

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
SEPTEMBER 30, 1989

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

1989

2. **Eligibility for graduate study or continuing education loans.** Graduate study or continuing education loans shall be given only to a teacher in a Maine school who has met other eligibility criteria established by rule of the commissioner. Preference shall be given to teachers of subjects which have been determined to be underserved.

Sec. 24. 20-A MRSA §15603, sub-§22, ¶F, as enacted by PL 1987, c. 767, §4, is amended to read:

F. Starting in 1990-91 for expenditures in base year 1988-89, the cost of child care services as specified in section 6651, ~~subsection~~ subsections 3 and 6.

Sec. 25. 20-A MRSA §15613, sub-§5, ¶C, as enacted by PL 1985, c. 789, §4, is amended to read:

C. Special education costs authorized by this subsection for state agency clients shall be paid by the department in the year of allocation at 100% of actual costs. ~~In the fiscal year beginning July 1, 1987, 75% of those payments shall be considered part of the State's share of the total allocation in meeting the requirements of section 15602, subsection 1. For each fiscal year thereafter, the percentage of those payments, which shall be considered part of the State's share of the total allocation in meeting the requirements of section 15602, subsection 1, shall be reduced by 15% each year until the fiscal year beginning July 1, 1992. Beginning July 1, 1992, these payments shall no longer be considered part of the State's share of the total allocation in meeting the requirements of section 15602, subsection 1.~~

Sec. 26. 20-A MRSA §15621 is enacted to read:

§15621. Rulemaking

The commissioner may adopt rules pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, to implement this chapter.

Sec. 27. 29 MRSA §2013, sub-§1, as amended by PL 1987, c. 676, §§2 to 5, is further amended to read:

1. **Requirements.** No person shall may operate a school bus or a private school activity bus in the actual conveyance of school children until ~~he shall have~~ that person has complied with the following requirements:

A. Hold a valid Maine operator's license for operation of the class vehicle to be operated and have at least one year's experience as a licensed motor vehicle operator in this or some other state;

B. ~~Must be~~ Be at least 21 years of age and ~~has~~ have held an operator's license for at least one year. The minimum age of 21 years does not apply to school bus operators licensed under this section as of March 15, 1988;

C. Meet all training and special physical, mental and moral requirements established by the Commis-

sioner of Educational and Cultural Services and ~~must~~ pass an annual physical examination, with the cost of ~~such~~ that examination being borne by the employer;

D. Be qualified as a driver under the Motor Carrier Safety Regulations of the Federal Highway Administration, if ~~he~~ the person or ~~his~~ that person's employer is subject to those regulations;

E. ~~Must pass~~ Pass an examination as the Secretary of State ~~shall prescribe~~ prescribes to determine his that person's ability to operate the specific vehicle which will be driven as a school bus or any comparable type vehicle. A fee of \$8 shall accompany the initial application for the examination. The fee for subsequent examinations shall be \$5;

F. Shall not be a habitual offender, as defined in section 2292; and

G. Shall not have been convicted of a violation of former section 1312, subsection 10; section 1312-B; former section 1312-C; or Title 15, section 3103, subsection 1, paragraph F, within the preceding 6-year period.

Sec. 28. Assessment of program; department report. The inclusion of private academies within the school-based child care and parenting education program as provided for in sections 14 to 18 of this Act shall be subject to the evaluation and reporting requirements of Public Law 1987, chapter 767, section 5.

See title page for effective date.

CHAPTER 415

S.P. 121 - L.D. 187

An Act to Amend the Laws Relating to Truants, Dropouts and Alternative Programs

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

Sec. 1. 4 MRSA §152, sub-§4, as repealed and replaced by PL 1983, c. 796, §1, 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, chapter 229, mental retardation certification hearings under Title 34, chapter 229, 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; and

Sec. 2. 20-A MRSA §261, as enacted by PL 1985, c. 797, §9, is amended by adding at the end a new paragraph to read:

The commissioner may adopt rules to implement statutory policies regarding student residency, the right of a

student to attend school in another administrative unit and other exceptions to the general residency rules. Rules adopted by the commissioner pursuant to this section shall take precedence over any inconsistent or conflicting rules adopted by a school board pursuant to section 5201, subsection 4.

