

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1967

H.P. 1369

House of Representatives, March 23, 1999

**An Act to Assign Responsibility for Juveniles Who Are Not Receiving
Schooling.**

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative FULLER of Manchester.
Cosponsored by Representatives: QUINT of Portland, TESSIER of Fairfield, WATSON of Farmingdale, Senator: BERUBE of Androscoggin.

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

2 **Sec. 1. 20-A MRSA §5001-A, sub-§1**, as enacted by PL 1983, c.
4 806, §49, is amended to read:

6 **1. Requirement.** Persons 7 years of age or older and under
17 18 years of age shall attend a public day school during the
8 time it is in regular session.

10 **Sec. 2. 20-A MRSA §5001-A, sub-§2, ¶A**, as enacted by PL 1983,
12 c. 806, §49, is amended to read:

14 A. A person who graduates from high school before that
16 person's 17th 18th birthday;

18 **Sec. 3. 20-A MRSA §5001-A, sub-§2, ¶B**, as repealed and
replaced by PL 1989, c. 415, §13, is amended to read:

20 B. A person who has:

22 (1) Reached the age of 15 years or completed the 9th
24 grade;

26 (2) Permission to leave school from that person's
28 parent;

30 (3) Been approved by the principal for a suitable
32 program of work and study or training;

34 (4) Permission to leave school from the school board
36 or its designee; and

38 (5) Agreed in writing with that person's parent and
40 the school board or its designee to meet annually until
42 that person's 17th 18th birthday to review that
44 person's educational needs. When the request to be
46 excused from school has been denied pursuant to this
48 paragraph, the student's parent may appeal to the
commissioner;

40 **Sec. 4. 20-A MRSA §5001-A, sub-§5**, as amended by PL 1989, c.
42 415, §15, is further amended to read:

44 **5. Adult responsibility.** An adult having a person of
46 compulsory school age under that adult's control shall cause the
48 person to attend school or another program designated by the
superintendent as provided in this section. If an adult fails to
act responsibly under this subsection, the superintendent shall
appoint a surrogate parent under section 7207-A. An adult who

2 violates this subsection commits a civil violation as set forth
3 in section 5053.

4 **Sec. 5. 20-A MRSA §5001-A, sub-§7**, as enacted by PL 1989, c.
5 415, §17, is amended to read:

6
7 **7. Purpose.** Compulsory education is essential to the
8 preservation of the rights and liberties of the people and the
9 continued prosperity of our society and our nation. Maintaining
10 regular student attendance is necessary to achieve the goal of an
11 educated citizenry. Public schools should ensure the rights of
12 access for all school-age persons to an appropriate educational
13 opportunity and, when necessary, ~~should~~ shall develop
14 alternatives to regular school curricula for those children and
15 youth at risk of becoming dropouts ~~and~~, those who may have left
16 school and those who have been expelled.

17 **Sec. 6. 20-A MRSA §5051, sub-§2, ¶D**, as amended by PL 1989, c.
18 415, §19, is further amended to read:

19
20 D. If the school board determines that the student is
21 habitually truant, it shall either:

22
23 (1) Instruct the student to attend school as required
24 by section 5001-A and advise the parents of their
25 responsibility under section 5001-A, subsection 5 to
26 assure ensure the student's attendance; or

27
28 (2) ~~Waive the requirements of section 5001-A, if the~~
29 ~~student is 15 years of age or older. Treat the student~~
30 ~~as an exception under section 5001-A, subsection 2,~~
31 ~~paragraph B.~~
32 Treat the student as an exception under section 5001-A, subsection 2,
33 paragraph B.

34 **Sec. 7. 20-A MRSA §5051, sub-§2, ¶F**, as enacted by PL 1995, c.
35 124, §1, is amended to read:

36
37 F. When a student is determined habitually truant and in
38 violation of section 5001-A, the school board may shall
39 notify the local law enforcement department of the
40 decision. After this notification, a local law enforcement
41 officer who sees a truant ~~may offer to~~ shall transport the
42 truant to the appropriate school ~~if the truant~~ and inform
43 the truant's parent or guardian ~~provide verbal consent and~~
44 of their responsibility under state law if the truant:

45 (1) Is off school grounds during school hours; and

46 (2) Is not under the supervision of school personnel.

47
48 **Sec. 8. 20-A MRSA §5051, sub-§2, ¶G** is enacted to read:

2 G. If a student fails to comply with anything required of
4 the student under paragraph D, the parents or guardian of
6 the student are subject to the enforcement provisions of
8 section 5053 and the superintendent shall inform the
10 Department of Human Services and appropriate law enforcement
12 agencies. If the superintendent finds that no adult is
14 responsible for the student, the superintendent shall
16 appoint a surrogate parent under section 7207-A.

