

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1362

H.P. 945

House of Representatives, March 17, 2005

An Act Regarding the Maine Criminal Justice Academy

Submitted by the Department of Public Safety pursuant to Joint Rule 204.

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative BLANCHETTE of Bangor.

Cosponsored by Representatives: GERZOFKY of Brunswick, SYKES of Harrison, Senators: CLUKEY of Aroostook, DAVIS of Piscataquis, DIAMOND of Cumberland.

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

4 **Sec. 1. 25 MRSA §2801, first ¶,** as amended by PL 1997, c. 577,
§1, is further amended to read:

6 There is created within the Department of Public Safety a
law enforcement and criminal justice training facility to be
8 known as the "Maine Criminal Justice Academy," as authorized by
Title 5, section 12004-C, subsection 5, which shall be is
10 established in the State.

12 **Sec. 2. 25 MRSA §2801-A, sub-§2, ¶B,** as enacted by PL 1989, c.
521, §§2 and 17, is amended to read:

14 B. For county, municipal and other agencies subject to this
16 chapter, a person who is defined as a ~~corrections officer~~ as
defined by the ~~Maine Criminal Justice Academy~~ responsible
18 for the custody, care or treatment of persons confined in a
20 penal institution pursuant to an order of a court or as a
22 result of an arrest. As used in this paragraph, "penal
institution" has the same meaning as in Title 15, section
1461, subsection 1.

24 **Sec. 3. 25 MRSA §2801-A, sub-§§3 and 4,** as amended by PL 2003,
c. 19, §1, are further amended to read:

26 **3. Full-time corrections officer.** "Full-time corrections
28 officer" means a person who is employed as a corrections officer
with a reasonable expectation of working at least more than 1,040
30 hours in any one calendar ~~or fiscal~~ year for performing
corrections officer duties.

32 **4. Full-time law enforcement officer.** "Full-time law
34 enforcement officer" means a person who is employed as a law
enforcement officer with a reasonable expectation of working at
36 least more than 1,040 hours in any one calendar ~~or fiscal~~ year
for performing law enforcement officer duties.

38 **Sec. 4. 25 MRSA §2801-A, sub-§5,** as enacted by PL 1989, c.
40 521, §§2 and 17, is amended to read:

42 **5. Law enforcement officer.** "Law enforcement officer"
means any person who by virtue of public employment is vested by
44 law with a duty to maintain public order, to prosecute offenders,
the power to make arrests ~~for crimes or serve criminal process,~~
46 whether that duty power extends to all crimes or is limited to
specific crimes, to perform probation functions or to perform
48 intensive supervision functions and the authority to carry a
firearm in the course of duty. As used in this chapter, the term

2 does not include federal law enforcement officers or attorneys
3 prosecuting for the State.

4 **Sec. 5. 25 MRSA §2801-A, sub-§§6 to 8** are enacted to read:

6 **6. Part-time corrections officer.** "Part-time corrections
7 officer" means a person who is employed as a corrections officer
8 with a reasonable expectation of working no more than 1,040 hours
9 in any one calendar year for performing corrections officer
10 duties.

12 **7. Part-time law enforcement officer.** "Part-time law
13 enforcement officer" means a person who is employed as a law
14 enforcement officer with a reasonable expectation of working no
15 more than 1,040 hours in any one calendar year for performing law
16 enforcement officer duties.

18 **8. Transport officer.** "Transport officer" means a person
19 responsible for transferring or conveying from one place to
20 another individuals who are confined in a penal institution
21 pursuant to an order of a court or as a result of an arrest. As
22 used in this subsection, "penal institution" has the same meaning
23 as in Title 15, section 1461, subsection 1.

24 **Sec. 6. 25 MRSA §2801-B, sub-§1**, as amended by PL 2003, c.
25 688, Pt. A, §§25 and 26, is further amended to read:

28 **1. Exemption.** The training standards and requirements of
29 this chapter of section 2804-C do not apply to a person defined
30 by this chapter as a law enforcement officer who is:

32 A. An employee of the Department of Corrections with a duty
33 to perform probation functions or to perform intensive
34 supervision functions;

36 B. An agent or a representative of the Department of
37 Conservation, Bureau of Parks and Lands whose law
38 enforcement powers are limited to those specified in Title
39 12, section 1806;

40 C. An agent or a representative of the Department of
41 Conservation, Bureau of Forestry whose law enforcement
42 powers are limited to those specified by Title 12, section
43 8901, subsection 3;

44 E. A harbor master;

46 F. A municipal shellfish conservation warden;

2 G. A security officer appointed by the Commissioner of
Public Safety pursuant to section 2908;

4 H. The State Fire Marshal; or

6 J. A court security officer; or

8 K. A transport officer.

10 This exemption does not include training requirements set out in
12 this chapter that are specific to the positions identified in
this subsection.

