

# MAINE STATE LEGISLATURE

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AMS

L.D. 160

DATE: 4.25.03

(Filing No. S-79)

EDUCATION AND CULTURAL AFFAIRS

Reported by:

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STATE OF MAINE
SENATE
121ST LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 83, L.D. 160, Bill, "An Act To Amend the Laws Governing Home Instruction"

Amend the bill by striking out everything after the title and before the summary and inserting in its place the following:

'Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, parents and guardians who intend to provide equivalent instruction through a home instruction program for their children in the 2003-2004 school year will need sufficient time to prepare their plans for providing a home instruction program prior to the start of the upcoming school year; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 20-A MRSA §5001-A, sub-§3, ¶A, as amended by PL 1991, c. 602, §1 and affected by §4 and affected by PL 1995, c. 610, §2, is further amended to read:

A. Equivalent instruction alternatives are as follows.

(1) A person is excused from attending a public day school if the person obtains equivalent instruction in:

COMMITTEE AMENDMENT "A" to S.P. 83, L.D. 160

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(a) A private school approved for attendance purposes pursuant to section 2901;

(b) A private school recognized by the department as providing equivalent instruction;

~~(c) A manner approved by the commissioner pursuant to subparagraph (3); or~~

(c-1) A home instruction program that complies with the requirements of subparagraph (4); or

(d) Any other manner arranged for by the school board and approved by the commissioner.

(2) A student is credited with attendance at a private school only if a certificate showing the name, residence and attendance of the person at the school, signed by the person or persons in charge of the school, has been filed with the school officials of the administrative unit in which the student resides.

~~(3) A person who wishes to obtain approval of equivalent instruction under rules established by the commissioner for equivalent instruction through home instruction shall simultaneously submit a completed application for approval to the local board and to the commissioner. The local board may review the application and submit comments on the application to the commissioner within 30 days of receipt of the application. Within 60 days of receipt of the application, the commissioner, using state criteria established by rule, shall decide whether to approve the equivalent instruction application. If the commissioner denies the application, the applicant may, within 30 days of receiving the denial, amend and resubmit the application directly to the commissioner. The commissioner shall make a decision within 30 days of receiving the amended application. If an application is approved, the commissioner shall send notice of the approval to the local board. Notice provided to local boards under this section of applications for approval of equivalent instruction through home instruction and of the commissioner's decision on those applications is only for informational purposes. Local boards are not required to play any role in the application, review and approval, or oversight of home instruction programs.~~

**COMMITTEE AMENDMENT**

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(4) The following provisions govern a home instruction program.

(a) The student's parent or guardian shall provide a written notice of intent to provide home instruction simultaneously to the school officials of the administrative unit in which the student resides and to the commissioner within 10 calendar days of the beginning of home instruction. The notice must contain the following information:

(i) The name, signature and address of the student's parent or guardian;

(ii) The name and age of the student;

(iii) The date the home instruction program will begin;

(iv) A statement of assurance that indicates the home instruction program will provide at least 175 days annually of instruction and will provide instruction in the following subject areas: English and language arts, math, science, social studies, physical education, health education, library skills, fine arts and, in at least one grade from grade 6 to 12, Maine studies. At one grade level from grade 7 to 12, the student will demonstrate proficiency in the use of computers; and

(v) A statement of assurance that indicates that the home instruction program will include an annual assessment of the student's academic progress that includes at least one of the forms of assessment described in division (b).