Sec. 3. 20-A MRSA §3271, sub-§2, as enacted by PL 1985, c. 490, §8, is amended to read:

2. Alternative instruction. Alternative instruction may be substituted for attendance in a day school in the following cases when approved by the school principal.

A. The person is enrolled in an approved special education program.

B. The person obtains equivalent instruction in any other manner arranged or approved by the commissioner.

~~C. A person 14 years of age or older, with permission of a parent and approval of the commissioner, participates in a suitable program of training or combined work and study.~~

Sec. 4. 20-A MRSA §3271, sub-§3, ¶B, as enacted by PL 1985, c. 490, §8, is amended to read:

B. A person who is at least 15 years old, has completed the 9th grade and has permission to leave school to participate in a suitable program of training or combined work and study from a parent and the commissioner; and

Sec. 5. 20-A MRSA §3272, sub-§2, as enacted by PL 1985, c. 490, §8, is amended to read:

2. Habitual truancy. A person is a ~~habitual~~ habitually truant if the person is required to attend school or alternative instruction under this chapter and ~~is absent, without excuse, for~~ has attained the equivalent of 10 full days of nonexcused absences or for at least 1/2 day on 7 consecutive school days within any 6-month period of nonexcused absences during a school year.

Sec. 6. 20-A MRSA §3273, sub-§1, as enacted by PL 1985, c. 490, §8, is repealed and the following enacted in its place:

1. Civil violations. Having control of a person who is habitually truant and being primarily responsible for that truancy constitutes a civil violation under this chapter.

Sec. 7. 20-A MRSA §3273, sub-§2, as enacted by PL 1985, c. 490, §8, is amended to read:

2. Jurisdiction. The District Court shall have jurisdiction over these ~~offenses~~ violations.

Sec. 8. 20-A MRSA §3273, sub-§3, as amended by PL 1985, c. 797, §29, is repealed and the following enacted in its place:

3. Process. Service of the petition on the parent shall be in accordance with the Maine Rules of Civil Procedure.

Sec. 9. 20-A MRSA §3273, sub-§4, as amended by PL 1985, c. 797, §30, is repealed.

Sec. 10. 20-A MRSA §3273, sub-§5 is enacted to read:

5. Disposition. The court may order injunctive relief of one or more of the following actions against any person who commits a civil violation under subsection 1:

A. Ordering the offender to comply with this chapter;

B. Ordering the offender to take specific action to ensure the student's attendance at school;

C. Enjoining the offender from engaging in specific conduct which interferes with or may interfere with the student's attendance at school; or

D. Ordering the offender to undergo counseling by a professional selected by the offender, with the court's approval, or by the court. The counselor shall submit a written evaluation to the court and to the offender.

Sec. 11. 20-A MRSA §4502, sub-§5, ¶L, as amended by PL 1985, c. 774, §§4 and 11, is further amended to read:

L. Prepare and implement an on-going school improvement process and annually update a written school improvement plan, including a fully developed staff development plan and a plan addressing truants, dropouts, alternative education, prevention of truancy and return to school, citing progress and trends with respect to school improvement for identifying at-risk students in kindergarten through grade 12 including, but not limited to, truants and dropouts, and the development of appropriate alternative programs to meet their needs.

Sec. 12. 20-A MRSA §4729, as enacted by PL 1983, c. 859, Pt. C, §§5 and 7, is amended to read:

§4729. Alternative programs

~~A school administrative unit may establish one or more programs to meet the needs of excused students, as identified in section 5002, and the needs of truants, dropouts and others, as identified in section 5104, as alternatives to the regular courses of study.~~

A school administrative unit may establish one or more programs as alternatives to the regular course of study, including options allowed in sections 5104-A and 8605, to meet the needs of at-risk students in accordance with section 4502, subsection 5, paragraph L.