14 **Sec. 7. 25 MRSA §2802**, as amended by PL 1993, c. 744, §1, is
16 further amended to read:

18 **§2802. Board of trustees**

20 There is created a board of trustees for the academy
22 consisting of 17 members as follows: ~~The~~ the Commissioner of
24 Public Safety, ex officio, the Attorney General, ex officio, the
Game Warden Colonel in the Department of Inland Fisheries and
Wildlife and, ex officio, the Commissioner of Corrections, ex
officio, and the Chief of the State Police, ex officio, and the
following to be appointed by the Governor: a ~~commissioned officer~~
of the State Police, a county sheriff, a chief of a municipal
police department, 2 officers of municipal police departments, an
educator who is not and has never been a sworn member of a law
enforcement agency, a representative from a criminal justice
agency not involved in the general enforcement of Maine criminal
laws, a representative of a federal law enforcement agency, 3
citizens each who of whom are not and have never been sworn
members of a law enforcement agency, a municipal official who is
not and has never been a sworn member of a law enforcement agency
and one nonsupervisory corrections officer representing a state
or county correctional facility.

38 ~~The Commissioner of Public Safety or the commissioner's~~
designee, ~~the Attorney General or the Attorney General's~~
40 ~~designee, the Game Warden Colonel in the Department of Inland~~
Fisheries and Wildlife ~~or the Game Warden Colonel's designee and~~
42 ~~the Commissioner of Corrections or the commissioner's designee~~
are members of the board during their terms of office. A designee
44 of an ex officio member is a member of the board only during the
46 term of office of the ex officio member who designated the
designee. All of the other members of the board serve for a term
of 3 years. A trustee holds office for the term for which the
48 trustee is appointed or until the trustee's successor had been
appointed and qualified. Members of the board are entitled to
50 compensation in accordance with Title 5, chapter 379. Any

vacancy on the board of trustees must be filled in the same manner as the original appointment, but for the unexpired term.

Sec. 8. 25 MRSA §2803-A, sub-§1, as amended by PL 1999, c. 630, §1, is further amended to read:

1. **Training and certification of all law enforcement officers in State.** In accordance with this chapter, to establish training and certification standards for all law enforcement officers, set requirements for board-approved courses, prescribe curriculum and certify both graduates of board-approved courses and persons for whom the board has waived the training requirements of this chapter. Certification must be based on the officer's demonstration of having acquired specific knowledge and skills directly related to job performance;

Not later than March 1, 1995, the board shall design joint training and certification standards combining into a single basic training course the present State Police course and the basic municipal and county course. The joint training course must equal or exceed any curriculum training requirements of the State Police effective on December 31, 1994. The board shall report its recommendations and the necessary implementing legislation for a basic training course to the Legislature by April 1, 1995. The Legislature must approve the associated costs of the joint training course before it may be implemented.

Until joint training and certification standards are implemented pursuant to this subsection, the Chief of the State Police shall approve the basic training requirements for enlisted personnel of the State Police for graduation from the academy. The board shall certify State Police enlisted personnel who meet the approved basic training requirements;

Sec. 9. 25 MRSA §2803-A, sub-§2, as amended by PL 1993, c. 744, §3, is further amended to read:

2. **Admission standards.** In accordance with the requirements of this chapter, to establish standards for admission to the board-approved courses, taking into account state hiring standards and procedures applicable to all state departments. The board may not set standards for admission to the board-approved courses until July 1, 1990, for persons required to be trained under Title 30, section 6210, subsection 4, which standards are higher than those in force on September 23, 1983. The board shall set including academic and physical admission standards that apply uniformly to all candidates applying for admission to the academy after December 31, 1995. These standards must equal or exceed any academic and physical

admission standards, including standards of the State Police, in effect prior to January 1, 1996;

Sec. 10. 25 MRSA §2803-A, sub-§3, as enacted by PL 1989, c. 521, §§4 and 17, is amended to read:

3. Certification of criminal justice executives. To certify and set standards for certification of police chiefs criminal justice executives. As used in this subsection, "criminal justice executives" means police chiefs, sheriffs and the persons directly below the police chiefs or sheriffs in line of command;

Sec. 11. 25 MRSA §2803-A, sub-§4, as enacted by PL 1989, c. 521, §§4 and 17, is repealed.

