

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1234

H.P. 920

House of Representatives, February 28, 2001

An Act to Strengthen the State's Truancy Law.

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

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative POVICH of Ellsworth. (By Request)

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

2
4 **Sec. 1. 20-A MRSA §5051, sub-§2**, as amended by PL 1999, c.
198, §§1 and 2, is further amended to read:

6 **2. Procedures.** The following provisions govern the
procedure to be followed when a student is habitually truant.

8
10 A. If a principal of a public school and the attendance
12 coordinator ~~determines~~ determine that a student is
habitually truant, the principal shall inform the
superintendent. The superintendent shall first try to
correct the problem informally.

14
16 A-1. As part of the informal measures set out in paragraph
18 A, the superintendent may ask the student's parents to
attend a series of meetings with their child's teacher or
20 other school personnel designated by the superintendent.
The purpose of the meetings is to describe the education
22 program to the parents and explain the value of their child
attending an educational program, including, but not limited
24 to, school, adult education, a high school equivalency
degree program and other alternative education programs.
The superintendent shall arrange meeting times convenient to
the parents.

26
28 B. If the principal and the attendance coordinator are
unable to correct the problem, the ~~superintendent~~ principal
30 shall refer the matter to the ~~school-board~~ superintendent
along with the attendance coordinator's report, the
principal's report and any other useful information.

32
34 C. The ~~school-board~~ superintendent shall call a hearing and
shall notify the student's parent of the following in
writing at least 7 days in advance:

36 (1) The date and time of the hearing;

38 (2) The purpose of the hearing;

40 (3) The parent's right to inspect the student's
42 attendance records, attendance coordinator's report and
principal's reports; and

44 (4) The necessity of the parent's and student's
46 presence at the hearing.

48 D. If the ~~school-board~~ superintendent determines that the
50 student is habitually truant, ~~it~~ the superintendent shall
either:

2 (1) Instruct the student to attend school as required
4 by section 5001-A and advise the parents of their
6 responsibility under section 5001-A, subsection 5 to
assure the student's attendance and that a violation by
the parents is a Class E crime pursuant to section
5053-A; or

8 (2) Waive the requirements of section 5001-A, if the
10 student is 15 years of age or older.

12 E. A parent may appeal to the commissioner the decision of
14 the ~~school-board~~ which superintendent that denies to a
student who is habitually truant and at least 15 years old a
waiver of section 5001-A.

16 (1) The commissioner shall appoint a fair hearing
18 officer to hear the appeal.

20 (2) The fair hearing officer shall report to the
22 commissioner on the testimony presented and shall
recommend a disposition to the commissioner.

24 (3) The commissioner shall review the report and shall
26 affirm, modify or reverse the ~~school-board's~~
superintendent's decision on a waiver of section 5001-A.

28 F. ~~When-a~~ After a hearing conducted pursuant to paragraph
30 E, if the superintendent determines that the student is
32 ~~determined~~ habitually truant and in violation of section
34 5001-A and the superintendent has made a good faith attempt
to meet the requirements of paragraph A-1, the
36 superintendent may notify the local law enforcement
department of the decision. After this notification, a
38 local law enforcement officer who sees a truant may offer to
transport the truant to the appropriate school if the truant
and the truant's parent or guardian provide verbal consent
and if the truant:

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

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

44 The local law enforcement officer may also arrest the parent
46 of the truant pursuant to section 5053-A.

48 **Sec. 2. 20-A MRSA §5053, sub-§1**, as repealed and replaced by
PL 1989, c. 415, §22, is amended to read:

1. **Civil violation.** Having Except as provided in section 5053-A, having control of a student who is habitually truant and being primarily responsible for that truancy constitutes a civil violation under this chapter.

Sec. 3. 20-A MRSA §5053-A is enacted to read:

§5053-A. Enforcement

A parent of a student who has been determined to be habitually truant pursuant to section 5051, subsection 2, paragraph E and who fails to correct the truancy commits a Class E crime. In addition to the actions a court may take pursuant to section 5053, subsection 5, the court shall order the parent to pay a fine of at least \$50 but not more than \$1,000.

SUMMARY

Current law requires the principal of a truant student to inform the superintendent of the school administrative unit or school union when the principal determines that the student is truant. If the problem can not be resolved informally, the matter is referred to the school board for a formal hearing. A parent of a truant student commits a civil violation if that parent is primarily responsible for the truancy.

This bill requires the superintendent to convene a formal hearing if the superintendent is unable to resolve the truancy informally; referral of the truancy to the school board is eliminated. If a parent of a student determined to be habitually truant after a hearing fails to correct the truancy, the parent commits a Class E crime for which a minimum fine of \$50 must be assessed.