1. **Coordination.** These programs shall operate as part of the elementary or secondary school program.

2. **Alternative schedules.** Alternative programs may allow, for students of eligible age, to attend school part-time. Alternative programs may be scheduled apart from the regular school day.

Sec. 13. 20-A MRSA §5001-A, sub-§2, ¶B, as amended by PL 1985, c. 123, §1, is repealed and the following enacted in its place:

B. A person who has:

(1) Reached the age of 15 years or completed the 9th grade;

(2) Permission to leave school from that person's parent;

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

(4) Permission to leave school from the school board or its designee; and

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

Sec. 14. 20-A MRSA §5001-A, sub-§3, ¶B, as amended by PL 1983, c. 862, §56, is further amended to read:

B. A person may be excused to attend an alternate program under from attendance at a public day school pursuant to section 5002 or 5104 5104-A or an adult education program under section 8605.

Sec. 15. 20-A MRSA §5001-A, sub-§5, as enacted by PL 1983, c. 806, §49, is amended to read:

5. **Adult responsibility.** ~~Any adults~~ An adult having a person of compulsory school age under ~~their~~ that adult's control shall cause the person to attend school as provided in this section.

Sec. 16. 20-A MRSA §5001-A, sub-§6, as enacted by PL 1983, c. 806, §49, is repealed.

Sec. 17. 20-A MRSA §5001-A, sub-§7 is enacted to read:

7. Purpose. Compulsory education is essential to the preservation of the rights and liberties of the people and the continued prosperity of our society and our nation. Maintaining regular student attendance is necessary to achieve

the goal of an educated citizenry. Public schools should ensure the rights of access for all school-age persons to an appropriate educational opportunity and, when necessary, should develop alternatives to regular school curricula for those children and youth at risk of becoming dropouts and those who may have left school.

Sec. 18. 20-A MRSA §5002, as repealed and replaced by PL 1983, c. 806, §50, is repealed.

Sec. 19. 20-A MRSA §5051, as amended by PL 1983, c. 806, §§52 and 53, is further amended to read:

§5051. Habitual truancy

1. **Definition.** A student is ~~an habitual~~ habitually truant if the student is:

A. Subject ~~Is subject~~ to section 5001-A; and

B. ~~Absent from school without excuse for the equivalent of 10 full days, or for at least 1/2 day on 7 consecutive school days, within any 6-month period. Has attained the equivalent of 10 full days of non-excused absences or 7 consecutive school days of non-excused absences during a school year.~~

2. **Procedures.** The following provisions govern the procedure to be followed when a student is ~~an habitual~~ habitually truant.

A. If a principal of a public school and the attendance coordinator determines that a student is ~~an habitual~~ habitually truant, the principal shall inform the superintendent. The superintendent shall first try to correct the problem informally.

A-1. As part of the informal measures set out in paragraph A, the superintendent may ask the student's parents to attend a series of meetings with their child's teacher or other school personnel designated by the superintendent. The purpose of the meetings is to describe the education program to the parents and explain the value of their child attending school. The superintendent shall arrange meeting times convenient to the parents.

B. If the principal and the attendance coordinator are unable to correct the problem ~~informally~~, the superintendent shall refer the matter to the school board along with the ~~principal's attendance coordinator's report, the principal's report~~ and any other useful information.

C. The school board shall call a hearing and shall notify the student's parent of the following in writing at least 7 days in advance:

(1) ~~Date~~ The date and time of the hearing;

(2) ~~Purpose~~ The purpose of the hearing;

(3) The parent's right to inspect the student's attendance records, attendance coordinator's report and principal's reports; and

(4) The necessity of the parent's and student's presence at the hearing.

D. If the school board determines that the student is ~~an habitual~~ habitually truant, it shall either:

(1) Instruct the student to attend school as required by section 5001-A and advise the parents of their responsibility under section 5001-A, subsection 5 to assure the student's attendance; or

(2) Waive the requirements of section 5001-A, if the student is ~~14~~ 15 years of age or older.

