

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
SENATE  
116TH LEGISLATURE  
SECOND REGULAR SESSION

SENATE 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 §2003, sub-§1, as amended by PL 1993, c. 524, §§5 to 8, is further amended by repealing and replacing the first paragraph to read:

1. Procedure; criteria for issuing permit. Upon receiving written application for a concealed firearms permit, the issuing authority shall notify the chief law enforcement officer of the municipality or, in a municipality without a chief law

**SENATE AMENDMENT**

R. of S.

2 enforcement officer, the Chief of the State Police, who shall  
3 conduct an investigation to determine whether the applicant meets  
4 the requirements of this subsection. The issuing authority shall  
5 issue a permit to carry concealed firearms to an applicant over  
6 whom it has issuing authority upon written notification from the  
7 chief law enforcement officer or the Chief of the State Police  
8 that the applicant has demonstrated good moral character and  
9 meets the following requirements:

10 Sec. 2. 25 MRSA §2802, as amended by PL 1985, c. 194, is  
11 further amended to read:

12 **§2802. Board of trustees**

13  
14 There is created a board of trustees for the academy  
15 consisting of ~~15~~ 17 members as follows: The Commissioner of  
16 Public Safety, ex officio, the Attorney General, ex officio, the  
17 Game Warden Colonel in the Department of Inland Fisheries and  
18 Wildlife and the Commissioner of Corrections, ex officio, and the  
19 following to be appointed by the Governor: A a commissioned  
20 officer of the State Police, a county sheriff, a chief of a  
21 municipal police department, 2 officers of municipal police  
22 departments, an educator who is not and has never been a sworn  
23 member of a law enforcement agency, a representative from a  
24 criminal justice agency not involved in the general enforcement  
25 of Maine criminal laws, a representative of a federal law  
26 enforcement agency, a-citizen 3 citizens each who are not and  
27 have never been sworn members of a law enforcement agency, a  
28 municipal ~~officer~~ official who is not and has never been a sworn  
29 member of a law enforcement agency and one nonsupervisory  
30 corrections officer representing a state or county correctional  
31 facility.  
32

33  
34 The Commissioner of Public Safety or ~~his~~ the commissioner's  
35 designee, and the Attorney General or his the Attorney General's  
36 designee, shall-be the Game Warden Colonel in the Department of  
37 Inland Fisheries and Wildlife or the Game Warden Colonel's  
38 designee and the Commissioner of Corrections or the  
39 commissioner's designee are members of the board during their  
40 term terms of office. All of the other members of the board shall  
41 serve for a term of 3 years. Members of the board shall-be  
42 compensated are entitled to compensation in accordance with Title  
43 5, chapter 379. Any vacancy on the board of trustees shall must  
44 be filled in the same manner as the original appointment, but for  
45 the unexpired term.  
46

47 Sec. 3. 25 MRSA §2803-A, sub-§1, as enacted by PL 1989, c.  
48 521, §§4 and 17, is amended to read:

R. of S.

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

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

10  
11 No later than March 1, 1995, the board shall establish joint  
12 training and certification standards designed to combine into a  
13 single basic training course the present State Police course and  
14 the basic municipal and county course, provided there is no  
15 diminution of the training or certification standards effective  
16 prior to March 1, 1995. The board shall report its  
17 recommendations and the necessary implementing legislation for a  
18 basic training course to the Legislature by April 1, 1995. The  
19 Legislature must approve basic training courses and the  
20 associated costs before courses may be implemented.

21  
22 Until the board establishes joint training and certification  
23 standards pursuant to this subsection, the Chief of the State  
24 Police shall approve the basic training requirements for enlisted  
25 personnel of the State Police for graduation from the academy.  
26 The board shall certify State Police enlisted personnel who meet  
27 the approved basic training requirements;

28  
29           **Sec. 4. 25 MRSA §2803-A, sub-§2,** as enacted by PL 1989, c.  
30 521, §§4 and 17, is amended to read:

31  
32           **2. Admission standards.** In accordance with the  
33 requirements of this chapter, to establish standards for  
34 admission to the board-approved courses, taking into account  
35 state hiring standards and procedures applicable to all state  
36 departments, ~~set requirements for board-approved courses,~~  
37 ~~prescribe curriculum, and certify both graduates of the~~  
38 ~~board-approved courses and persons for whom the board has waived~~  
39 ~~the training requirements of this chapter.~~ The board may not set  
40 standards for admission to the board-approved courses until July  
41 1, 1990, for persons required to be trained under Title 30,  
42 section 6210, subsection 4, which standards are higher than those  
43 in force on September 23, 1983. The board shall set basic,  
44 admission standards that apply uniformly to all candidates  
45 applying for admission to the academy beginning January 1, 1996.  
46 These standards may reflect no diminution from any admission  
47 standards in effect prior to January 1, 1996;

48  
49           **Sec. 5. 25 MRSA §2803-A, sub-§6,** as enacted by PL 1989, c.  
50 521, §§4 and 17, is repealed.

R. of S.

2           Sec. 6. 25 MRSA §2803-B is enacted to read:

4           §2803-B. Requirements of law enforcement agencies

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

- 10           A. Use of force;
- 12           B. Barricaded persons and hostage situations;
- 14           C. Persons exhibiting deviant behavior;
- 16           D. Domestic violence;
- 18           E. Hate or bias crimes;
- 20           F. Police pursuits;
- 22           G. Citizen complaints of police misconduct; and
- 24           H. Criminal conduct engaged in by law enforcement officers.

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

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

34           3. Agency compliance. The chief administrative officer of  
36           each law enforcement agency shall certify to the board no later  
38           than January 1, 1996 that the agency has adopted written policies  
40           consistent with the minimum standards established by the board  
42           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.

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

2 5. Annual standards review. The board shall review  
 4 annually the minimum standards for each policy to determine  
 6 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.

8  
 10 **Sec. 7. 25 MRSA §2804-C**, as amended by PL 1993, c. 551, §2,  
 is further amended to read:

12 **§2804-C. Basic law enforcement training; core curriculum**  
 14 **requirements**

16 **1. Required.** As a condition to the continued employment of  
 18 any person as a full-time law enforcement officer by a  
 20 municipality, a county, the State or any other nonfederal  
 22 employer, that person must successfully complete, within the  
 24 first 12 months of employment, a basic training course approved  
 26 by the board. Thereafter, as a condition of continued employment  
 28 as a full-time law enforcement officer, the officer must  
 30 satisfactorily maintain the basic certification. The board,  
 under extenuating and emergency circumstances in individual  
 cases, may extend that period for not more than 90 days. The  
 board also, in individual cases, may waive 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.

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

44 **2-A. Probationary employment period.** Upon being hired, a  
 46 law enforcement officer shall complete an employment probationary  
period that lasts at least one year after graduation from the  
 48 academy.

R. of S.

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

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

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

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

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

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

5. **Application to currently certified law enforcement officers.** This section does not apply to any law enforcement officer certified as meeting the law enforcement training 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. 8. 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

R. of S.

2 postsecondary schools and other institutions and law enforcement  
3 agencies and administer in-service training programs. The  
4 in-service recertification training requirements shall must  
5 include information on new laws and court decisions and on new  
6 enforcement practices demonstrated to reduce crime or increase  
7 officer safety. The board shall consider and encourage the use  
8 of telecommunications technology in the development and delivery  
9 of in-service training programs. In establishing the  
10 recertification training requirements, the board shall cooperate  
11 with the State state and local departments and agencies to which  
12 the in-service requirements apply to ensure that the standards  
13 are appropriate. In-service training may not be applied to  
14 satisfy in-service recertification training requirements unless  
15 it is approved by the board.

16 **Sec. 9. 25 MRSA §2804-E, sub-§§4 and 5** are enacted to read:

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

21 **5. Training course.** The board may offer to municipal chief  
22 law enforcement officers a training course relating to the  
23 conduct of investigations required for issuing permits for  
24 concealed firearms under section 2003, subsection 1.

