

MAINE STATE LEGISLATURE

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L.D. 1082

DATE: 1-23-04

(Filing No. H-634)

MAJORITY
EDUCATION AND CULTURAL AFFAIRS

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
121ST LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 800, L.D. 1082, Bill, "An Act Regarding Habitual Truants"

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

Sec. 1. 20-A MRSA §5001-A, sub-§2, ¶C, as amended by PL 1985, c. 123, §1, is further amended to read:

~~C. A person whose absence is excused under section 5051. The parent of an habitual truant who has been denied a waiver of this paragraph, may appeal to the commissioner in accordance with section 5051, subsection 2, paragraph E 5051-A; or~~

Sec. 2. 20-A MRSA §5051, as amended by PL 1999, c. 198, §§1 and 2, is repealed.

Sec. 3. 20-A MRSA §5051-A is enacted to read:

§5051-A. Habitual truancy

1. Habitually truant. A student is habitually truant if the student:

A. Is subject to section 5001-A; and

B. Has the equivalent of 10 full days of unexcused absences or 7 consecutive school days of unexcused absences during a school year.

2 2. Procedures. This subsection governs the procedure to be
4 followed when a student is habitually truant.

6 A. If a principal of a public school and the attendance
8 coordinator determine that a student is habitually truant,
10 the principal shall inform the superintendent. The
12 superintendent or the superintendent's designee shall first
14 try to correct the problem informally. Informal attempts to
16 correct the problem must include meeting with the student
18 and the student's parents to identify possible causes of the
20 habitual truancy and develop a plan to implement solutions
22 to the problem. If an initial meeting does not resolve the
24 problem, the superintendent or superintendent's designee
26 shall implement interventions that best address the
28 problem. The interventions may include, but are not limited
30 to:

32 (1) Frequent communication between the teacher and the
34 family;

36 (2) Changes in the learning environment;

38 (3) Mentoring;

40 (4) Student counseling;

42 (5) Tutoring, including peer tutoring;

44 (6) Placement into different classes;

46 (7) Evaluation for alternative education programs;

48 (8) Attendance contracts;

50 (9) Referral to other agencies for family services; and

(10) Other interventions, including, but not limited
to, referral to the school attendance coordinator,
student assistance team or dropout prevention committee.

Failure of the student or the student's parents to appear at
scheduled meetings does not preclude the school
administrators from implementing a plan to address the
student's habitual truancy.

B. As part of correcting the problem informally, the
superintendent or superintendent's designee shall require
the student and the student's parents to attend one or more
meetings with the student's teacher or other school

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COMMITTEE AMENDMENT "A" to H.P. 800, L.D. 1082

2 personnel designated by the superintendent. The purpose of
3 the meetings is to reinforce the plan developed in paragraph
4 A or to develop an alternative plan. The meeting or
5 meetings may involve the presence of others, including, but
6 not limited to, case managers, therapeutic treatment
7 providers and representatives of the Department of Human
8 Services, the Department of Behavioral and Developmental
9 Services and the Department of Corrections. The
10 superintendent or superintendent's designee shall arrange
11 mutually convenient meeting times.

12 C. If the superintendent or superintendent's designee is
13 unable to correct the truancy of the child, the
14 superintendent or superintendent's designee shall serve or
15 cause to be served upon the parent in hand or by registered
16 mail a written notice that attendance of the child at school
17 is required by law. The notice must:

18 (1) State that the student is required to attend
19 school pursuant to section 5001-A;

20 (2) Explain the parent's right to inspect the
21 student's attendance records, attendance coordinator's
22 reports and principal's reports;

23 (3) Explain that the failure to send the student to
24 school and maintain the student in regular attendance
25 is a civil violation in accordance with section 5053-A
26 and explain the possible penalties;

27 (4) State that the superintendent or the
28 superintendent's designee may notify the local law
29 enforcement department of a violation of this statute;
30 and

31 (5) Outline the plan developed to address the
32 student's habitual truancy and the steps that have been
33 taken to implement that plan.

34 D. Prior to notifying the local law enforcement department
35 under paragraph E, the superintendent or superintendent's
36 designee shall schedule at least one meeting as required in
37 paragraph B.

38 E. If, after 3 school days after service of the notice
39 referred to in paragraph C, the student remains truant and
40 the parent and student refuse to attend the meeting
41 scheduled according to paragraph D, the superintendent or
42 superintendent's designee shall report the facts of the
43 unlawful absence to the local law enforcement department,
44

which may proceed with an action to enforce section 5053-A against the parent unless the student is at once placed in an appropriate school or otherwise meets the requirements under section 5001-A.

F. When a student is determined habitually truant and in violation of section 5001-A and the superintendent or superintendent's designee has made a good faith attempt to meet the requirements of paragraph B, the superintendent or superintendent's designee shall notify the school board and the local law enforcement department of the student's truancy. After this notification, a local law enforcement officer who sees the truant student may transport the truant student to the appropriate school if the truant student:

- (1) Is off school grounds during school hours; and
(2) Is not under the supervision of school personnel.

3. Reports. This subsection applies to reports of habitual truancy.

A. A superintendent shall submit an annual report to the commissioner before October 1st. The report must:

- (1) Identify the number of habitual truants in the school administrative unit in the preceding school year;
(2) Describe the unit's efforts to deal with habitual truancy;
(3) Account for actions brought under this section; and
(4) Include any other information on truancy requested by the commissioner.

B. The commissioner shall submit an annual report to the Governor and the Legislature before January 15th. The report must aggregate the information provided by superintendents under paragraph A and must evaluate the effect of state laws on the incidence of truancy.