(b) On or before September 1st of each subsequent year of home instruction, the student's parent or guardian shall file a letter with the school officials of the administrative unit in which the student resides and the commissioner stating the intention to continue providing home instruction and enclose a copy of one of the following forms of annual assessment of the student's academic progress:

**PLS**

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2                   (i) A standardized achievement test  
3                   administered through the administrative unit  
4                   in which the student resides or through other  
5                   arrangements approved by the commissioner.  
6                   If the test is administered through the  
7                   administrative unit in which the student  
8                   resides, that administration must be agreed  
9                   to by the school officials of the  
10                   administrative unit prior to submission of  
11                   the written notice of intent to provide home  
12                   instruction;

13                   (ii) A test developed by the school officials  
14                   of the administrative unit in which the  
15                   student resides appropriate to the student's  
16                   home instruction program, which must be  
17                   agreed to by the school officials of the  
18                   administrative unit prior to submission of  
19                   the written notice of intent to provide home  
20                   instruction;

21                   (iii) A review and acceptance of the  
22                   student's progress by an identified  
23                   individual who holds a current Maine  
24                   teacher's certificate;

25                   (iv) A review and acceptance of the student's  
26                   progress based on, but not limited to, a  
27                   presentation of an educational portfolio of  
28                   the student to a local area homeschooling  
29                   support group whose membership for this  
30                   purpose includes a currently certified Maine  
31                   teacher or administrator; or

32                   (v) A review and acceptance of the student's  
33                   progress by a local advisory board selected  
34                   by the superintendent of the administrative  
35                   unit in which the student resides that  
36                   includes one administrative unit employee and  
37                   2 home instruction tutors. For the purpose  
38                   of this subdivision, a "home instruction  
39                   tutor" means the parent, guardian or other  
40                   person who acts or will act as a primary  
41                   teacher of the student in the home  
42                   instruction program. This provision must be  
43                   agreed to by the school officials of the  
44                   administrative unit in which the student  
45                   resides prior to submission of the written  
46                   notice of intent to provide home instruction.

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2           (c) Dissemination of any information filed under  
3           this subparagraph is governed by the provisions of  
4           section 6001; the federal Family Educational  
5           Rights and Privacy Act of 1974, 20 United States  
6           Code, Section 1232g (2002); and the federal  
7           Education for All Handicapped Children Act of  
8           1975, 20 United States Code, Sections 1401 to 1487  
9           (2002), except that "directory information," as  
10          defined by the federal Family Educational Rights  
11          and Privacy Act of 1974, is confidential and is  
12          not subject to public disclosure unless the parent  
13          or guardian specifically permits disclosure in  
14          writing or a judge orders otherwise. Copies of  
15          the information filed under this subparagraph must  
16          be maintained by the student's parent or guardian  
17          until the home instruction program concludes. The  
18          records must be made available to the commissioner  
19          upon request.

20           (d) If the home instruction program is  
21           discontinued, students of compulsory school age  
22           must be enrolled in a public school or an  
23           equivalent instruction alternative as provided for  
24           in this paragraph. The receiving school shall  
25           determine the placement of the student. At the  
26           secondary level, the principal of the receiving  
27           school shall determine the value of the prior  
28           educational experience toward meeting the  
29           standards of the system of learning results as  
30           established in section 6209.

31           (e) The commissioner shall amend or adopt rules  
32           to accomplish the purposes of this subparagraph.  
33           Rules adopted pursuant to this division are major  
34           substantive rules as defined in Title 5, chapter  
35           375, subchapter 2-A.

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37           **Sec. 2. 20-A MRSA §5021, first ¶, as enacted by PL 1995, c.**  
38           **610, §1, is amended to read:**

39  
40           A school administrative unit shall conform to the following  
41           standards in making public school resources and services  
42           available to a student enrolled in an ~~equivalent instruction~~  
43           ~~program approved by the commissioner pursuant to section 5001-A,~~  
44           ~~subsection 3, paragraph A, subparagraph (3)~~ a home instruction  
45           program under section 5001-A, subsection 3, paragraph A,  
46           subparagraph (4) for a student otherwise eligible to attend  
47           school in that school administrative unit.  
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2 **Sec. 3. 20-A MRSA §6001, sub-§1**, as enacted by PL 1999, c.  
595, §2, is amended to read:

4 **1. Federal and state law.** The provisions of this section,  
the United States Family Educational Rights and Privacy Act of  
6 1974, Public Law 93-380, as amended by Public Law 93-568, and the  
United States Education of All Handicapped Children Act, Public  
8 Law 94-142 govern the dissemination of information about  
students, as well as applications for written notices of intent  
10 to provide equivalent instruction through home instruction,  
~~comments on the completeness of these applications~~ and all  
12 education records of students receiving equivalent instruction  
through home instruction.

