

MAINE STATE LEGISLATURE

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R & S

L.D. 1114

DATE: 4/7/94

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STATE OF MAINE
SENATE
116TH LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT "C" 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 enforcement officer, the Chief of the State Police or the sheriff for that county, who shall conduct an investigation to determine whether the applicant meets the requirements of this subsection.

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

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

10 **§2802. Board of trustees**

11
12 There is created a board of trustees for the academy
13 consisting of ~~15~~ 17 members as follows: The Commissioner of
14 Public Safety, ex officio, the Attorney General, ex officio, the
15 Game Warden Colonel in the Department of Inland Fisheries and
16 Wildlife and the Commissioner of Corrections, ex officio, and the
17 following to be appointed by the Governor: A a commissioned
18 officer of the State Police, a county sheriff, a chief of a
19 municipal police department, 2 officers of municipal police
20 departments, an educator who is not and has never been a sworn
21 member of a law enforcement agency, a representative from a
22 criminal justice agency not involved in the general enforcement
23 of Maine criminal laws, a representative of a federal law
24 enforcement agency, ~~a-citizen~~ 3 citizens each who are not and
25 have never been sworn members of a law enforcement agency, a
26 ~~municipal officer~~ official who is not and has never been a sworn
27 member of a law enforcement agency and one nonsupervisory
28 corrections officer representing a state or county correctional
29 facility.
30

31
32 The Commissioner of Public Safety or ~~his~~ the commissioner's
33 designee, and the Attorney General or ~~his~~ the Attorney General's
34 designee, ~~shall-be~~ the Game Warden Colonel in the Department of
35 Inland Fisheries and Wildlife or the Game Warden Colonel's
36 designee and the Commissioner of Corrections or the
37 commissioner's designee are members of the board during their
38 ~~term~~ terms of office. All of the other members of the board shall
39 serve for a term of 3 years. Members of the board shall ~~be~~
40 compensated are entitled to compensation in accordance with Title
41 5, chapter 379. Any vacancy on the board of trustees shall ~~must~~
42 be filled in the same manner as the original appointment, but for
43 the unexpired term.
44

45 **Sec. 3. 25 MRSA §2803-A, sub-§1**, as enacted by PL 1989, c.
46 521, §§4 and 17, is amended to read:

47 **1. Training and certification of all law enforcement**
48 **officers in State.** In accordance with this chapter, to establish
49 training and certification standards for all law enforcement
50 officers, set requirements for board-approved courses, prescribe

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2 curriculum and certify both graduates of board-approved courses
3 and persons for whom the board has waived the training
4 requirements of this chapter. Certification shall must be based
5 on the officer's demonstration of having acquired specific
6 knowledge and skills directly related to job performance.

7 No later than March 1, 1995, the board shall design joint
8 training and certification standards combining into a single
9 basic training course the present State Police course and the
10 basic municipal and county course. The joint training course
11 must equal or exceed any curriculum training requirements of the
12 State Police effective on December 31, 1994. The board shall
13 report its recommendations and the necessary implementing
14 legislation for a basic training course to the Legislature by
15 April 1, 1995. The Legislature must approve the associated costs
16 of the joint training course before it may be implemented.

17 Until joint training and certification standards are implemented
18 pursuant to this subsection, the Chief of the State Police shall
19 approve the basic training requirements for enlisted personnel of
20 the State Police for graduation from the academy. The board
21 shall certify State Police enlisted personnel who meet the
22 approved basic training requirements:

23 **Sec. 4. 25 MRSA §2803-A, sub-§2,** as enacted by PL 1989, c.
24 521, §§4 and 17, is amended to read:

25 **2. Admission standards.** In accordance with the
26 requirements of this chapter, to establish standards for
27 admission to the board-approved courses, taking into account
28 state hiring standards and procedures applicable to all state
29 departments, ~~set requirements for board-approved courses,~~
30 ~~prescribe curriculum, and certify both graduates of the~~
31 ~~board-approved courses and persons for whom the board has waived~~
32 ~~the training requirements of this chapter.~~ The board may not set
33 standards for admission to the board-approved courses until July
34 1, 1990, for persons required to be trained under Title 30,
35 section 6210, subsection 4, which standards are higher than those
36 in force on September 23, 1983. The board shall set academic and
37 physical admission standards that apply uniformly to all
38 candidates applying for admission to the academy after December
39 31, 1995. These standards must equal or exceed any academic and
40 physical admission standards, including standards of the State
41 Police, in effect prior to January 1, 1996;

42 **Sec. 5. 25 MRSA §2803-A, sub-§6,** as enacted by PL 1989, c.
43 521, §§4 and 17, is repealed.