25 **Sec. 10. 25 MRSA §2804-G** is enacted to read:

26 **§2804-G. Qualifications**

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

32 **Sec. 11. 25 MRSA §2805-B, sub-§1,** as enacted by PL 1989, c.  
33 521, §§8 and 17, is amended to read:

34 **1. Annual report and records.** Within 30 days of the close  
35 of each calendar year, the highest elected official of each  
36 political subdivision and the head of each state department and  
37 agency employing law enforcement or corrections officers subject  
38 to this chapter shall provide the board with a report containing  
39 a list of the names and dates of employment of all law  
40 enforcement and corrections officers covered by this chapter.  
41 The official or department or agency head shall maintain records  
42 regarding the basic and in-service training of law enforcement  
43 and corrections officers as provided in sections 2804-C to  
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R. of S.

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.

Sec. 12. 25 MRSA §2805-C is enacted to read:

§2805-C. Complaint review committee.

1. Committee. The chair of the board shall appoint 3 members of the board to serve on the complaint review committee. One of the members must be one of the citizen members of the 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.

2. Investigation. The committee shall investigate 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.

Sec. 13. 25 MRSA §2806, sub-§1, ¶B, as repealed and replaced by PL 1991, c. 790, §1, is amended to read:

B. May suspend or revoke the certificate issued pursuant to 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, Class C or Class D crime or by any provision of the Maine Criminal Code, chapter 15, 19, 25 or 45;

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

(4) Has engaged in conduct specified in subparagraph (2) in another state or other jurisdiction, unless that

conduct is not punishable as a crime under the laws of  
that state or other jurisdiction in which it occurred;  
or

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

(6) Has engaged in conduct that violates the standards  
established by the board pursuant to section 2803-B,  
subsection 1, provided that the conduct, when viewed in  
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

**Sec. 14. 25 MRSA §2806, sub-§1-A**, as enacted by PL 1991, c.  
790, §2, is amended to read:

**1-A. Investigation and notice of complaints.** Before  
proceeding with a hearing to suspend or revoke a law enforcement  
or corrections officer's certification under subsection 1,  
paragraph B, subparagraph (2) ~~or~~, (4) or (6), the board shall  
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  
administrative officer shall investigate ~~that~~ the alleged conduct  
and shall report its findings to the board within 30 days of  
receiving notice of the board's contemplation of suspension or  
revocation. The board shall proceed with any suspension or  
revocation action it determines appropriate after receiving the  
chief administrative officer's report. This subsection does not  
~~prevent~~ preclude a chief administrative officer from  
investigating conduct that may give rise to grounds for  
suspension or revocation before receiving a request for an  
investigation from the board, provided that the chief  
administrative officer notifies the board following that  
investigation if the investigation reveals reasonable cause to  
believe that an officer has engaged in conduct described in  
subsection 1, paragraph B, subparagraph (2) ~~or~~, (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. 15. 25 MRSA §2806, sub-§2, ¶A**, as amended by PL 1993, c.  
551, §4, is further amended to read:

A. For subsection 1, paragraph A and subsection 1,  
paragraph B, subparagraph (2), (4) ~~or~~, (5) or (6):

R. of S.

2 (1) In accordance with Title 5, chapter 375,  
subchapter IV; or

4  
6 (2) Upon notice, through conducting an informal  
conference with the officer. If the board finds the  
8 factual basis of the complaint is true and that further  
action is warranted, it may enter into a consent  
10 agreement with the officer, which may contain  
provisions including voluntary surrender of the  
12 certificate and terms and conditions of recertification;

14 **Sec. 16. 30-A MRSA §2701**, as amended by PL 1991, c. 182, is  
further amended to read:

16 **§2701. Employee probation periods**

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

30  
32 **Sec. 17. 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  
34 may continue to serve as members of the board until their terms  
expire or until the terms are otherwise vacated, regardless of  
36 the changes defined in the Maine Revised Statutes, Title 25,  
section 2802. Any appointments made after April 1, 1994 must be  
38 made in accordance with Title 25, section 2802.

