

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1082

H.P. 800

House of Representatives, March 4, 2003

An Act Regarding Habitual Truants

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CLOUGH of Scarborough.

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

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

6 C. A person whose absence is excused under section 5051-
7 ~~The parent of an habitual truant who has been denied a~~
8 ~~waiver of this paragraph, may appeal to the commissioner in~~
9 ~~accordance with section 5051, subsection 2, paragraph E~~
10 5051-A; or

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13 and 2, is repealed.

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

16 **§5051-A. Habitual truancy**

18 **1. Habitually truant.** A student is habitually truant if
20 the student:

22 A. Is subject to section 5001-A; and

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

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

30 A. If a principal of a public school and the attendance
32 coordinator determine that a student is habitually truant,
33 the principal shall inform the superintendent. The
34 superintendent shall first try to correct the problem
35 informally.

36 B. As part of correcting the problem informally, the
38 superintendent may ask the student's parent to attend a
39 series of meetings with the child's teacher or other school
40 personnel designated by the superintendent. The purpose of
41 the meetings is to describe the education program to the
42 parent and explain the value of the child's attending an
43 educational program, including, but not limited to, school,
44 adult education, a high school equivalency degree program or
45 other alternative education program. The superintendent
46 shall arrange meeting times convenient to the parent.

47 C. If the superintendent is unable to correct the truancy
48 of the child, the superintendent shall serve or cause to be

2 served upon the parent written notice that attendance of the
3 child at school is required by law. The notice must:

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

6 (2) Explain the parent's right to inspect the
7 student's attendance records, attendance coordinator's
8 reports and principal's report;

9 (3) Explain that the failure to send the student to
10 school and maintain the student in regular attendance
11 is a Class E crime in accordance with section 5053-A
12 and explain the possible penalties;

13 (4) State that the superintendent may notify the local
14 law enforcement department of a violation of this
15 statute; and

16 (5) Require the parent and the student to attend a
17 conference with a designated official.

18 D. Prior to notifying the local law enforcement department
19 under paragraph E, the superintendent shall schedule the
20 conference required in paragraph C, subparagraph (5).

21 E. If, within 3 days after receipt of the notice referred
22 to in paragraph C, the child remains truant and the parent
23 and child refuse to attend the conference according to
24 paragraph D, the superintendent shall report the facts of
25 the unlawful absence to the local law enforcement
26 department, which may proceed with a criminal action against
27 the parent unless the child is at once placed in an
28 appropriate school.

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

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

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

38 3. Reports. The following provisions apply to reports of
39 habitual truancy.

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

4 (1) Identify the number of habitual truants in the
5 school administrative unit in the preceding school year;

6 (2) Describe the unit's efforts to deal with habitual
7 truancy;

10 (3) Account for actions brought under this section; and

12 (4) Include any other information on truancy requested
13 by the commissioner.

14
15 B. The commissioner shall submit an annual report to the
16 Governor and the Legislature before January 15th. The
17 report must aggregate the information provided by
18 superintendents under paragraph A and must evaluate the
19 effect of state laws on the incidence of truancy.

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

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

26 **§5053-A. Enforcement**

28 1. Class E crime. The parent of a child of compulsory
29 school age who fails to have the child enrolled in school, who
30 fails to send the child to school or who fails to require the
31 child to regularly attend school is guilty of a Class E crime
32 and, upon conviction, is subject to the penalties set forth in
33 Title 17-A, section 1301.

34
35 A. Evidence that shows that the parent received the notice
36 under section 5051-A, subsection 3 and that the child has
37 accumulated 10 absences that can not be justified under the
38 established attendance policies of the school district
39 establishes a prima facie case that the child's parent is
40 responsible for the absences. A criminal prosecution may
41 not be brought against a parent until after notice has been
42 provided to the parent pursuant to section 5051-A,
43 subsection 3, paragraphs C to E.

44
45 B. Each unlawful absence of a child for 2 full-day school
46 sessions or 4 half-day school sessions is a separate offense.

48 C. It is a defense for a parent charged with violating the
49 truancy laws to show that the parent has exercised
50 reasonable diligence in attempting to cause a child in the

2 parent's custody to attend school or that the administrators
3 of the child's school did not perform their duties as
4 required by law.

6 2. Jurisdiction. The District Court has jurisdiction over
7 the violations under subsection 1.

8 3. Process. Service of a summons on the parent pursuant to
9 subsection 1 must be in accordance with the Maine Rules of
10 Criminal Procedure.

12 4. Disposition. Upon conviction of a parent for a Class E
13 crime as defined in subsection 1, the court may order a fine of
14 not less than \$25 for the first offense and not less than \$50 for
15 each subsequent offense. In default of payment of the fine, the
16 parent may be imprisoned for not more than 2 days for the first
17 offense and not more than 5 days for each subsequent offense.
18 The court may also order the parent to participate in a
19 parent-training class, attend school with the child, perform
20 community service hours at the school or participate in
21 counseling or other services as appropriate.

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

26 **§6810. Truancy**

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

30 **Sec. 7. 20-A MRSA §7405, sub-§1**, as amended by PL 1999, c.
31 775, §6, is further amended to read:

32 **1. Enrollment.** The superintendent of the school
33 administrative unit in which a deaf or hard-of-hearing student
34 resides, with the consent of that student's parent or legal
35 guardian and in accordance with the limitations in section 5051
36 5051-A, may enroll that student in one of the center school
37 programs or the satellite school programs. The sums necessary
38 for tuition and room and board of the student while attending one
39 of the center school programs or satellite school programs, as
40 determined by the individualized education program of the
41 student, must be paid by the school board.

44 **SUMMARY**

46 This bill amends the habitual truancy laws. It requires the
47 superintendent to send a notice to the parent of a truant
48 informing the parent that the child is truant and the child is
49 required by law to attend school. The bill also requires the
50

2 superintendent to report the truancy of a child to the local law
enforcement agency if a parent has not complied with the notice.
4 The bill makes it a Class E crime if a parent fails to enroll a
child in school.