E. A parent may appeal to the commissioner the decision of the school board which denies to ~~an habitual truant~~ a student who is habitually truant and at least 14 15 years old a waiver of section 5001-A.

(1) The commissioner shall appoint a fair hearing officer to hear the appeal.

(2) The fair hearing officer shall report to the commissioner on the testimony presented and shall recommend a disposition to the commissioner.

(3) The commissioner shall review the report and shall affirm, modify or reverse the school board's decision on a waiver of section 5001-A.

3. **Reports.** The following provisions apply to reports.

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

(1) Identify the number of habitual truants in the 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 shall aggregate the information provided by superintendents and shall evaluate the effect of state laws on the incidence of truancy.

Sec. 20. 20-A MRSA §5052, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

Sec. 21. 20-A MRSA §5052-A is enacted to read:

§5052-A. Attendance coordinators

The following provisions apply to attendance coordinators.

1. Election. The following provisions apply to the election of attendance coordinators.

A. A school board shall elect an attendance coordinator or coordinators.

B. Vacancies shall be filled as they occur.

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

3. Duties. The duties of an attendance coordinator shall include, but not be limited to, the following:

A. When notified by a principal that a student's attendance is irregular, interviewing the student and the parent or parents or guardian or guardians to determine the cause of the irregular attendance and file a written report with the principal;

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

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

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

Sec. 22. 20-A MRSA §5053, sub-§1, as amended by PL 1983, c. 806, §54, is repealed and the following enacted in its place:

1. Civil violation. Having control of a student who is habitually truant and being primarily responsible for that truancy constitutes a civil violation under this chapter.

Sec. 23. 20-A MRSA §5053, sub-§§2 and 3, as enacted by PL 1981, c. 693, §§5 and 8, are amended to read:

2. Jurisdiction. The District Court shall have jurisdiction of these offenses violations.

3. Process. Warrants and legal process issued by a court to enforce this section may be directed to and executed by the attendance officer of the school administrative unit where the offense is alleged to have been committed. Service

of the petition on the parent will be in accordance with the Maine Rules of Civil Procedure.

Sec. 24. 20-A MRSA §5053, sub-§4, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

Sec. 25. 20-A MRSA §5053, sub-§5 is enacted to read:

5. Disposition. The court may order injunctive relief of one or more of the following actions against any person who commits a civil violation under subsection 1:

A. Ordering the offender to comply with this chapter;

B. Ordering the offender to take specific action to ensure the student's attendance at school;

C. Enjoining the offender from engaging in specific conduct which interferes with or may interfere with the student's attendance at school; or

D. Ordering the offender to undergo counseling by a professional selected by the offender, with the court's approval, or by the court. The counselor shall submit a written evaluation to the court and to the offender.

Sec. 26. 20-A MRSA §5054 is enacted to read:

§5054. Employment of truants prohibited

Any firm or corporation, or agent or manager of any firm or corporation, who hires or otherwise engages any student who is habitually truant as defined in this subchapter without a release from the student's supervising superintendent of schools shall be subject to the penalty provided in Title 26, section 781.

Sec. 27. 20-A MRSA §5101, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

Sec. 28. 20-A MRSA §5102, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§5102. Definitions

As used in this subchapter, unless the context otherwise indicates, a "dropout" means any person ~~under the age of 17~~ who has withdrawn for any reason except death, or been expelled from school before graduation or completion of a program of studies and who has not enrolled in another educational institution or program.

Sec. 29. 20-A MRSA §5103, as enacted by PL 1981, c. 693, §§5 and 8, is repealed and the following enacted in its place:

§5103. Dropout prevention committee

The following provisions apply to the dropout prevention committee.

1. Committee. Each superintendent, with school board approval, shall annually establish a separate dropout prevention committee for each individual school unit under the superintendent's supervision.