40 This section applies retroactively to April 1, 1994.

42 **Sec. 18. Study of the use of reserve and part-time law enforcement**  
**officers.** Subject to the available funding, the Board of Trustees  
44 of the Maine Criminal Justice Academy shall conduct a study that  
surveys and analyzes the demographics, number and use of reserve  
46 and part-time law enforcement officers in the State and that  
explores the appropriateness and sufficiency of the level of  
48 training presently required for those officers. The board shall

R. of S.

1  
2 invite the participation of the Maine Municipal Association, the  
3 Maine Chiefs of Police Association and the Maine Sheriffs  
4 Association in conducting its study. The board shall incorporate  
5 a report of its findings in its annual report to the Legislature  
6 in 1996.

7  
8 **Sec. 19. Study to create a plan to implement the transition of the**  
9 **student body of the Maine Criminal Justice Academy from individuals who**  
10 **are previously employed by law enforcement agencies to individuals who**  
11 **are not previously employed by law enforcement agencies.** The Board of  
12 Trustees of the Maine Criminal Justice Academy shall create a  
13 plan to implement the transition of the Criminal Justice  
14 Academy's current student body of individuals employed by law  
15 enforcement agencies prior to enrollment to individuals who are  
16 not previously employed by law enforcement agencies prior to  
17 enrollment. The board shall evaluate the options of implementing  
18 a complete transition of its student body, so that all students  
19 are not employed by law enforcement agencies prior to enrollment  
20 and a partial transition of its student body, so that some  
21 students are previously employed by law enforcement agencies and  
22 some are not. The board shall compare the findings from both  
23 evaluations to the current system of enrollment and make  
24 recommendations regarding resources and procedures that would be  
25 necessary to accomplish the transition. The board shall report  
26 its findings and recommendations to the joint standing committee  
27 of the Legislature having jurisdiction over legal affairs and the  
28 Executive Director of the Legislative Council no later than  
29 January 1996.

30 **Sec. 20. Study of the use of psychological examination for admission**  
31 **to the academy basic training course.** Subject to available funding,  
32 the Board of Trustees of the Maine Criminal Justice Academy shall  
33 conduct a study to explore the requirement of successful  
34 completion of a psychological examination prior to admission to  
35 the Maine Criminal Justice Academy's basic training course. The  
36 report must include findings regarding the appropriateness of  
37 using psychological testing as a prerequisite to admission to the  
38 academy's basic training course, specific recommendations for the  
39 use of psychological testing, any legislation necessary to carry  
40 out its recommendations and the costs of any recommendations.

41  
42 The Board of Trustees of the Maine Criminal Justice Academy  
43 shall submit its report and any proposed legislation to the joint  
44 standing committee of the Legislature having jurisdiction over  
45 legal affairs and the Executive Director of the Legislative  
46 Council no later than November 1, 1994.'

47  
48 Further amend the bill by inserting at the end before the  
statement of fact the following:

R. d. S.

2

FISCAL NOTE

4

The Maine Criminal Justice Academy will incur some additional costs to increase the number of board members, to conduct several studies, to develop plans, to establish a complaint review committee and to offer a new training course for conducting investigations required for issuing concealed weapons permits. 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.

14

The Department of Public Safety will incur additional costs to perform additional investigations. The amounts can not be determined at this time. Additional dedicated revenue may be generated as a result of the additional requests. These amounts also can not be determined.

20

This bill also includes several requirements on local law enforcement agencies, which include developing policies for certain law enforcement procedures with public input, conducting additional investigations for concealed firearms permit application and adding new items to certain reports. The additional costs of this state mandate are not expected to be significant. Pursuant to the mandate preamble, the two-thirds vote of all members elected to each House exempts the State from the constitutional requirement to fund 90% of the additional local costs.

32

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.' '

38

40

STATEMENT OF FACT

42


The amendment incorporates House Amendment "A" to Committee Amendment "A," except that, additionally, this amendment authorizes the Board of Trustees of the Maine Criminal Justice Academy to offer to municipal chief law enforcement officers training courses relating to background investigations of individuals seeking concealed firearm permits and further requires that those chief law enforcement officers bear the responsibility for conducting those investigations. If there is

48

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

R. of S.

no chief law enforcement officer in a municipality, the Chief of  
the State Police must conduct the investigation.

SPONSORED BY:   
(Senator SUMMERS)

COUNTY: Cumberland

**SENATE AMENDMENT**