

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2012 to July 10, 2013

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 9, 2013

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

Augusta, Maine
2013

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

Effective April 9, 2013.

CHAPTER 7

H.P. 387 - L.D. 568

Resolve, To Name Bridge Number 2975 in Kenduskeag the Kenduskeag Veterans Bridge

Sec. 1. Bridge in Kenduskeag named. Resolved: That the Department of Transportation shall designate bridge number 2975, which carries the Stetson Road over the Kenduskeag Stream in the Town of Kenduskeag, as the Kenduskeag Veterans Bridge.

See title page for effective date.

CHAPTER 8

S.P. 79 - L.D. 243

Resolve, To Direct the Department of Education To Amend Its Rules Regarding Restraint of Students

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

Whereas, significant revisions to Department of Education Rule Chapter 33 governing the restraint and seclusion of students took effect July 1, 2012; and

Whereas, educators, administrators and parents have expressed concern with the limitations on the use of restraint and seclusion; and

Whereas, because Rule Chapter 33 is a major substantive rule, changes to the rule require legislative review before the changes may be made; and

Whereas, the Legislature has authority to direct the Department of Education to amend its rule to reflect legislative policy determinations; and

Whereas, educators and administrators need tools immediately to restore order to classrooms through limited additional uses of restraint or seclusion; 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 preserva-

tion of the public peace, health and safety; now, therefore, be it

Sec. 1. Amendment of rule. Resolved: That the Department of Education shall amend portions of Chapter 33: Rule Governing Physical Restraint and Seclusion as follows.

1. The rule must be amended in Section 2 to replace the definition of physical escort with language that provides that physical escort is temporary touching or holding for the purpose of inducing a student to walk to another location, including assisting the student to the student's feet in order to be escorted.

2. The rule must be amended to modify the threshold for the use of physical restraint as follows:

A. In the summary of the rule to provide that physical restraint and seclusion may be used only as an emergency intervention when the behavior of a student presents a risk of injury or harm to the student or others;

B. In Section 1 of the rule to provide that physical restraint and seclusion may be used only as an emergency intervention when the behavior of a student presents a risk of injury or harm to the student or others;

C. In Section 2, subsection 6 of the rule to provide that dangerous behavior is behavior that presents a risk of injury or harm to a student or others;

D. In Section 2, subsection 9 of the rule to provide that risk of injury or harm describes a situation in which a student has the means to cause physical harm or injury to self or others and such injury or harm is likely to occur such that a reasonable and prudent person would take steps to protect the student and others against the risk of such injury or harm;

E. In Section 5, subsection 1, paragraph A to provide that seclusion may be used only as an emergency intervention when the behavior of a student presents a risk of injury or harm to the student or others and only after other less intrusive interventions have failed or been determined inappropriate;

F. In Section 5, subsection 2, paragraph B to provide that seclusion may not be used to prevent property destruction or disruption of the environment in the absence of a risk of injury or harm;

G. In Section 5, subsection 3, paragraph A to provide that a student in seclusion must be continuously monitored until the student no longer presents a risk of injury or harm to self or others;

H. In Section 5, subsection 4, paragraph A to provide that the staff involved in the use of seclusion shall continually assess the student for signs