2. Membership. The dropout prevention committee shall be composed of the following members:

A. A member of the school board selected by that board;

B. A school administrator selected by the superintendent;

C. A teacher and a school counselor selected by the school administrative unit's teacher organization;

D. A parent selected by the unit's organized parent group, or, if no organized parent group exists, by the school board;

E. A school attendance coordinator from the district selected by the superintendent;

F. A high school student selected by the dropout prevention committee members selected in paragraphs A to E;

G. A dropout selected by the dropout prevention committee members selected in paragraphs A to E; and

H. A community resident of the district selected by the dropout prevention committee members selected in paragraphs A to E.

A dropout prevention committee may increase its membership by majority vote.

3. Terms and vacancies. Members shall serve in accordance with policy established by the school board.

4. Chair. The dropout prevention committee shall select a chair from among its members.

5. Responsibilities. The following provisions apply to responsibilities of the dropout prevention committee.

A. The dropout prevention committee shall:

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

(2) Make recommendations for addressing the problems; and

(3) Submit a plan of action to the school board, in accordance with section 4502, subsection 5, paragraph L.

B. The dropout prevention committee shall consider the following when developing its plan:

(1) Reasons why students drop out of school;

(2) Maintenance of continuing contacts with recent dropouts in order to extend opportunities for alternate educational programs, counseling and referral;

(3) Education of teachers and administrators about the dropout problem;

(4) Use of human services programs to help dropouts;

(5) The school administrative unit's policies on suspension, expulsion and other disciplinary action; and

(6) Discriminatory practices and attitudes within the school administrative unit.

6. Annual report. The dropout prevention committee shall meet at least annually to review its plan and to make recommendations to the school board.

7. Department assistance. The department shall provide technical assistance to a dropout prevention committee on request to the Office of Truancy, Dropout Prevention and Alternative Education.

Sec. 30. 20-A MRSA §5104, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

Sec. 31. 20-A MRSA §5104-A is enacted to read:

§5104-A. Alternative programs outside the school administrative unit

1. Alternative programs. If the superintendents approve, a school administrative unit may enroll a student in an alternative program in another school administrative unit or in an approved private alternative program.

2. Student count. A student properly approved for enrollment under subsection 1 shall be counted as a 1.0 student on school administrative unit counts for each semester, or its equivalent, of alternative program.

3. Rules. The commissioner shall adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, to administer this section.

Sec. 32. 20-A MRSA §8605, sub-§1, ¶¶A and B, as enacted by PL 1981, c. 693, §§5 and 8, are amended to read:

A. The commissioner shall grant exceptions under this subsection in admitting students to adult education programs at the local level to a student who has ~~left withdrawn from~~ school under the provisions of section ~~5004~~ 5001-A, subsection 2, paragraph B, on the recommendations of the school board.

B. Prior to requesting an exception, the school board shall seek and consider the recommendations of the ~~positive-action~~ dropout prevention committee.

Sec. 33. 26 MRSA §781, as amended by PL 1987, c. 665, §2, is further amended to read:

§781. Penalties; employers

Any person, firm or corporation, agent or manager of any firm or corporation, who, either for that person or entity or for some firm or corporation, or by that person or entity or through agents, servants or foremen, employs, permits or suffers any child to be employed, or to work in violation of any of the provisions of sections 771 to 780, or otherwise fails to comply with any of the provisions of these sections, or any firm or corporation who violates the provisions of Title 20-A, section 5054 shall be punished by a fine of not less than \$100 nor more than \$500.

See title page for effective date.

CHAPTER 416

S.P. 647 - L.D. 1742

An Act to Create the Maine Jail Industries Authority

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

34-A MRSA §1211 is enacted to read:

§1211. Jail Industries Authority

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Authority" means the Jail Industries Authority.

B. "Private Sector Prison Industry Enhancement Certification Program" means that program authorized by the United States Justice Assistance Act of 1984, United States Code, Title 18, Section 1761.

2. Authority created. The Jail Industries Authority is established to provide a means by which counties may voluntarily participate in the production of prisoner-made goods and services for interstate commerce, under the provisions of the Private Sector Prison Industry Enhancement Certification Program.

3. Board created. The authority shall be administered by a board of directors, comprised of the following members:

A. Two sheriffs, to be appointed by the commissioner, one from a list of 3 nominated by a statewide