Sec. 12. 25 MRSA §2803-A, sub-§8-A, ¶A, as enacted by PL 2001, c. 559, Pt. KK, §2, is amended to read:

A. The 100-hour preservice law enforcement training under section 2804-B;

Sec. 13. 25 MRSA §2803-A, sub-§8-C is enacted to read:

8-C. Training of transport officers. To establish certification standards and a training program for transport officers. This program must include the preservice law enforcement training under section 2804-B;

Sec. 14. 25 MRSA §2803-A, sub-§11, as enacted by PL 1989, c. 521, §§4 and 17, is repealed.

Sec. 15. 25 MRSA §2803-A, sub-§16, as enacted by PL 1989, c. 521, §§4 and 17, is amended to read:

16. Provide assistance and materials. To provide to state, municipal and county corrections officers and state, municipal and county law enforcement officers any assistance or instructional materials the board deems considers necessary to fulfill the purposes of this chapter and Title 30-A, sections 381 and 2671.

Sec. 16. 25 MRSA §2803-B, sub-§3, as amended by PL 2003, c. 656, §4 and c. 677, §4, is repealed and the following enacted in its place:

3. Agency compliance. The chief administrative officer of each law enforcement agency shall certify to the board no later than January 1, 1996 that the agency has adopted written policies consistent with the minimum standards established by the board

2 pursuant to subsection 2, except that certification to the board
3 for expanded policies for domestic violence under subsection 1,
4 paragraph D, subparagraphs (1) to (3) must be made to the board
5 no later than June 1, 2003; certification to the board for
6 adoption of a death investigation policy under subsection 1,
7 paragraph I must be made to the board no later than June 1, 2004;
8 certification to the board for adoption of a public notification
9 policy under subsection 1, paragraph J must be made to the board
10 no later than June 1, 2005; and certification to the board for
11 adoption of a policy for the recording and preservation of
12 interviews of suspects in serious crimes under subsection 1,
13 paragraph K must be made to the board no later than June 1,
14 2005. The certification must be accompanied by copies of the
15 agency policies. The chief administrative officer of each agency
16 shall certify to the board no later than June 1, 1996 that the
17 agency has provided orientation and training for its members with
18 respect to the policies, except that certification for
19 orientation and training with respect to expanded policies for
20 domestic violence under subsection 1, paragraph D, subparagraphs
21 (1) and (3) must be made to the board no later than January 1,
22 2004; certification for orientation and training with respect to
23 policies regarding death investigations under subsection 1,
24 paragraph I must be made to the board no later than January 1,
25 2005; certification for orientation and training with respect to
26 policies regarding public notification under subsection 1,
27 paragraph J must be made to the board no later than January 1,
28 2006; and certification for orientation and training with respect
29 to policies regarding the recording and preservation of interview
30 of suspects in serious crimes under subsection 1, paragraph K
31 must be made to the board no later than January 1, 2006.

32 **Sec. 17. 25 MRSA §2803-B, sub-§4, as amended by PL 2003, c.**
33 **370, §4, is repealed.**

34 **Sec. 18. 25 MRSA §2803-C is enacted to read:**

35 **§2803-C. Penalty**

36 An agency that fails to comply with a provision of this
37 chapter commits a civil violation for which the State or local
38 government entity whose officer or employee committed the
39 violation may be adjudged a fine not to exceed \$500.

40 **Sec. 19. 25 MRSA §2804-A, first ¶, as enacted by PL 1975, c.**
41 **579, §9, is amended to read:**

42 The Commissioner of Public Safety, with the approval advice
43 and consent of the board of trustees, shall appoint a director,
44 who shall be is the administrator of the academy. Qualifications
45 of the director shall must be established by the commissioner and

2 the board jointly. The salary of the director shall ~~shall~~ must be
3 established by the commissioner and the board jointly. The
4 director may be dismissed for cause by the commissioner with the
5 approval of the board.

6 **Sec. 20. 25 MRSA §2804-B, sub-§2**, as amended by PL 1993, c.
7 630, Pt. B, §5, is further amended to read:

8
9 **2. Preservice training standards.** The board shall
10 establish standards for preservice training certification that
11 are equivalent to the 100-hour reserve officer training course as
12 of November 1, 1988. In establishing the standards, the board
13 shall consider the use of a registered apprenticeship with a
14 certified, experienced officer, to be followed by an examination
15 given by the board, as an alternative to part or all of the
16 preservice training course leading to preservice certification.
17 In establishing the standards, the board shall cooperate with the
18 State and local departments and agencies to which the preservice
19 standards apply to ensure that the standards are appropriate.

