

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

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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

4-methylenedioxymethamphetamine, MDMA, or any other drug listed in section 1102, subsection 1, paragraph O. Violation of this paragraph is a Class B crime;

Sec. 7. 17-A MRSA §1105-C, sub-§1, ¶¶K and L are enacted to read:

K. Death is in fact caused by the use of that scheduled drug and the drug is a schedule W drug. A violation of this paragraph is a Class B crime. It is an affirmative defense to prosecution under this paragraph that the drug furnished was lawfully possessed by the defendant prior to furnishing and that the death was not a reasonably foreseeable consequence of the use of that scheduled drug. In determining whether the death was reasonably foreseeable, the jury shall consider:

- (1) The factual circumstances surrounding the furnishing of the drug;
- (2) The total quantity of the drug furnished;
- (3) The dosage of the units furnished;
- (4) The nature of the drug;
- (5) The overdose risk presented by use of the drug; and
- (6) Any safety warnings provided to the defendant at the time of dispensing the drug; or

L. Serious bodily injury is in fact caused by the use of that scheduled drug and the drug is a schedule W drug. A violation of this paragraph is a Class C crime. It is an affirmative defense to prosecution under this paragraph that the drug furnished was lawfully possessed by the defendant prior to furnishing and that the serious bodily injury was not a reasonably foreseeable consequence of the use of that scheduled drug. In determining whether the serious bodily injury was reasonably foreseeable, the jury shall consider:

- (1) The factual circumstances surrounding the furnishing of the drug;
- (2) The total quantity of the drug furnished;
- (3) The dosage of the units furnished;
- (4) The nature of the drug;
- (5) The overdose risk presented by use of the drug; and

(6) Any safety warnings provided to the defendant at the time of dispensing the drug.

See title page for effective date.

CHAPTER 477

S.P. 538 - L.D. 1577

An Act To Amend and Improve the Education Laws

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

Sec. 1. 20-A MRSA §1, sub-§13-A, ¶B, as enacted by PL 1991, c. 608, §1, is repealed.

Sec. 2. 20-A MRSA §1, sub-§13-A, ¶B-1 is enacted to read:

B-1. Is a child or a youth:

- (1) Who is sharing the housing of other persons due to loss of housing or economic hardship or a similar reason; is living in a motel, hotel, trailer park or camping ground due to the lack of alternative adequate accommodation; is living in an emergency or transitional shelter; is abandoned in a hospital; or is awaiting foster care placement;
- (2) Who is living in a car, park or public space or in an abandoned building, substandard housing, bus or train station or similar setting;
- (3) Who has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; and
- (4) Who is a migratory child, as defined in Section 1309 of the federal Elementary and Secondary Education Act of 1965, who qualifies as homeless for the purpose of this chapter because the child is living in circumstances described in this section.

Sec. 3. 20-A MRSA §1, sub-§13-A, ¶C, as enacted by PL 1991, c. 608, §1, is repealed.

Sec. 4. 20-A MRSA §5205, sub-§7, as enacted by PL 1991, c. 608, §3, is amended to read:

7. Homeless students. Pursuant to section 261, the commissioner may adopt rules to ensure that each homeless student has unrestricted access to the free public education afforded by section 2, subsection 1. The rules must implement the requirements and

policies of the ~~Stewart B. McKinney Homeless Assistance Act, Public Law 100-77, Title VII, Subtitle B, as amended by the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, Public Law 100-268, Title VII, Section 702 McKinney-Vento Homeless Education Assistance Improvement Act of 2001, 42 United States Code, Section 11431 et seq., and may be adopted as part of or in conjunction with the required state plan. The rules must include, but are not limited to, provisions for the resolution of disputes regarding the educational placement of homeless students according to the best interest of homeless students, provisions that homeless students receive services comparable to services offered to other students in the schools they attend, provisions to address transportation and health records as a barrier to school admission and other provisions required by United States Code, Title 42, Section ~~11432, Subsection e~~ 11431.~~

Sec. 5. 20-A MRSA §5809, as amended by PL 1999, c. 75, §4, is further amended to read:

§5809. Students enrolled in applied technology educational programs

Schools receiving tuition students who are enrolled in regular school day applied technology educational programs at applied technology centers, satellites or applied technology regions, under chapter 313, may charge a tuition rate ~~not up to exceed~~ 2/3 of the maximum tuition rate as computed under sections 5805 or 5806. The applied technology center, satellite or region may charge a tuition rate of up to 1/3 of the maximum tuition rate as computed under section 5805 or 5806 for the student.

