

MAINE STATE LEGISLATURE

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A. 287

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EDUCATION AND CULTURAL AFFAIRS

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STATE OF MAINE
SENATE
125TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 473, L.D. 1503, Bill, "An Act To Promote School Attendance and Increase School Achievement"

Amend the bill by inserting after the enacting clause and before section 1 the following:

'Sec. 1. 4 MRSA §152, sub-§4, as corrected by RR 2001, c. 2, Pt. A, §2, is amended to read:

4. Exclusive jurisdiction. Original jurisdiction, not concurrent with that of the Superior Court, of mental health commitment hearings under Title 34-B, chapter 3, subchapter 4, mental retardation certification hearings under Title 34-B, chapter 5, habitual truancy actions under Title 20-A, chapters 119 and 211 under which equitable relief may be granted and small claims actions under Title 14, chapter 738;

Amend the bill by striking out all of sections 2 and 3 and inserting the following:

'Sec. 2. 20-A MRSA §1001, sub-§8-A is enacted to read:

8-A. Due process standards for expulsion proceedings. Following a proper investigation of a student's behavior, a school board that intends to consider expulsion shall ensure proceedings include the following due process provisions.

A. Before a hearing on the expulsion, the superintendent shall:

(1) Provide written notice to the parents or legal guardian and the student of:

(a) The date, time and location of the hearing;

(b) A description of the incident or incidents that occasioned the expulsion hearing;

(c) The student's and parents' or legal guardian's right to review the school records prior to the hearing;

(d) A description of the hearing process; and

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- 1 (e) An explanation of the consequences of an expulsion; and
- 2 (2) Invite the parents or legal guardian and student to a meeting prior to the
- 3 expulsion hearing to discuss the procedures of the hearing.

- 4 B. At a hearing on the expulsion:
- 5 (1) The student has the right to present and cross-examine witnesses;
- 6 (2) The student has the right to an attorney or other representation; and
- 7 (3) Witnesses must be sworn in and the chair of the hearing has the authority to
- 8 swear in witnesses.

9 C. After a hearing on the expulsion, the school board shall provide written notice of
 10 its decision to the parents or legal guardian and the student by certified mail. The
 11 notice of the school board's written decision must include a reentry plan developed in
 12 accordance with subsection 9-C.'

13 Amend the bill in section 4 in subsection 9 in the last blocked paragraph by striking
 14 out all of the first underlined sentence (page 2, line 22 in L.D.)

15 Amend the bill in section 5 in subsection 9-C in the first paragraph by inserting at the
 16 end the following: 'The reentry plan may require the student to take reasonable measures
 17 determined by the superintendent to be helpful to establish the student's readiness to
 18 return to school. Professional services must be provided at the expense of the student and
 19 the student's parents or legal guardian.'

20 Amend the bill in section 5 in subsection 9-C by inserting after paragraph F the
 21 following:

22 'G. The superintendent may, as appropriate, notify an individualized education
 23 program team for a child with a disability in accordance with subsection 9-B.'

24 Amend the bill in section 6 in subsection 15-A in paragraph C in the 2nd line (page 3,
 25 line 31 in L.D.) by inserting after the following: "hand," the following: 'and'

26 Amend the bill in section 6 in subsection 15-A by striking out all of paragraph D
 27 (page 3, lines 32 and 33 in L.D.)

28 Amend the bill in section 6 in subsection 15-A by relettering the paragraphs to read
 29 consecutively.

30 Amend the bill in section 11 in subsection 1 in the first line (page 4, line 23 in L.D.)
 31 by striking out the following: "20" and inserting the following: '18'

32 Amend the bill in section 12 in subsection 2 in paragraph B by striking out all of
 33 subparagraph (1) and inserting the following:

34 '(1) Reached the age of ~~15~~ 16 years or completed the 9th grade of age;'

35 Amend the bill in section 12 in subsection 2 in paragraph B by striking out all of
 36 subparagraph (3) (page 4, lines 36 and 37 in L.D.) and inserting the following:

37 '(3) Been approved by the principal for a suitable program of work and study or
 38 training;'

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1 Amend the bill in section 12 in subsection 2 in paragraph B in subparagraph (3-A) in
2 the 2nd line (page 5, line 2 in L.D.) by striking out the following: "and"

3 Amend the bill in section 12 in subsection 2 in paragraph B in subparagraph (4) in the
4 2nd line (page 5, line 4 in L.D.) by striking out the following: "and" and inserting the
5 following: 'and'

6 Amend the bill in section 12 in subsection 2 in paragraph B by striking out all of
7 subparagraph (5) (page 5, lines 5 to 8 in L.D.) and inserting the following:

8 '(5) Agreed in writing with that person's parent and the school board or its
9 designee to meet annually until that person's 17th 18th birthday to review that
10 person's educational needs. When the request to be excused from school has been
11 denied pursuant to this paragraph, the student's parent may appeal to the
12 commissioner;'

13 Amend the bill by striking out all of sections 14 and 15 and inserting the following:

14 'Sec. 14. 20-A MRSA §5051-A, as amended by PL 2007, c. 304, §§5 to 7, is
15 further amended to read:

16 **§5051-A. Truancy**

17 **1. Truant.** A student is habitually truant if the student is subject to section 5001-A
18 and:

19 B. Has completed grade 6 and has the equivalent of 10 full days of unexcused
20 absences or 7 consecutive school days of unexcused absences during a school year; or

21 C. Is at least 7 6 years of age and has not completed grade 6 and has the equivalent
22 of 7 full days of unexcused absences or 5 consecutive school days of unexcused
23 absences during a school year.

24 **2. Procedures; written notice; referral.** This subsection governs the procedure to
25 be followed when a student is habitually truant.

26 ~~A. If a principal of a public school and the attendance coordinator determine that a~~
27 ~~student is habitually truant, the principal shall inform the superintendent. The~~
28 ~~superintendent or the superintendent's designee shall first try to correct the problem~~
29 ~~informally. Informal attempts to correct the problem must include meeting with the~~
30 ~~student and the student's parents to identify possible causes of the habitual truancy~~
31 ~~and develop a plan to implement solutions to the problem. If an initial meeting does~~
32 ~~not resolve the problem, the superintendent or superintendent's designee shall~~
33 ~~implement interventions that best address the problem. The interventions may~~
34 ~~include, but are not limited to:~~

35 ~~(1) Frequent communication between the teacher and the family;~~

36 ~~(2) Changes in the learning environment;~~

37 ~~(3) Mentoring;~~

38 ~~(4) Student counseling;~~

39 ~~(5) Tutoring, including peer tutoring;~~

- 1 ~~(6) Placement into different classes;~~
- 2 ~~(7) Evaluation for alternative education programs;~~
- 3 ~~(8) Attendance contracts;~~
- 4 ~~(9) Referral to other agencies for family services; and~~
- 5 ~~(10) Other interventions, including, but not limited to, referral to the school~~
- 6 ~~attendance coordinator, student assistance team or dropout prevention committee.~~

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

10 A-1. The principal, upon determining that a student is truant under subsection 1,
 11 shall notify the superintendent of the student's truancy within 5 school days of the last
 12 unexcused absence.

13 A-2. A student who is determined truant under subsection 1 must be referred to the
 14 school's student assistance team or the school personnel designated by the
 15 superintendent in accordance with the school administrative unit's intervention
 16 system under section 4710 to determine the cause of the truancy and assess the effect
 17 of the student's absences, as well as any future absences for the student. If it is
 18 determined that a negative effect exists, the student assistance team or the school
 19 personnel designated by the superintendent in accordance with the school
 20 administrative unit's intervention system under section 4710 shall develop an
 21 intervention plan to address the student's absences and the negative effect of these
 22 absences. An intervention plan may include, but is not limited to:

- 23 (1) Frequent communication between the teacher and the family;
- 24 (2) Changes in the learning environment;
- 25 (3) Mentoring;
- 26 (4) Student counseling;
- 27 (5) Tutoring, including peer tutoring;
- 28 (6) Placement into different classes;
- 29 (7) Consideration of multiple pathways as described under section 4703;
- 30 (8) Attendance contracts;
- 31 (9) Referral to other agencies for family services; and
- 32 (10) Other interventions, including, but not limited to, referral to the school
 33 attendance coordinator, student assistance team or dropout prevention committee.

34 Failure of the student or the student's parents or guardian to appear at scheduled
 35 meetings does not preclude the school administrators from implementing an
 36 intervention plan to address the student's truancy.

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1 B. ~~As part of correcting the problem informally, the superintendent or~~
2 ~~superintendent's designee shall require the student and the student's parents to attend~~
3 ~~one or more meetings with the student's teacher or other school personnel designated~~
4 ~~by the superintendent. The purpose of the meetings is to reinforce the plan developed~~
5 ~~in paragraph A or to develop an alternative plan. The meeting or meetings may~~
6 ~~involve the presence of others, including, but not limited to, case managers,~~
7 ~~therapeutic treatment providers and representatives of the Department of Human~~
8 ~~Services, the Department of Behavioral and Developmental Services and the~~
9 ~~Department of Corrections. The superintendent or superintendent's designee shall~~
10 ~~arrange mutually convenient meeting times.~~

11 B-1. The superintendent shall develop procedures to refer a student who is truant to
12 the student assistance team or the school personnel designated by the superintendent
13 in accordance with the school administrative unit's intervention system under section
14 4710 in accordance with this section. These procedures may include, but are not
15 limited to:

16 (1) Identifying school personnel responsible for notifying the student assistance
17 team or the school personnel designated by the superintendent in accordance with
18 the school administrative unit's intervention system when a student is truant;

19 (2) A process for referral of a student who is truant, including identifying school
20 personnel responsible for inviting the parents or guardian and the student to
21 participate in any meeting that results from this referral;

22 (3) A timeline for setting up a meeting and developing an intervention plan
23 under paragraph A-2;

24 (4) A plan for dealing with future absences of a student who is truant; and

25 (5) A plan for reporting of the results of the intervention plan developed pursuant
26 to paragraph A-2.