Sec. 4. 20-A MRSA §5053, as amended by PL 1989, c. 415, §§22 to 25, is repealed.

Sec. 5. 20-A MRSA §5053-A is enacted to read:

§5053-A. Enforcement

1. Civil violation. The parent of a child of compulsory

1 school age who fails to have the child enrolled in school, who
2 fails to send the child to school or who fails to require the
3 child to regularly attend school commits a civil violation for
4 which a fine of not less than \$25 may be adjudged.

6 2. Dispositions. The court may also order a parent
7 adjudicated as violating subsection 1 to take specific action to
8 ensure the child's attendance at school; comply with the plan
9 developed in accordance with section 5051-A, subsection 2,
10 paragraph A; participate in a parent-training class; attend
11 school with the child; perform community service hours at the
12 school; or participate in counseling or other services as
13 appropriate.

14 3. Notice required. Notice must be provided to the parent
15 pursuant to section 5051-A, subsection 2, paragraph C before a
16 prosecution for violating subsection 1 may be brought against the
17 parent.

18 4. Prima facie proof. Evidence that shows that the parent
19 received the notice under section 5051-A, subsection 2 and that
20 the child has accumulated 10 absences that are not justified
21 under the established attendance policies of the school
22 administrative unit is prima facie proof that the child's parent
23 failed to enroll the child in school, failed to send the child to
24 school or failed to require the child to regularly attend school.

25 5. Defense. It is a defense to a prosecution under
26 subsection 1 that the parent has exercised reasonable diligence
27 in attempting to cause a child in the parent's custody to attend
28 school or that the administrators of the child's school did not
29 perform their duties as required by law.

30 6. Process. Service of a summons on the parent pursuant to
31 subsection 1 must be in accordance with the Maine Rules of Civil
32 Procedure.

33 7. Jurisdiction. The District Court has jurisdiction over
34 violations under subsection 1.

35 **Sec. 6. 20-A MRSA §6810**, as enacted by PL 1981, c. 693, §§5
36 and 8, is amended to read:

37 **§6810. Truancy**

38 The penalty for truancy is outlined in section ~~5053~~ 5053-A.

39 **Sec. 7. 20-A MRSA §7405, sub-§1**, as amended by PL 1999, c.
40 775, §6, is further amended to read:

1. **Enrollment.** The superintendent of the school administrative unit in which a deaf or hard-of-hearing student resides, with the consent of that student's parent or legal guardian and in accordance with the limitations in section 5051 5051-A, may enroll that student in one of the center school programs or the satellite school programs. The sums necessary for tuition and room and board of the student while attending one of the center school programs or satellite school programs, as determined by the individualized education program of the student, must be paid by the school board.'

SUMMARY

This amendment is the majority report of the Joint Standing Committee on Education and Cultural Affairs. The amendment strikes and replaces the bill to accomplish the following changes to the habitual truancy laws:

1. It authorizes a superintendent to designate a school official to attempt to correct the truancy problem informally;

2. It clarifies that the informal efforts by the superintendent or the superintendent's designee to correct the truancy problem must include meeting with the student and the student's parents to identify possible causes of the habitual truancy and developing a plan to implement solutions to the problem, including a range of interventions. It also permits school administrators to implement a plan to address the student's habitual truancy if the student or student's parents fail to appear at scheduled meetings;

3. In attempting to correct the truancy problem informally, it also requires that the student join the student's parents in attending one or more meetings with the student's teacher and school administrators to reinforce the plan developed to correct the truancy or to develop an alternative plan;

4. It requires school administrators to arrange meeting times that are mutually convenient for the parent and for school personnel;

5. It permits school administrators to involve case managers, therapeutic treatment providers and representatives of the Department of Human Services, the Department of Behavioral and Developmental Services and the Department of Corrections to participate in the meeting or meetings scheduled to develop or reinforce a plan to implement solutions to the truancy problem;

6. In the event that informal efforts to correct the

truancy fail, it requires that the superintendent or the superintendent's designee serve a written notice to the student's parent in hand or by registered mail and further requires that this notice include an outline of the plan developed to address the student's habitual truancy and the steps that have been taken to implement the plan to correct the truancy;

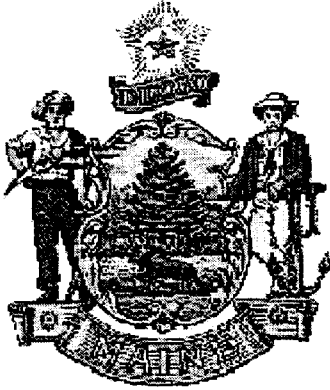
7. It clarifies that the superintendent or the superintendent's designee shall report the facts of a truant child's unlawful absence from school to the school board and the local law enforcement department;

8. It clarifies that the superintendent or the superintendent's designee shall report a truant student to the local law enforcement department after 3 school days after the written notice has been served to the student's parent and the student remains in noncompliance with the compulsory attendance laws; and

9. It establishes that a parent adjudicated for failing to comply with the habitual truancy laws commits a civil violation and is subject to a fine of at least \$25.

FISCAL NOTE REQUIRED
(See attached)

121st Maine Legislature
Office of Fiscal and Program Review



LD 1082
An Act Regarding Habitual Truants

LR 1152(02)
Fiscal Note for Bill as Amended by Committee Amendment " "
Education and Cultural Affairs
Fiscal Note Required: Yes
Majority Report

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund

Correctional and Judicial Impact Statements

Establishes a new civil violation.

Fiscal Detail and Notes

This bill makes changes to the existing statutes that address the procedures that local school units must follow when dealing with students who are habitually truant. It does not appear that these changes will result in increased costs to the local school units.