Sec. 6. 20-A MRSA §7001, sub-§2, ¶C, as amended by PL 1999, c. 721, §1 and affected by §4, is further amended to read:

C. Requires special education because of one or more of the following:

- (1) Visual impairments, including blindness;
- (2) Hearing impairments, including deafness;
- (3) Speech and language impairments;
- (4) Specific learning disabilities;
- (5) Orthopedic impairments;
- (6) Emotional disability;
- (7) Mental retardation;
- (8) Autism;

- (9) Traumatic brain injury;
- (10) Other health impairment;
- (11) Deafness and blindness; or
- (12) Multiple disabilities.

Sec. 7. 20-A MRSA §8102, first ¶, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

The department may, from funds available to it, grant funds to a school administrative unit to undertake gifted education programs. A grant ~~shall~~ must be made on the basis of ~~\$2 of state matching funds for each \$1 of funds appropriated by the school administrative unit~~ the requirements of the department.

Sec. 8. 20-A MRSA §8102, sub-§3, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

3. Time limits. The following limits ~~shall~~ apply.

A. On or before ~~February 1st~~ June 30th, the school administrative unit shall submit to the department its proposed program.

B. By ~~May 15th~~ September 1st, the commissioner shall notify the school administrative unit whether the proposal has been funded for the following fiscal year.

Sec. 9. 20-A MRSA §8103, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§8103. Available funds

Funds made available to the department for gifted and talented education programs from state, federal or other sources ~~shall do~~ not lapse at the end of a fiscal year, but ~~shall be~~ are carried forward to the next fiscal year for a period of 90 days to be used for the purposes set forth in this chapter or for the purposes stipulated by the granting agency.

Sec. 10. 20-A MRSA §8104, sub-§1, as amended by PL 1999, c. 790, Pt. N, §3, is further amended to read:

1. Establishment. Each school administrative unit ~~must~~ shall, commencing with the ~~1987-88~~ 2004-2005 school year, ~~establish a~~ fully implement its plan for phasing in gifted and talented educational programs. ~~A school administrative unit or part of a school administrative unit is not required to comply with the provisions of its plan during the school years beginning in the fall of 2000 and 2001. Beginning with the 2004-2005 school year, a school administrative unit may apply to the commissioner for a one-year~~

waiver of this requirement if full implementation of this requirement presents an undue burden.

Sec. 11. 20-A MRSA §8104, sub-§2, as enacted by PL 1985, c. 463, §1, is amended to read:

2. Rules. The commissioner shall ~~establish~~ amend or adopt rules to implement this section, including the identification of students, needs and resource assessment, and program planning, development and ~~delivery~~ implementation. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 12. 20-A MRSA §15603, sub-§8, ¶B, as amended by PL 1997, c. 787, §6, is further amended to read:

B. Lease costs for school buildings when the leases, including leases under which the school administrative unit may apply the lease payments to the purchase of portable, temporary classroom space beginning January 1, 1988, have been approved by the commissioner for the year prior to the year of allocation. Beginning July 1, 1998 lease cost includes:

(1) Administrative space. A school administrative unit may lease administrative space with state support until July 1, 2003. A school administrative unit engaged in a lease-purchase agreement for administrative space is eligible for state support until July 1, 2008;

(2) Temporary interim nonadministrative space.

(a) A school administrative unit with state-approved need for nonadministrative space may lease temporary interim space, with state support, for a maximum of 5 years. A school administrative unit may appeal to the state board if this division limitation presents an undue burden. The board's decision is final. When making a determination on a school administrative unit's request for relief based on undue burden, the state board may consider, but not be limited to, the following:

(i) Fiscal capacity;

(ii) Enrollment demographics; and

(iii) Unforeseen circumstances not within the control of the ap-

pealing school administrative unit.

The state board's decision is final.

(b) A school administrative unit engaged in a lease-purchase agreement for temporary interim nonadministrative space is eligible for state support for a maximum of 10 years; and

(3) Permanent small nonadministrative space that replaces or is converted from existing approved leased portable space. The existing leased portable space will be eligible for state support until July 1, 2003. Once an existing leased portable space has been converted into a permanent nonadministrative space through an approved lease-purchase agreement, such space is eligible for state support for a maximum of 10 years.

The Department of Education shall adopt rules necessary to implement this paragraph. Rules adopted by the Department of Education to implement this paragraph are major substantive rules pursuant to Title 5, chapter 375, subchapter ~~H-A~~ 2-A;

See title page for effective date.

CHAPTER 478

H.P. 1056 - L.D. 1444

An Act To Facilitate E-9-1-1 for Multiline Telephone Systems

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

Sec. 1. 25 MRSA §2934 is enacted to read:

§2934. Multiline telephone systems

1. Requirements. The bureau may by rule establish requirements for locating emergency calls, and initiating emergency responses to such calls, made from within multiline telephone systems, including network-based or premises-based systems, whether owned or leased by a public or private entity, such as private branch exchanges or Centrex systems. Rules adopted pursuant to this section:

A. May not require any local unit of government to expand or modify its activities so as to necessitate additional expenditures from local revenues;