27 C. ~~If the superintendent or superintendent's designee~~ intervention plan developed
28 pursuant to paragraph A-2 is unable to correct the truancy of the child, the
29 superintendent or superintendent's designee shall serve or cause to be served upon the
30 parent in hand or by registered mail a written notice that attendance of the child at
31 school is required by law. The notice must:

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

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

35 (3) Explain that the failure to send the student to school and maintain the student
36 in regular attendance is a civil violation in accordance with section 5053-A and
37 explain the possible penalties will jeopardize the student's status in the grade that
38 the student is in;

39 (4) State that the superintendent ~~or the superintendent's designee~~ may notify the
40 local law enforcement department of a violation of ~~this statute~~ section 5053-A

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1 and the Department of Health and Human Services of a violation under
2 subsection 1, paragraph C; and

3 (5) Outline the plan developed to address the student's ~~habitual~~ truancy and the
4 steps that have been taken to implement that plan.

5 D. Prior to notifying the local law enforcement department under paragraph E, the
6 superintendent ~~or superintendent's designee~~ shall schedule at least one meeting as
7 required in paragraph ~~B B-1~~ and may invite a local prosecutor.

8 E. If, after 3 school days after service of the notice referred to in paragraph C, the
9 student remains truant and the parent and student refuse to attend the meeting
10 scheduled according to paragraph D, the superintendent ~~or superintendent's designee~~
11 shall report the facts of the unlawful absence to the local law enforcement
12 department, which may proceed with an action to enforce section 5053-A against the
13 parent unless the student is at once placed in an appropriate school or otherwise
14 meets the requirements under section 5001-A.

15 F. When a student is determined habitually to be truant and in violation of section
16 5001-A and the student assistance team or the school personnel designated by the
17 superintendent in accordance with the school administrative unit's intervention
18 system under section 4710 and the superintendent ~~or superintendent's designee~~ has
19 made a good faith attempt to meet the requirements of paragraph ~~B B-1~~, the
20 superintendent ~~or superintendent's designee~~ shall notify the school board and the local
21 law enforcement department of the student's truancy. ~~After this notification, a local~~
22 law enforcement officer who sees the truant student may transport the truant student
23 to the appropriate school if the truant student:

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

26 **3. Reports.** This subsection applies to reports of ~~habitual~~ truancy.

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

- 29 (1) Identify the number of ~~habitual~~ truants in the school administrative unit in the
30 preceding school year;
- 31 (2) Describe the unit's efforts to deal with ~~habitual~~ truancy;
- 32 (3) Account for actions brought under this section including the number of
33 truants reported to the student assistance team or the school personnel designated
34 by the superintendent in accordance with the school administrative unit's
35 intervention system under section 4710; and
- 36 (4) Include any other information on truancy requested by the commissioner.

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

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1 **Sec. 15. 20-A MRSA §5052-A**, as amended by PL 2007, c. 143, §1, is further
2 amended to read:

3 **§5052-A. Attendance coordinators**

4 The following provisions apply to attendance coordinators.

5 **1. Appointment.** The following provisions apply to the ~~election~~ appointment of
6 attendance coordinators.

7 A. A ~~school board~~ superintendent shall ~~elect~~ appoint an attendance coordinator or
8 coordinators.

9 B. Vacancies ~~shall~~ must be filled as they occur.

10 **2. Qualifications.** An attendance coordinator ~~shall~~ must be a professionally certified
11 or registered person in the mental health, social welfare or educational system who is
12 qualified to carry out the duties in accordance with rules to be established by the State
13 Board of Education.

14 **3. Duties.** The duties of an attendance coordinator include, but are not limited to, the
15 following:

16 A. ~~When notified by a principal that a student's attendance is irregular, interviewing~~
17 ~~the student and the parent or parents or guardian or guardians~~ Interviewing a student
18 whose attendance is irregular and meeting with the student and the parents or
19 guardian to determine the cause of the irregular attendance and file filing a written
20 report with the principal;

21 B. Filing an annual report with the superintendent summarizing school year
22 activities, findings and recommendations regarding truants;

23 C. Serving as a member of the dropout prevention committee in accordance with
24 section 5103; and

25 D. Serving as the liaison between the school and the local law enforcement agency in
26 matters pertaining to student absenteeism under ~~sections~~ section 5001-A and ~~5051-A~~.

