

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1250

H.P. 924

House of Representatives, March 6, 2003

**An Act To Provide an Exception to the Laws Governing
Fingerprinting of Educational Personnel**

(EMERGENCY)

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative SNOWE-MELLO of Poland.
Cosponsored by Representatives: CUMMINGS of Portland, DAVIS of Falmouth, TRAHAN of
Waldoboro.

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

4 **Whereas,** during the First Special Session of the 118th
6 Legislature, the Legislature enacted criminal history record
check requirements for educational personnel; and

8 **Whereas,** since the 2000-2001 school year, schools across the
10 State have lost the talents of skilled teachers and other
educational personnel solely on the basis of their sincerely held
12 philosophical objections to the requirements of the
fingerprinting and criminal history record check provisions
14 imposed upon school employees; and

16 **Whereas,** it is in the public interest to reinstate these
teachers and educational personnel so that they may return to our
18 schools and provide competent service to the pupils across the
State beginning with the 2003-2004 school year; and

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

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

28 **Sec. 1. 20-A MRSA §6103, sub-§10** is enacted to read:

30 **10. Exemption.** Notwithstanding any other provision of
32 this section and pursuant to rules adopted by the state board,
34 the commissioner shall provide an exemption from the requirements
36 of this section for applicants for certification, authorization,
38 approval or renewal under chapter 501 or 502 on the basis of that
40 person's sincerely held philosophical objection to the required
42 fingerprinting and criminal history record check. Upon the
44 submission of a written application for exemption by the person,
and after successful completion of any reference and background
checks that might otherwise be conducted, the commissioner shall
authorize the certification, authorization, approval or renewal
under chapter 501 or 502. Rules adopted pursuant to this
subsection are routine technical rules as defined in Title 5,
chapter 375, subchapter 2-A.

46 **Sec. 2. Amend rules governing fingerprinting and criminal history**
48 **record check of educational personnel; emergency rule-making authority.**
The State Board of Education shall adopt or amend rules within 60
50 days of the enactment of this Act. The rules must allow persons
regularly

2 employed in a school at any time from the 1999-2000 school year
to the 2002-2003 school year who have not been fingerprinted and
4 who also require department certification, authorization,
approval or renewal under the Maine Revised Statutes, Title 20-A,
6 chapter 501 or 502 to obtain an exemption based on sincerely held
objections to fingerprinting. The rules must allow exemptions in
8 time for affected educational personnel to return to or seek
employment in a school during the 2003-2004 school year.

10 Rules adopted or amended pursuant to this section are
routine technical rules as defined in the Maine Revised Statutes,
12 Title 5, chapter 375, subchapter 2-A.

14 **Sec. 3. Reinstatement of certification, authorization, approval or
renewal.** Upon application by a person in the classes of
16 educational personnel applicants described in Sec. 2, paragraph A
and after successful completion of any reference and background
18 checks that might otherwise be conducted, the Commissioner of
Education shall reinstate the certification, authorization,
20 approval or renewal under the Maine Revised Statutes, Title 20-A,
chapter 501 or 502 that was denied to a person solely on the
22 basis of that person's refusal to comply with the requirements of
the Maine Revised Statutes, Title 20-A, section 6103 on the basis
24 of a sincerely held philosophical belief against the
fingerprinting and criminal history record check requirements.

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

30
32 **SUMMARY**

This bill allows educational personnel who have not been
34 fingerprinted and who are seeking certification, authorization,
approval or renewal from the Department of Education to seek
36 exemption due to a sincerely held philosophical objection to the
required fingerprinting and criminal history record check.

38
40 Education personnel who left their jobs due to the same
objection are also allowed an exemption so they may seek
42 reemployment in their field.