18 **Sec. 9. 20-A MRSA §5052-A, sub-§3, ¶A,** as enacted by PL 1989,
20 c. 415, §21, is amended to read:

22 **A.** When notified by a principal that a student's attendance
24 is irregular, interviewing the student and the parent or
26 parents or guardian or guardians to determine the cause of
28 the irregular attendance and ~~file~~ filing a written report
30 and recommendations with the principal, including whether
32 legal action or the appointment of a surrogate parent under
34 section 7207-A is appropriate;

36 **Sec. 10. 20-A MRSA §5052-A, sub-§5** is enacted to read:

38 **5. Superintendent action.** The superintendent shall take
40 necessary action based on the report and recommendations under
42 subsection 3, paragraph A, including ensuring that the student is
44 under the control of an adult and is enrolled in an alternative
46 program or is under school supervision or the supervision of the
48 Department of Human Services.

50 **Sec. 11. 20-A MRSA §5053, sub-§5,** as enacted by PL 1989, c.
415, §25, is repealed and the following enacted in its place:

52 **5. Disposition.** The court may order one or more of the
54 following upon a violation of subsection 1:

56 **A.** A civil forfeiture not to exceed \$1,000;

58 **B.** Appointment of a surrogate parent;

60 **C.** Referral of the student to juvenile corrections
62 officials;

64 **D.** The offender to undergo counseling by a professional
66 selected by the offender, with the court's approval, or by
68 the court. The counselor shall submit a written evaluation
70 to the court and to the offender; and

72 **E.** Referral of the student to the Department of Human
74 Services, which shall provide for the student within a given
76 time period.

2 **Sec. 12. 20-A MRSA §5053, sub-§6** is enacted to read:

4 **6. Implementation.** The school superintendent shall
6 initiate the implementation of this section regarding an
habitually truant student.

8 **Sec. 13. 20-A MRSA §5103, sub-§2**, as repealed and replaced by
10 PL 1989, c. 415, §29, is amended to read:

12 **2. Membership.** The dropout prevention committee shall ~~be~~
is composed of the following members:

- 14 A. A member of the school board selected by that board;
- 16 B. A school administrator selected by the superintendent;
- 18 C. A teacher and a school counselor selected by the school
20 administrative unit's teacher organization;
- 22 D. A parent selected by the unit's organized parent group,
or, if no organized parent group exists, by the school board;
- 24 E. A school attendance coordinator from the district
26 selected by the superintendent;
- 28 F. A high school student selected by the dropout prevention
committee members selected in paragraphs A to E;
- 30 G. A dropout selected by the dropout prevention committee
32 members selected in paragraphs A to E; and
- 34 H. A community resident of the district selected by the
dropout prevention committee members selected in paragraphs
36 A to E;
- 38 I. A local law enforcement official;
- 40 J. A representative of the Department of Human Services; and
- 42 K. A local member of the clergy.

44 A dropout prevention committee may increase its membership by
majority vote.

46 **Sec. 14. 20-A MRSA §5103, sub-§5, ¶B**, as repealed and replaced
48 by PL 1989, c. 415, §29, is amended to read:

50 B. The dropout prevention committee shall consider the
following when developing its plan:

- 2 (1) Reasons why students drop out of school;
- 4 (2) Maintenance of continuing contacts with recent
6 dropouts in order to extend opportunities for alternate
educational programs, counseling and referral;
- 8 (3) Education of teachers and administrators about the
dropout problem;
- 10 (4) Use of human services programs to help dropouts;
- 12 (5) The school administrative unit's policies on
14 suspension, expulsion and other disciplinary action; and
- 16 (6) Discriminatory practices and attitudes within the
school administrative unit, including those of other
18 students;
- 20 (7) Dropouts' family situations;
- 22 (8) The school administrative unit's relationship with
law enforcement agencies; and
- 24 (9) The effects of drug and alcohol use on the dropout
26 problem.

28 Sec. 15. 20-A MRSA c. 211, sub-c. III-A is enacted to read:

30 SUBCHAPTER III-A

32 SUPERVISION FOR SUSPENDED OR EXPELLED STUDENTS

34 §5121. Definitions

36 As used in this subchapter, unless the context otherwise
38 indicates, the following terms have the following meanings.

40 1. Department. "Department" means the Department of Human
Services.