20
21 **Sec. 21. 25 MRSA §2804-C, sub-§1**, as amended by PL 1997, c.
22 395, Pt. O, §4, is further amended to read:

23
24 **1. Required.** As a condition to the continued employment of
25 any person as a full-time law enforcement officer by a
26 municipality, a county, the State or any other nonfederal
27 employer, that person must successfully complete, within the
28 first 12 months of employment as a full-time law enforcement
29 officer by a municipality, a county, the State or any other
30 nonfederal employer, a the basic training course approved by the
31 board at the Maine Criminal Justice Academy. If the person fails
32 to complete the basic training course and the failure is a direct
33 result of a failure to meet admission standards, and if
34 employment is terminated and the person is subsequently employed
35 as a full-time law enforcement officer by a municipality, a
36 county, the State or any other nonfederal employer, then within
37 12 months of the initial employment termination, the person must
38 satisfy all the admission standards to the Maine Criminal Justice
39 Academy to the satisfaction of the board. Thereafter, as a
40 condition of continued employment as a full-time law enforcement
41 officer, the officer must satisfactorily maintain the basic
42 certification by completing the recertification requirements
43 prescribed by the board. The board, under extenuating and
44 emergency circumstances in individual cases, may extend that the
45 12-month period for not more than 90 180 days. The board also,
46 in individual cases, may waive the basic training requirement
47 when the facts indicate that an equivalent course has been
48 successfully completed. This section does not apply to any
49 person employed as a full-time law enforcement officer by a
50 municipality on September 23, 1971 or by a county on July 1, 1972.

2 **Sec. 22. 25 MRSA §2804-C, sub-§4, ¶¶B and C**, as enacted by PL
4 1993, c. 744, §6, are amended to read:

6 B. Provide a structured residential program that balances
8 the goals of professional policing with public services
10 emphasis; and

12 C. Incorporate a community policing philosophy in its
14 training program; ~~and.~~

16 **Sec. 23. 25 MRSA §2804-C, sub-§4, ¶D**, as enacted by PL 1993,
18 c. 744, §6, is repealed.

20 **Sec. 24. 25 MRSA §2805-B, sub-§2**, as enacted by PL 1989, c.
22 521, §§8 and 17, is amended to read:

24 **2. New officers.** Whenever a law enforcement officer or a
26 ~~full-time~~ corrections officer is newly appointed, the official or
28 department or agency head shall send notice of appointment within
30 30 days to the board on a form provided for that purpose. The
32 form shall be is deemed an application for admission to the
34 training program or for other certification as required by this
36 chapter.

38 **Sec. 25. 25 MRSA §2805-B, sub-§3** is enacted to read:

40 **3. Termination of officers.** Whenever the employment of a
42 law enforcement officer or corrections officer is terminated, the
44 official or department or agency head shall send notice of the
46 termination within 30 days to the board on a form provided for
48 that purpose.

50 **Sec. 26. 25 MRSA §2807**, as amended by PL 1995, c. 131, §3, is
further amended to read:

**§2807. Reports of conviction or misconduct by law enforcement
and corrections officers**

In the event that a law enforcement or corrections officer
has been is convicted of a crime or violation or ~~engaged~~ engages
in conduct that could result in suspension or revocation of the
officer's certificate pursuant to section 2806 and the chief
administrative officer of the agency employing the officer has
knowledge of the conviction or conduct, then the chief
administrative officer shall expeditiously notify the Director of
the Maine Criminal Justice Academy with the name of the law
enforcement or corrections officer and a brief description of the
conviction or conduct.

2 **Sec. 27. 25 MRSA §2808, sub-§1, ¶B**, as amended by PL 1989, c.
3 521, §§11 and 17, is further amended to read:

4 B. "Training" means the ~~preservice~~ and basic training
5 provided to ~~part-time~~ or a full-time law enforcement
6 ~~officers~~ officer by the Maine Criminal Justice Academy, as
7 described in ~~former~~ section 2805, subsection 1, and section
8 2805-A, ~~or sections 2804-B and 2804-C~~.