27 **4. Department assistance.** The department shall provide technical assistance to
28 school attendance coordinators for carrying out these duties, through the Office of
29 Truancy, Dropout Prevention and Alternative Education.'

30 Amend the bill in section 18 in subsection 4 in the 3rd line (page 10, line 33 in L.D.)
31 by striking out the following: "excused or otherwise."

32 Amend the bill by inserting after section 19 the following:

33 '**Sec. 20. 20-A MRSA §5103, sub-§5, ¶A**, as amended by PL 2007, c. 667, §7, is
34 further amended to read:

35 A. The dropout prevention committee shall:

36 (1) Study the problem of dropouts and ~~habitual~~ truancy and the need for
37 alternative education programs, kindergarten to grade 12;

38 (2) Make recommendations for addressing the problems; and

- 1 (3) Submit a plan of action to the school board, in accordance with section 4502,
- 2 subsection 5, paragraph L-1.'
- 3 Amend the bill by striking out all of sections 21 to 25.
- 4 Amend the bill by striking out all of section 29.
- 5 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
- 6 section number to read consecutively.

7 **SUMMARY**

8 This amendment makes the following changes to the bill.

9 1. It strikes the definition of "response to intervention team" and all uses of the term
 10 from the bill and replaces it with references to a student assistance team or the school
 11 personnel designated by the superintendent in accordance with the system of intervention
 12 established by the school administrative unit in accordance with the Maine Revised
 13 Statutes, Title 20-A, section 4710.

14 2. It amends the due process standards proposed for school expulsion proceedings by
 15 removing the provisions pertaining to a student's right to appeal the decision of the school
 16 board to the Superior Court within 30 days.

17 3. It amends the provision that requires a reentry plan to be developed for a student
 18 who has been expelled by a school board by providing that:

19 A. The reentry plan may require the student to take reasonable measures determined
 20 by the superintendent to be helpful to establish the student's readiness to return to
 21 school;

22 B. The expelled student's parents or guardian are responsible for the cost of any
 23 professional services necessary to establish the student's readiness to return to school
 24 under the reentry plan; and

25 C. For a child with a disability who is expelled by a school board, the superintendent
 26 may, as necessary, provide the reentry plan to the student's individualized education
 27 program team.

28 4. It strikes the provision that requires a school board to use suspensions and
 29 expulsions only as a last resort when taking disciplinary action against a student who has
 30 violated the school administrative unit's student code of conduct.

31 5. It amends the changes to the compulsory school age statutes by reducing the age
 32 threshold under which a child who has not attained high school graduation or equivalency
 33 is expected to attend secondary school from 20 to 18 years of age. The amendment also
 34 makes technical changes to clarify the exceptions to the compulsory school age
 35 requirements.

36 6. It strikes the proposed changes to the truancy laws that would have counted
 37 excused absences, as well as unexcused absences, towards the number of days of
 38 absences that would determine when a student is truant.

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7. It strikes procedural provisions proposed in the bill and makes technical changes to clarify the role of superintendents, principals, attendance coordinators and the student assistance team or other systems of intervention established by the school administrative unit pertaining to assessing situations of student truancy and developing and implementing intervention plans for truant students.

8. It strikes the provisions in the bill pertaining to the qualifications of school attendance coordinators and the provisions that propose to establish that the salary costs of attendance coordinators are eligible for state subsidy under the Essential Programs and Services Funding Act.

FISCAL NOTE REQUIRED

(See attached)



125th MAINE LEGISLATURE

LD 1503

LR 1629(02)

An Act To Promote School Attendance and Increase School Achievement

Fiscal Note for Bill as Amended by Committee Amendment "A" S-287

Committee: Education and Cultural Affairs

Fiscal Note Required: Yes

Fiscal Note

State Mandate - Unfunded

State Mandates

Required Activity	Unit Affected	Local Cost
Requires school boards to ensure that a student who has been expelled is provided with a reentry plan.	School	Moderate statewide

The required local activities in this bill may represent a State mandate pursuant to the Constitution of Maine. Unless General Fund appropriations are provided to fund at least 90% of the additional costs or a Mandate Preamble is amended to the bill and two-thirds of the members of each House vote to exempt this mandate from the funding requirement, municipalities may not be required to implement these changes.

Fiscal Detail and Notes

Although the development of reentry plans may currently be a standard practice by many local school administrative units for students that are expelled, placing the requirement into Maine law is a state mandate. The additional costs to local school administrative units can not be determined at this time.