

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 electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST SPECIAL SESSION
September 27, 2011

SECOND REGULAR SESSION
January 4, 2012 to May 31, 2012

THE EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
LAWS IS
SEPTEMBER 28, 2011

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 30, 2012

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

Augusta, Maine
2012

Whereas, researchers have shown that a significant number of members of the United States Armed Forces who have served in Iraq and Afghanistan will suffer, as a result of their military service, mental health injuries, such as post-traumatic stress disorder, depression, anxiety and acute stress, and injuries that affect brain function, such as traumatic brain injury; and

Whereas, such combat-related injuries, and the use of drugs and alcohol to cope with such injuries, can lead to encounters with the criminal justice system that would not have occurred without the combat-related injuries; and

Whereas, while the vast majority of returning members of the United States Armed Forces do not have contact with the criminal justice system, and most veterans and members of the United States Armed Forces are well-adjusted, contributing members of society, psychiatrists and law enforcement officials agree that combat-related injuries have led to instances of criminality; and

Whereas, as a grateful State, we must continue to honor the military service of our men and women by providing them with an alternative to incarceration when feasible, permitting them instead to obtain proper treatment for mental health and substance abuse problems that have resulted from military service; and

Whereas, this legislation needs to take effect before the expiration of the 90-day period because veterans are returning from Afghanistan and Iraq every day and need help as soon as possible, if involved in the criminal justice system, to readjust to society; 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. 4 MRSA c. 8-B is enacted to read:

CHAPTER 8-B

VETERANS TREATMENT COURTS

§433. Veterans treatment courts

1. Definition. As used in this section, unless the context otherwise indicates, "veterans treatment court" means a specialized sentencing docket in select criminal cases in which the defendant is a veteran or member of the United States Armed Forces to enable veterans agencies and social services agencies to provide treatment for that defendant. The court does not provide treatment but contracts or collaborates with experienced and expert treatment providers.

2. Chief Justice may establish. The Chief Justice of the Supreme Judicial Court may establish veterans treatment courts for veterans and members of the United States Armed Forces. The Supreme Judicial Court may adopt administrative orders and court rules of practice and procedure as necessary.

3. Federal funding; contracts; cooperative agreements. The State Court Administrator, district attorneys, the Department of the Attorney General, the Department of Corrections, the Department of Defense, Veterans and Emergency Management, the Department of Public Safety, the Department of Health and Human Services and private service agencies may seek federal funding as it becomes available for the establishment, maintenance and expansion of veterans treatment courts and for the provision by participating agencies of treatment to participating veterans. The Administrative Office of the Courts may enter into contracts and cooperative agreements with the departments and agencies to provide treatment and other social services to participants. The departments and agencies shall collaborate and, to the extent possible, provide financial and other assistance to the judicial branch in order to establish and maintain veterans treatment courts.

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

Effective March 14, 2012.

CHAPTER 501

S.P. 594 - L.D. 1735

**An Act To Promote Jobs in the
Motor Coach Industry by
Providing a Sales Tax
Exemption for Certain Buses**

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

Sec. 1. 36 MRSA §1760, sub-§41, ¶B, as enacted by PL 2009, c. 361, §19 and affected by §37, is amended to read:

B. For purposes of this subsection, personal property is not in use as an instrumentality of interstate or foreign commerce when carrying ~~only~~ only a bona fide payload that both originates and terminates within the State, unless the personal property is a bus with a capacity of at least 47 passengers that is engaged in transporting within the State a bona fide payload of travelers on an interstate or foreign cruise that originates outside the State and terminates outside the State and the transportation is provided pursuant to a contract

between the interstate or foreign cruise provider and the person providing the transportation.

See title page for effective date.

CHAPTER 502

H.P. 722 - L.D. 978

An Act To Provide for School Enrollment and an Appeal Process in Specific Cases in Which Students Do Not Reside with Parents

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:

Sec. 1. 20-A MRSA §5205, sub-§2, as amended by PL 1991, c. 365, §1, is further amended to read:

2. Other students not living at home. A student other than a state ward, a state agency client or a homeless child, residing with another person who is not the student's parent, is considered a resident of the school administrative unit where the student resides if the superintendent of the unit determines that it is in the best interest of the student because of the following ~~ing~~ that person is residing in the school administrative unit for other than just education purposes and:

- A. ~~It is undesirable and impractical for that student to reside with the student's parent, or that other extenuating circumstances exist which justify residence in the unit; and~~
- B. ~~That person is residing in the school administrative unit for other than just education purposes.~~
- C. There is a safety reason for the student not to reside with the student's parent; or
- D. Other extenuating circumstances exist that justify residence in the unit.

If a person who is not the student's parent or legal guardian requests that a student be considered a resident under this subsection, the school administrative unit shall take reasonable steps to attempt to notify a parent or legal guardian of the request.

In determining whether it is in the best interest of the student to enroll in the school administrative unit, the superintendent shall consult with knowledgeable em-

ployees of relevant school administrative units that the superintendent considers appropriate.

The superintendent shall send written notice of the enrollment determination to the person making a request within 10 calendar days of receiving the request to enroll a student pursuant to this subsection. If the determination is to deny enrollment because the superintendent determines that enrollment in the school administrative unit is not in the best interest of the student as provided in this subsection, the superintendent shall send to the person who made the request written notice of the denial of enrollment, the reason for the denial and the right to appeal to the commissioner.

The commissioner shall review the superintendent's determination on ~~the request of appeal by the student's parent or legal guardian or the person with whom the student is residing and shall make a decision within 7 calendar days of receiving the appeal.~~ The commissioner's decision is final and binding. Upon request of the superintendent of schools in the unit in which a student is placed in accordance with this subsection, the state share percentage for subsidized educational costs for that student is equivalent to the state share percentage of the unit in which the student's parent or legal guardian resides or the average state share percentage, whichever is greater. If the parent or legal guardian does not reside in the State or can not be located, the subsidy is the state average subsidy.

Sec. 2. Model explanation. The Commissioner of Education shall prepare and distribute a model for superintendents of schools to use to explain the appeal process when a superintendent determines attendance by a student in the superintendent's school administrative unit is not in the student's best interest under the Maine Revised Statutes, Title 20-A, section 5205, subsection 2.

See title page for effective date.

CHAPTER 503

H.P. 448 - L.D. 590

An Act To Codify the Review Practice of Certain Changes in the Application of the Sales and Use Tax Law

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

Sec. 1. 36 MRSA §194-A is enacted to read:

§194-A. Review of certain changes in the application of sales and use tax law

1. Consultation. Before implementing a significant change in policy, practice or interpretation of the