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

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§2803-B. Requirements of law enforcement agencies

2
3 1. Law enforcement policies. All law enforcement agencies
4 shall adopt written policies regarding procedures to deal with
5 the following:

6 A. Use of force;

8 B. Barricaded persons and hostage situations;

10 C. Persons exhibiting deviant behavior;

12 D. Domestic violence;

14 E. Hate or bias crimes;

16 F. Police pursuits;

18 G. Citizen complaints of police misconduct; and

20 H. Criminal conduct engaged in by law enforcement officers.

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

26
27 2. Minimum policy standards. The board shall establish
28 minimum standards for each law enforcement policy no later than
29 June 1, 1995.

30
31 3. Agency compliance. The chief administrative officer of
32 each law enforcement agency shall certify to the board no later
33 than January 1, 1996 that the agency has adopted written policies
34 consistent with the minimum standards established by the board
35 pursuant to subsection 2. This certification must be accompanied
36 by copies of the agency policies. The chief administrative
37 officer of each agency shall certify to the board no later than
38 June 1, 1996 that the agency has provided orientation and
39 training for its members with respect to the policies.

40
41 4. Penalty. An agency that fails to comply with any
42 provision of subsection 3 commits a civil violation for which the
43 State Government or local government entity whose officer or
44 employee committed the violation may be adjudged a forfeiture not
45 to exceed \$500.

46
47 5. Annual standards review. The board shall review
48 annually the minimum standards for each policy to determine
49 whether changes in any of the standards are necessary to
50 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. 7. 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
as a full-time law enforcement officer, the officer must
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.

~~2. Core curriculum requirements. The board shall establish
core curriculum requirements which must be satisfied by each law
enforcement officer within 12 months of assuming law enforcement
duties including the power to make arrests or the authority to
carry a firearm in the course of duty. The board shall base the
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.~~

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

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~~

2 requirements, ~~---The board shall provide a basic training course~~
3 ~~designed primarily for municipal and county law enforcement~~
4 ~~officers.~~

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

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

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

14 D. Review the basic training requirements of the current
15 basic municipal and county training course and, no later
16 than March 1, 1995, design a course of basic training for
17 all law enforcement positions the content, quality and
18 standards of which equal or exceed those of training courses
19 established by the board prior to March 1, 1995, pursuant to
20 this section, section 2803-A, subsection 1 and former
21 section 2803-A, subsection 6.

24 **5. Application to currently certified law enforcement**
25 **officers.** This section does not apply to any law enforcement
26 officer certified as meeting the law enforcement training
27 requirements or to any full-time law enforcement officer employed
28 by a state agency, including the University of Maine System, as
29 of July 1, 1990.

30 **Sec. 8. 25 MRSA §2804-E, sub-§§1 and 2,** as enacted by PL 1989,
31 c. 521, §§5 and 17, are amended to read:

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

42 **2. Role of board.** The board shall establish in-service
43 recertification training requirements, consistent with subsection
44 1, coordinate delivery of in-service training with post-secondary
45 postsecondary schools and other institutions and law enforcement
46 agencies and administer in-service training programs. The
47 in-service recertification training requirements shall must
48 include information on new laws and court decisions and on new
49 enforcement practices demonstrated to reduce crime or increase
50 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. 9. 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. 10. 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. 11. 25 MRSA §2805-B, sub-§1, as enacted by PL 1989, c.
521, §§8 and 17, is amended to read:

1. Annual report and records. Within 30 days of the close
of each calendar year, the highest elected official of each
political subdivision and the head of each state department and
agency employing law enforcement or corrections officers subject
to this chapter shall provide the board with a report containing
a list of the names and dates of employment of all law
enforcement and corrections officers covered by this chapter.
The official or department or agency head shall maintain records
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.

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

§2805-C. Complaint review committee

2
3 1. Committee. The chair of the board shall appoint 3
4 members of the board to serve on the complaint review committee.
5 One of the members must be one of the citizen members of the
6 board. All members of the committee must be present for
7 deliberations. A majority vote is necessary to recommend taking
8 corrective or disciplinary action on a complaint.

9
10 2. Investigation. The committee shall investigate
11 complaints regarding any violation of this chapter or rules
12 established by the board by a law enforcement or corrections
13 officer and recommend appropriate action to the board.

