

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST SPECIAL SESSION
August 21, 2003 to August 22, 2003

The General Effective Date For
First Special Session
Non-Emergency Laws Is
November 22, 2003

SECOND REGULAR SESSION
January 7, 2004 to January 30, 2004

The General Effective Date For
Second Regular Session
Non-Emergency Laws Is
April 30, 2004

SECOND SPECIAL SESSION
February 3, 2004 to April 30, 2004

The General Effective Date For
Second Special Session
Non-Emergency Laws Is
July 30, 2004

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

Penmor Lithographers
Lewiston, Maine
2004

Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5998 and Block 5999 of Tract 024200.

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

Effective March 3, 2004.

CHAPTER 533

H.P. 800 - L.D. 1082

An Act Regarding Habitual Truants

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

Sec. 1. 20-A MRSA §5001-A, sub-§2, ¶C, as amended by PL 1985, c. 123, §1, is further amended to read:

C. A person whose absence is excused under section 5051. ~~The parent of an habitual truant who has been denied a waiver of this paragraph, may appeal to the commissioner in accordance with section 5051, subsection 2, paragraph E 5051-A; or~~

Sec. 2. 20-A MRSA §5051, as amended by PL 1999, c. 198, §§1 and 2, is repealed.

Sec. 3. 20-A MRSA §5051-A is enacted to read:

§5051-A. Habitual truancy

1. Habitually truant. A student is habitually truant if the student:

A. Is subject to section 5001-A; and

B. Has the equivalent of 10 full days of unexcused absences or 7 consecutive school days of unexcused absences during a school year.

2. Procedures. This subsection governs the procedure to be followed when a student is habitually truant.

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

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

(2) Changes in the learning environment;

(3) Mentoring;

(4) Student counseling;

(5) Tutoring, including peer tutoring;

(6) Placement into different classes;

(7) Evaluation for alternative education programs;

(8) Attendance contracts;

(9) Referral to other agencies for family services; and

(10) Other interventions, including, but not limited to, referral to the school attendance coordinator, student assistance team or dropout prevention committee.

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

B. As part of correcting the problem informally, the superintendent or superintendent's designee shall require the student and the student's parents to attend one or more meetings with the student's teacher or other school personnel designated by the superintendent. The purpose of the meetings is to reinforce the plan developed in paragraph A or to develop an alternative plan. The meeting or meetings may involve the presence of others, including, but not limited to, case managers, therapeutic treatment providers and representatives of

the Department of Human Services, the Department of Behavioral and Developmental Services and the Department of Corrections. The superintendent or superintendent's designee shall arrange mutually convenient meeting times.

C. If the superintendent or superintendent's designee is unable to correct the truancy of the child, the superintendent or superintendent's designee shall serve or cause to be served upon the parent in hand or by registered mail a written notice that attendance of the child at school is required by law. The notice must:

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

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

(3) Explain that the failure to send the student to school and maintain the student in regular attendance is a civil violation in accordance with section 5053-A and explain the possible penalties;

(4) State that the superintendent or the superintendent's designee may notify the local law enforcement department of a violation of this statute; and

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

D. Prior to notifying the local law enforcement department under paragraph E, the superintendent or superintendent's designee shall schedule at least one meeting as required in paragraph B.

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

F. When a student is determined habitually truant and in violation of section 5001-A and the superintendent or superintendent's designee has made a good faith attempt to meet the requirements of paragraph B, the superintendent or superintendent's designee shall notify the school

board and the local law enforcement department of the student's truancy. After this notification, a local law enforcement officer who sees the truant student may transport the truant student to the appropriate school if the truant student:

(1) Is off school grounds during school hours; and

(2) Is not under the supervision of school personnel.

3. Reports. This subsection applies to reports of habitual truancy.

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

(1) Identify the number of habitual truants in the school administrative 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 must aggregate the information provided by superintendents under paragraph A and must evaluate the effect of state laws on the incidence of truancy.

Sec. 4. 20-A MRSA §5053, as amended by PL 1989, c. 415, §§22 to 25, is repealed.

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

§5053-A. Enforcement

1. Civil violation. If a parent has control of a student who is habitually truant and that parent is primarily responsible for that truancy, that parent commits a civil violation for which a fine of not less than \$25 may be adjudged.

2. Dispositions. The court may also order a parent adjudicated as violating subsection 1 to take specific action to ensure the child's attendance at school; comply with the plan developed in accordance with section 5051-A, subsection 2, paragraph A; participate in a parent-training class; attend school with the child; perform community service hours at the school; or participate in counseling or other services as appropriate.

3. Notice required. Notice must be provided to the parent pursuant to section 5051-A, subsection 2, paragraph C before a prosecution for violating subsection 1 may be brought against the parent.

4. Prima facie proof. Evidence that shows that the parent received the notice under section 5051-A, subsection 2 and that the child has accumulated 10 absences that are not justified under the established attendance policies of the school administrative unit is prima facie proof that the child's parent failed to enroll the child in school, failed to send the child to school or failed to require the child to regularly attend school.

5. Defense. It is a defense to a prosecution under subsection 1 that the parent has exercised reasonable diligence in attempting to cause a child in the parent's custody to attend school or that the administrators of the child's school did not perform their duties as required by law.

6. Process. Service of a summons on the parent pursuant to subsection 1 must be in accordance with the Maine Rules of Civil Procedure.

7. Jurisdiction. The District Court has jurisdiction over violations under subsection 1.

Sec. 6. 20-A MRSA §6810, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§6810. Truancy

The penalty for truancy is outlined in section ~~5053~~ 5053-A.

Sec. 7. 20-A MRSA §7405, sub-§1, as amended by PL 1999, c. 775, §6, is further amended to read:

1. Enrollment. The superintendent of the school administrative unit in which a deaf or hard-of-hearing student resides, with the consent of that student's parent or legal guardian and in accordance with the limitations in section ~~5054~~ 5051-A, may enroll that student in one of the center school programs or the satellite school programs. The sums necessary for tuition and room and board of the student while attending one of the center school programs or satellite school programs, as determined by the individualized education program of the student, must be paid by the school board.

See title page for effective date.

CHAPTER 534

S.P. 604 - L.D. 1653

An Act To Authorize the Town of Verona To Change Its Name

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Town of Verona requires approval from the Legislature in order to hold an election on March 27, 2004 to change the name of the town to "Town of Verona Island"; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 21-A MRSA §1204-A, sub-§41, ¶A, as enacted by PL 2003, c. 289, §1, is amended to read:

A. In Hancock County, the minor civil divisions of Orland and Verona Island;

Sec. 2. 30-A MRSA §66-A, sub-§5, ¶B, as enacted by PL 2003, c. 291, §2, is amended to read:

B. Commissioner District Number 2, in the County of Hancock, consists of the minor civil divisions of Brooklin, Brooksville, Bucksport, Castine, Dedham, Deer Isle, Orland, Penobscot, Sedgwick, Stonington and Verona Island. The term of office of the commissioner from this district expires in 2006 and every 4 years thereafter.

Sec. 3. 38 MRSA §469, sub-§2, ¶H, as enacted by PL 1985, c. 698, §15, is amended to read:

H. Verona Island.

(1) Tidal waters lying northerly of the southernmost point of land on Verona Island - Class SC.

Sec. 4. P&SL 1861, c. 25, §4 is enacted to read:

Sec. 4. Wherever the word "Verona" appears or reference is made to the Town of Verona it means "Verona Island."

Sec. 5. Referendum; effective date. This Act takes effect when approved only for the purpose