

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

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

Penmor Lithographers
Lewiston, Maine
2003

cally permits disclosure in writing or a judge orders otherwise. Copies of the information filed under this subparagraph must be maintained by the student's parent or guardian until the home instruction program concludes. The records must be made available to the commissioner upon request.

(d) If the home instruction program is discontinued, students of compulsory school age must be enrolled in a public school or an equivalent instruction alternative as provided for in this paragraph. The receiving school shall determine the placement of the student. At the secondary level, the principal of the receiving school shall determine the value of the prior educational experience toward meeting the standards of the system of learning results as established in section 6209.

(e) The commissioner shall amend or adopt rules to accomplish the purposes of this subparagraph. Rules adopted pursuant to this division are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 20-A MRSA §5021, first ¶, as enacted by PL 1995, c. 610, §1, is amended to read:

A school administrative unit shall conform to the following standards in making public school resources and services available to a student enrolled in an equivalent instruction program approved by the commissioner pursuant to section 5001-A, subsection 3, paragraph A, subparagraph (3) a home instruction program under section 5001-A, subsection 3, paragraph A, subparagraph (4) for a student otherwise eligible to attend school in that school administrative unit.

Sec. 3. 20-A MRSA §6001, sub-§1, as enacted by PL 1999, c. 595, §2, is amended to read:

1. Federal and state law. The provisions of this section, the United States Family Educational Rights and Privacy Act of 1974, Public Law 93-380, as amended by Public Law 93-568, and the United States Education of All Handicapped Children Act, Public Law 94-142 govern the dissemination of information about students, as well as applications for written notices of intent to provide equivalent instruction through home instruction, comments on the completeness of those applications and all education records of students receiving equivalent instruction through home instruction.

Sec. 4. Application. Notwithstanding Department of Education rules to the contrary, pending adoption of rules implementing this Act, beginning with the 2003-2004 school year, the Commissioner of Education shall implement the provisions of the Maine Revised Statutes, Title 20-A, section 5001-A, subsection 3, paragraph A in excusing a child from attendance at a public day school if a parent or guardian of the child who intends to provide equivalent instruction through a home instruction program for the child complies with the provisions of Title 20-A, section 5001-A, subsection 3, paragraph A, subparagraph (4).

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

Effective May 16, 2003.

CHAPTER 182

S.P. 311 - L.D. 970

An Act To Allow a Judge To Assess a Fee on a Defendant To Reimburse a Municipality for a Drug Test

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

Sec. 1. 15 MRSA §1702, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is repealed and the following enacted in its place:

§1702. No punishment until conviction; costs

1. No punishment before conviction. A person may not be punished for an offense until convicted of that offense in a court having jurisdiction over the person and case.

2. Costs included in sentence. If a person is convicted and the court imposes a fine, the court:

A. May sentence the defendant to pay the costs of prosecution;

B. May sentence the defendant to pay, as restitution, the costs of drug tests, other than tests under Title 29-A, administered to the defendant by a law enforcement officer or medical personnel at the request of a law enforcement officer. The court shall transfer all amounts paid by a defendant under this paragraph to the municipal, county or state agency that incurred the costs; and

C. Shall, if the case is prosecuted in District Court, sentence the defendant to pay a fine suffi-

cient to cover the costs as provided in Title 4, section 173. This paragraph does not apply to defendants prosecuted for violations of Title 26, chapter 7, subchapter 1-B or for violations of Title 28-A, sections 2078 and 2223.

See title page for effective date.

CHAPTER 183

S.P. 289 - L.D. 894

An Act Relating to Motorcycles and Driver Education

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

Sec. 1. 29-A MRSA §1351, sub-§4 is enacted to read:

4. Requirements. A driver education course approved under this subchapter must include instruction that imparts the understanding and skills necessary to operate a motor vehicle safely in a situation in which a motorcycle is sharing the road with that motor vehicle.

See title page for effective date.

CHAPTER 184

H.P. 749 - L.D. 1032

An Act Concerning the Processing Time for Substitute and Regular School Employee Fingerprinting

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

Sec. 1. 20-A MRSA §6103, sub-§4-A, ¶¶C and D, as enacted by PL 1999, c. 791, §4, are amended to read:

C. A person employed as a substitute who has not been fingerprinted prior to the effective date of this subsection must meet the requirements by July 1, 2002. Beginning with the 2003-2004 school year, a person employed as a substitute who needs fingerprinting and a criminal history record check pursuant to section 13011, subsection 8 must meet the requirements of this section within 8 weeks of employment by a school administrative unit. A person employed as a substitute who needs fingerprinting and a criminal history record check must be issued a temporary approval card by the department. The temporary approval card is valid for the first 8 weeks of

employment, except that, for a person who has been fingerprinted pursuant to this section prior to the 20th day of employment and who has not received the results of the criminal history record check prior to the 9th week of employment, the temporary approval card remains valid until the commissioner determines whether approval is granted or denied based on the criminal history record information obtained from the State Bureau of Identification; and

D. A regular employee subject to the requirements of this section who begins work in a school after the effective date of this subsection must meet these requirements prior to ~~the~~ the 20th day of employment. Beginning with the 2003-2004 school year, a regular employee who needs fingerprinting and a criminal history record check pursuant to section 13011, subsection 8 must meet the requirements of this section within 8 weeks of employment by a school administrative unit. A regular employee who needs fingerprinting and a criminal history record check must be issued a temporary approval card by the department. The temporary approval card is valid for the first 8 weeks of employment, except that, for a person who has been fingerprinted pursuant to this section prior to the 20th day of employment and who has not received the results of the criminal history record check prior to the 9th week of employment, the temporary approval card remains valid until the commissioner determines whether approval is granted or denied based on the criminal history record information obtained from the State Bureau of Identification.

See title page for effective date.

CHAPTER 185

H.P. 204 - L.D. 249

An Act to Aid Law Enforcement in Complying with Maine's Freedom of Access Laws

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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