14
15 **Sec. 13. 25 MRSA §2806, sub-§1, ¶B,** as repealed and replaced
16 by PL 1991, c. 790, §1, is amended to read:

17
18 B. May suspend or revoke the certificate issued pursuant to
19 former section 2803, 2805 or 2805-A or section 2803-A,
20 2804-B, 2804-C or 2804-D of any person who:

21
22 (1) Has been found guilty of murder or any crime
23 classified in state law as a Class A, Class B, Class C
24 or Class D crime or a violation of any provision of the
25 Maine Criminal Code, chapter 15, 19, 25 or 45;

26
27 (2) Has engaged in conduct that is prohibited or
28 penalized by state law as murder or a Class A, Class B,
29 Class C or Class D crime or by any provision of the
30 Maine Criminal Code, chapter 15, 19, 25 or 45;

31
32 (3) Has been found guilty of conduct specified in
33 subparagraph (2) in another state or other
34 jurisdiction, unless that conduct is not punishable as
35 a crime under the laws of that state or other
36 jurisdiction in which it occurred;

37
38 (4) Has engaged in conduct specified in subparagraph
39 (2) in another state or other jurisdiction, unless that
40 conduct is not punishable as a crime under the laws of
41 that state or other jurisdiction in which it occurred;
42 e#

43
44 (5) Has falsified or misrepresented material facts in
45 obtaining or maintaining the certificate; and or

46
47 (6) Has engaged in conduct that violates the standards
48 established by the board pursuant to section 2803-B,
49 subsection 1, provided that the conduct, when viewed in
50 light of the nature and purpose of the person's conduct

2 and circumstances known to the person, involves a gross
3 deviation from the standard of conduct that a
4 reasonable and prudent law enforcement officer would
5 observe in the same situation; and

6 **Sec. 14. 25 MRSA §2806, sub-§1-A**, as enacted by PL 1991, c.
7 790, §2, is amended to read:

8
9 **1-A. Investigation and notice of complaints.** Before
10 proceeding with a hearing to suspend or revoke a law enforcement
11 or corrections officer's certification under subsection 1,
12 paragraph B, subparagraph (2) ~~or~~ (4) or (6), the board shall
13 notify the chief administrative officer of the agency employing
14 the officer that the board is contemplating suspension or
15 revocation of the officer's certification. The chief
16 administrative officer shall investigate that the alleged conduct
17 and ~~shall~~ report its findings to the board within 30 days of
18 receiving notice of the board's contemplation of suspension or
19 revocation. The board shall proceed with any suspension or
20 revocation action it determines appropriate after receiving the
21 chief administrative officer's report. This subsection does not
22 ~~prevent~~ preclude a chief administrative officer from
23 investigating conduct that may give rise to grounds for
24 suspension or revocation before receiving a request for an
25 investigation from the board, provided that the chief
26 administrative officer notifies the board following that
27 investigation if the investigation reveals reasonable cause to
28 believe that an officer has engaged in conduct described in
29 subsection 1, paragraph B, subparagraph (2) ~~or~~ (4) or (6).
30 Nothing in this subsection ~~prevents~~ precludes the board from
31 investigating conduct of a law enforcement officer on its own or
32 referring a matter of such conduct to another agency for
33 investigation.

34
35 **Sec. 15. 25 MRSA §2806, sub-§2, ¶A**, as corrected by RR 1991,
36 c. 2, §97, is amended to read:

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

40
41 **Sec. 16. 30-A MRSA §2701**, as amended by PL 1991, c. 182, is
42 further amended to read:

43
44 **§2701. Employee probation periods**

45
46 Except as specifically provided otherwise by charter or
47 ordinance, any reference to cause and hearing in this Part only
48 applies to an employee who has completed a reasonable probation
49 period established by the municipality. Periods of probation may
50

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 for at least one
year after graduation from the Maine Criminal Justice Academy or
the date the board waives the basic training requirement.

**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
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. 18. 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. 19. 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

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2 some are not. The board shall compare the findings from both
4 evaluations to the current system of enrollment and make
6 recommendations regarding resources and procedures that would be
8 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.

10 **Sec. 20. Study of the use of psychological examination for admission**
12 **to the academy basic training course.** Subject to available funding,
14 the Board of Trustees of the Maine Criminal Justice Academy shall
16 conduct a study to explore the requirement of successful
18 completion of a psychological examination prior to admission to
20 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.

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

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

32 **FISCAL NOTE**

34 The Maine Criminal Justice Academy will incur some
36 additional costs to increase the number of board members, to
conduct several studies, to develop plans and to establish a
38 complaint review committee. No additional funding is being
40 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.

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

48

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2 This bill also includes several requirements on local law
law enforcement agencies that include developing policies for certain
4 law enforcement procedures with public input, conducting
additional investigations for concealed firearms permit
6 application and adding new items to certain reports. The
additional costs of this state mandate are not expected to be
8 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
10 costs.

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

18

20


STATEMENT OF FACT

22

This amendment incorporates House Amendment "B" to Committee
24 Amendment "A" except that, additionally, this amendment requires
that the chief law enforcement officer in a municipality must
have the responsibility for conducting background investigations
26 of individuals seeking concealed firearm permits. If there is no
chief law enforcement officer in a municipality, the Chief of the
28 State Police or the sheriff in that county must conduct the
investigation.

30

32

SPONSORED BY: 
(Senator SUMMERS)

34

36

COUNTY: Cumberland

38