42 2. Removed student. "Removed student" means a juvenile of
44 school age who is being or has been expelled, suspended or placed
on early release from school or who is an habitual truant or
46 dropout.

48 3. Juvenile in need of services. "Juvenile in need of
services" means a juvenile of school age who has been expelled
50 from school, who has been suspended from school for more than 10%
of the days of the current semester of the student's school

2 administrative unit, who is an habitual truant or a dropout or
3 who has been placed on early release.

4 **§5122. School supervision**

6 A school administrative unit shall provide supervision for
7 each removed student. The supervision must occur over the length
8 of each school day during the period of the student's expulsion,
9 suspension or early release. School work, physical training,
10 school maintenance and community service may be required of a
11 student under supervision. A student who fails to comply with
12 supervision may be considered truant.

14 **§5123. Services for students in need**

16 1. Notification. The school administrative unit of a
17 student in need of services shall notify the department and local
18 law enforcement officials, providing them with the names and
19 addresses of the student and the student's parents.

20 2. Department plan. Upon notification under subsection 1,
21 the department shall contact the parents of the student in need
22 of services. The department and the parents, in consultation
23 with local law enforcement officials, shall prepare and implement
24 a plan to meet the student's unmet needs that are interfering
25 with school attendance, work or appropriate behavior. The
26 parents of a student in need of services shall contribute to the
27 cost of implementing the plan developed under this subsection
28 unless the department determines that the parents' financial
29 situation precludes such a contribution. Failure of a parent to
30 participate constructively in the planning and implementation
31 required by this subsection may be considered grounds for
32 appointing a surrogate parent under section 7207-A. A student
33 who fails to participate in the plan developed under this
34 subsection may be considered truant.

36 **§5124. Funding for school change**

38 If a plan prepared and implemented under section 5123,
39 subsection 2 includes educating a student in a school
40 administrative unit other than the unit for the area where the
41 student's parents reside or in an approved private program, the
42 school administrative unit for the area where the student's
43 parents reside shall pay the cost of educating the student in
44 another school administrative unit.

46 **Sec. 16. 20-A MRS §7201, sub-§2, ¶B,** as enacted by PL 1981,
48 c. 693, §§5 and 8, is amended to read:

2 B. Removal of an exceptional student from the regular
educational environment ~~shall~~ may occur only if the nature
4 or severity of the exceptionality is such that the student's
education ~~cannot~~ can not be satisfactorily accomplished in:

6 (1) Regular classes with the use of supplemental aids
and services; ~~or~~

8 (2) Self-contained classes within the regular school
10 programs; or

12 (3) The regular classroom because the student's
14 behavior interferes with the education of other
students.

16 Removal may also be used as discipline for an exceptional
18 student.

20 **Sec. 17. 20-A MRSa §7201, sub-§4,** as enacted by PL 1981, c.
693, §§5 and 8, is amended to read:

22 **4. Parent's right to be a member of the team.** Parents,
surrogate parents or guardians have the right to be a--member
24 members of the team which that will carry out duties and
responsibilities in accordance with rules established by the
26 commissioner. A parent, surrogate parent or guardian and an
appropriate law enforcement official must be members of the team
28 for a student with behavioral problems.

30 **Sec. 18. 20-A MRSa §7207-A, sub-§1-A** is enacted to read:

32 1-A. Recommendation and appointment. The principal shall
34 make a recommendation to the superintendent for appointment of a
surrogate parent for a student if the principal believes such an
36 appointment is necessary. The superintendent shall appoint a
surrogate parent for a student if the superintendent or the
38 student's team determines that such an appointment is necessary.

40 **SUMMARY**

42 This bill requires a school that expels or suspends a
student or places a student on early release to provide day-long
44 supervision for the student during the period of expulsion,
suspension or early release. The supervision requirement also
46 applies to habitual truants and dropouts. In the case of a
student who has been expelled, suspended for more than 10% of a
48 school semester's days or placed on early release or who is an
habitual truant or dropout, the school must notify the Department
50 of Human Services and local law enforcement officials. The

2 department and the student's parents must develop and implement a
3 plan to meet the student's needs. If the needs include education
4 in a different school administrative unit or private program, the
5 student's current school administrative unit must pay the cost of
6 that education.

7 This bill also amends current law regarding school
8 attendance, habitual truancy, exceptional students and
9 appointment of surrogate parents to promote greater involvement
10 with and responsibility for students with attendance or
11 behaviorial problems by parents, school officials, law enforcement
12 officials and the Department of Human Services.