14 **Sec. 4. Application.** Notwithstanding Department of Education  
rules to the contrary, pending adoption of rules implementing  
16 this Act, beginning with the 2003-2004 school year, the  
Commissioner of Education shall implement the provisions of the  
18 Maine Revised Statutes, Title 20-A, section 5001-A, subsection 3,  
paragraph A in excusing a child from attendance at a public day  
20 school if a parent or guardian of the child who intends to  
provide equivalent instruction through a home instruction program  
22 for the child complies with the provisions of Title 20-A, section  
5001-A, subsection 3, paragraph A, subparagraph (4).

24 **Emergency clause.** In view of the emergency cited in the  
preamble, this Act takes effect when approved.'

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30 **SUMMARY**

32 This committee amendment makes changes to the bill to  
clarify the intent of the original bill, to add certain  
34 provisions to the bill that are currently contained in Department  
of Education rules related to equivalent instruction through a  
36 home instruction program and to make changes to other sections of  
the statutes related to equivalent instruction through a home  
38 instruction program so that they are consistent with the intent  
of the original bill. The committee amendment includes the  
40 following provisions.

42 1. It provides that a student is excused from attending a  
public day school if the student's parent or guardian provides a  
44 written notice of intent to provide home instruction to the  
Commissioner of Education and to the superintendent of the local  
46 school administrative unit within 10 calendar days of the  
beginning of the home instruction program.

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2 It provides that the notice of intent to provide a home  
instruction program must contain a statement of assurance that  
4 the home instruction program will provide for an annual  
assessment of the student's academic progress. It also specifies  
6 the several forms of assessment that comply with this requirement.

8 It provides that, following the initial year of  
providing a home instruction program, the notice of intent to  
10 continue to provide a home instruction program must include a  
copy of the annual assessment of the student's academic progress  
12 from the prior year.

14 It makes technical changes to 2 related statutory  
provisions so that these provisions are consistent with the new  
16 "notice of intent" requirements governing the provision of  
equivalent instruction through a home instruction program.

18 It provides that the information filed under the new  
"notice of intent" requirements governing the provision of  
20 equivalent instruction through a home instruction program and any  
other education records pertaining to the home instruction  
22 program must be maintained by the student's parent or guardian  
until the home instruction program concludes. It further  
24 provides that these records must be made available to the  
Commissioner of Education upon request.

26 It provides that the Commissioner of Education shall  
28 amend or adopt rules to be consistent with the new "notice of  
intent" requirements governing the provision of equivalent  
30 instruction through a home instruction program. The rules  
adopted are major substantive rules.

32 It underscores that, notwithstanding any Department of  
34 Education rules to the contrary, the Commissioner of Education  
shall use the new written "notice of intent" provisions in  
36 excusing a child from attendance at a public day school if a  
parent or guardian of the child who intends to provide equivalent  
38 instruction through a home instruction program for the child in  
the 2003-2004 school year provides the notice of intent.

40 It adds an emergency preamble and an emergency clause to  
42 the bill.

**FISCAL NOTE REQUIRED**  
(See attached)

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**COMMITTEE AMENDMENT**



Approved: 04/04/03 *MAC*

**121st Maine Legislature  
Office of Fiscal and Program Review**



**LD 160**

**An Act to Amend the Laws Governing Home Instruction**

**LR 0030(02)**

**Fiscal Note for Bill as Amended by Committee Amendment**

**Committee: Education and Cultural Affairs**

**Fiscal Note Required: Yes**

*AS-79*

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**Fiscal Note**

Minor cost increase - General Fund