10 **Sec. 28. 25 MRSA §2808, sub-§1, ¶C**, as amended by PL 1991, c.
11 581, is repealed and the following enacted in its place:

12 C. "Training costs" means a fixed dollar amount determined
13 by the board. In making the determination, the board shall
14 include the following costs:

15 (1) The full cost of the salary, including fringe
16 benefits, paid to the officer while in training;

17 (2) The full cost of the tuition charged by the Maine
18 Criminal Justice Academy;

19 (3) The full cost of uniforms for training and
20 graduation provided to the officer in training; and

21 (4) The full cost of the salary, inclusive of
22 overtime, paid to officers to provide police protection
23 that would otherwise have been lost during the absence
24 of the officer in training.

25 The board shall review the determination of training costs
26 annually, make any necessary adjustments and provide that
27 determination to all law enforcement agencies in the State.

28 **Sec. 29. 25 MRSA §2808, sub-§2**, as amended by PL 1989, c. 521,
29 §12, is repealed.

30 **Sec. 30. 25 MRSA §2808, sub-§3**, as enacted by PL 1989, c. 521,
31 §13, is amended to read:

32 **3. Reimbursement for training costs.** Whenever a full-time
33 law enforcement officer, trained at the Maine Criminal Justice
34 Academy on or after September 1, 1989, while on the payroll at
35 the expense of a particular governmental entity, is subsequently
36 hired by another governmental entity as a full-time law
37 enforcement officer within 5 years of graduation from the
38 academy, the governmental entity shall reimburse the first
39 governmental entity according to the following formula.

2 A. If the officer is hired by the other governmental entity
during the first year after graduation, that governmental
4 entity shall reimburse the first governmental entity the
full cost of the training costs.

6 B. If the officer is hired by the other governmental entity
during the 2nd year after graduation, that governmental
8 entity shall reimburse the first governmental entity 80% of
the training costs.

10 C. If the officer is hired by the other governmental entity
during the 3rd year after graduation, that governmental
12 entity shall reimburse the first governmental entity 60% of
14 the training costs.

16 D. If the officer is hired by the other governmental entity
during the 4th year after graduation, that governmental
18 entity shall reimburse the first governmental entity 40% of
the training costs.

20 E. If the officer is hired by the other governmental entity
during the 5th year after graduation, that governmental
22 entity shall reimburse the first governmental entity 20% of
24 the training costs.

26 F. If the officer graduated more than 5 years before
subsequently being hired by the other governmental entity,
28 that governmental entity shall is not be obligated to
reimburse the first governmental entity.

30
32 If the officer is subsequently hired by additional governmental
entities within 5 years of graduation from the academy, each of
34 those governmental entities shall be is liable to the
governmental employer immediately preceding it for the training
36 costs paid by that governmental entity under this subsection.
The extent of financial liability shall must be determined
according to the formula established by this subsection.

38
40 Reimbursement shall is not be required when the trained officer
hired by a governmental entity has had employment with a prior
42 governmental entity terminated at the discretion of the
governmental entity.

44 **Sec. 31. Retroactivity.** That section of this Act that amends
the Maine Revised Statutes, Title 25, section 2803-B, subsection
46 3 applies retroactively to January 1, 2005.

48

SUMMARY

2
4 This bill affects issues related to criminal justice training in the following ways.

6 1. It clarifies the general definitions of a corrections officer and law enforcement officer and adds new definitions for
8 part-time law enforcement officer and part-time corrections officer. It also requires the reporting year for law enforcement
10 and corrections officers to be the calendar year, making reporting to the Maine Criminal Justice Academy consistent for
12 criminal justice agencies.

14 2. It defines "transport officers," exempts them from the current basic training requirements and the mandatory policies
16 for law enforcement agencies and requires the Board of Trustees of the Maine Criminal Justice Academy to set training standards
18 for them.

20 3. It makes it a civil violation for a state or local government entity to violate or fail to comply with any of the
22 requirements of the Maine Revised Statutes, Title 25, chapter 341.

24 4. It adds the Chief of the State Police as an ex officio member to the board of trustees and removes a commissioned
26 officer of the State Police.

28 5. It expands the board of trustees' ability to set standards for and certify not only police chiefs, but all
30 criminal justice executives.

32 6. It corrects an error enacted by the Second Special Session of the 121st Legislature regarding the implementation of
34 a law enforcement policy and corrects a conflict.

36 7. It clarifies the time period to be used to determine when a full-time law enforcement officer is required to attend
38 basic training at the academy and extends the waiver period for extenuating circumstances.

40 8. It requires the employing agency to notify the academy within 30 days if the agency terminates a law enforcement or
42 corrections officer's employment.

44 9. It requires the board of trustees to set standardized reimbursable training costs annually.

46 10. It makes minor technical changes and eliminates outdated language.