality in the~~
38 ~~absence of a bargaining agent~~ who upon being hired shall complete
39 an employment probationary period that lasts for at least one
40 year after graduation from the Maine Criminal Justice Academy or
41 the date the board waives the basic training requirement.
42
43

44 **Sec. 16. Transition provisions; Board of Trustees of the Maine**
45 **Criminal Justice Academy; retroactivity.** All current members of the
46 existing Board of Trustees of the Maine Criminal Justice Academy
47 may continue to serve as members of the board until their terms
48 expire or until the terms are otherwise

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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

R. O. S.

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:

FISCAL NOTE

The Maine Criminal Justice Academy will incur some additional costs to increase the number of board members, to conduct several studies, to develop plans and to establish a complaint review committee. No additional funding is being 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.

This bill also includes several requirements on local law enforcement agencies that include developing policies for certain law enforcement procedures with public input and additional 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.

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

STATEMENT OF FACT

The amendment replaces Committee Amendment "A."

R. of S.

HOUSE AMENDMENT "b" to COMMITTEE AMENDMENT "A" to H.P. 828, L.D. 1114

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

4
6 1. The amendment increases the membership of the Board of
Trustees of the Maine Criminal Justice Academy to include 2
8 additional citizen members. It also adds the requirement that
the 3 citizens members, the educator member and the municipal
10 official member may not be currently and may never have been
sworn officers of a law enforcement agency. The current members
12 of the board who do not meet the new standards may serve until
their terms expire.

14 2. The amendment requires the board to design uniform
training and certification standards that equal or exceed any
16 curriculum training requirements of the State Police effective on
December 31, 1994 no later than March 1, 1995 and requires the
18 board to report its recommendations and the necessary
implementing legislation for a basic training course to the
20 Legislature no later than April 1, 1995. The Legislature must
approve any associated costs before the course may be
22 implemented. It also requires the board to establish minimum
standards for each law enforcement policy no later than June 1,
24 1995 and procedures for agency compliance with the policies.

26 3. The amendment eliminates the requirement that the Chief
of the State Police approve the basic training requirements
28 established by the board of trustees, except that until the new
joint training and certification standards are established, the
30 Chief of the State Police shall approve the basic training
requirements for enlisted personnel of the State Police for
32 graduation from the academy.

34 4. The amendment requires the Board of Trustees of the
Maine Criminal Justice Academy to set academic and physical
36 admission standards that apply to all candidates applying for
admission to the academy after December 31, 1995. These
38 standards must equal or exceed any academic and physical
admission standards, including standards of the State Police, in
40 effect prior to January 1, 1996.

42 5. The amendment requires all law enforcement agencies to
adopt policies regarding procedures for using force and dealing
44 with barricaded persons, persons with variant social
capabilities, domestic violence, hate or bias crimes, police
46 pursuits, citizens' complaints of police misconduct and criminal
conduct engaged in by law enforcement officers. The chief
48 administrative officer of each agency shall certify to the board
that attempts are made to obtain public comment during the policy
50 formulation period.

R. of S.

HOUSE AMENDMENT "B" to COMMITTEE AMENDMENT "A" to H.P. 828, L.D. 1114

2 6. The amendment specifies that the employment probationary
4 period of a law enforcement officer begins upon being hired and lasts for at least one year after graduation from the academy.

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

12 8. The amendment requires that annual reports from law
14 enforcement agencies to the board must include the total number of excessive force complaints. The board may choose other
16 categories that agencies shall record and report.

18 9. The amendment establishes a complaint review committee
20 to review certain complaints and make recommendations to the board.

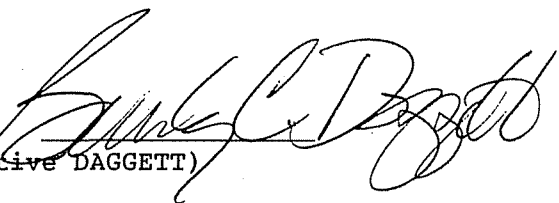
22 10. The amendment permits the board to suspend or revoke
24 the certificate of any person who has engaged in conduct that violates the standards established by the board pursuant to the Maine Revised Statutes, Title 25, section 2803-B, subsection 1.

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

30 12. The amendment requires that the Board of Trustees of
32 the Maine Criminal Justice Academy, subject to available funding, study the use of psychological examination for admission to the
34 Maine Criminal Justice Academy basic training course.

36 13. The amendment requires the Board of Trustees of the
38 Maine Criminal Justice Academy create a plan to implement a transition in the composition of the student body of the Maine Criminal Justice Academy.

40 The amendment also replaces the allocation and fiscal note
42 in the amendment.

44
46 SPONSORED BY: 
48 (Representative DAGGETT)

50 TOWN: Augusta

HOUSE AMENDMENT