

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

FIRST SPECIAL SESSION
October 23, 2017 to November 6, 2017

SECOND REGULAR SESSION
January 3, 2018 to May 2, 2018

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 5, 2018

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 1, 2018

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

Augusta, Maine
2018

~~another person assigned a different hunting zone, area or season for any consideration other than the other person's different hunting zone, area or season. A person who violates this subsection commits a Class D crime.~~

3. Facilitating for consideration transfer of a moose permit prohibited. A person may not facilitate for consideration the exchange of moose permits between holders of moose permits who are exchanging those permits pursuant to subsection 1. For purposes of this subsection, "facilitate for consideration" means to directly receive compensation or something of value solely as part of an exchange of moose permits. A person who violates this subsection commits a Class E crime.

See title page for effective date.

CHAPTER 380

H.P. 1150 - L.D. 1665

An Act To Maintain Mental Health Staffing at the Dorothea Dix Psychiatric Center and Support Statewide Forensic Services

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

Sec. 1. Appropriations and allocations. The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES,
DEPARTMENT OF**

Dorothea Dix Psychiatric Center Z222

Initiative: Makes permanent 6 limited-period Mental Health Worker I positions and transfers funds from All Other to Personal Services.

GENERAL FUND	2017-18	2018-19
POSITIONS - LEGISLATIVE COUNT	0.000	6.000
Personal Services	\$0	\$145,879
All Other	\$0	(\$145,879)
GENERAL FUND TOTAL	\$0	\$0

OTHER SPECIAL REVENUE FUNDS	2017-18	2018-19
Personal Services	\$0	\$259,340
All Other	\$0	(\$259,340)

OTHER SPECIAL	\$0	\$0
REVENUE FUNDS TOTAL		

See title page for effective date.

CHAPTER 381

H.P. 1271 - L.D. 1829

An Act To Amend the Laws Governing Education

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

Sec. 1. 20-A MRSA §257, sub-§1, ¶A, as repealed and replaced by PL 1991, c. 662, §1, is amended to read:

A. Is at least ~~18~~ 17 years of age, ~~if that person and:~~

~~(1) Has completed a formal training program approved by the commissioner; and~~

(2) Has demonstrated, through procedures prescribed by the commissioner, attainment of a general educational development comparable to that of a secondary school graduate; ~~or.~~

Sec. 2. 20-A MRSA §257, sub-§1, ¶B, as repealed and replaced by PL 1991, c. 662, §1, is repealed.

Sec. 3. 20-A MRSA §5201, sub-§3, ¶F, as amended by PL 2003, c. 688, Pt. B, §4, is further amended to read:

F. A person who obtains a waiver from the commissioner pursuant to section 5206 may enroll as a public secondary school student.

This paragraph is repealed July 1, 2020.

Sec. 4. 20-A MRSA §5206, as enacted by PL 2003, c. 116, §2, is amended to read:

§5206. Waiver

The superintendent may request that the commissioner approve on a case-by-case basis waivers of the age requirements under section 5201 to allow a student who has reached 20 years of age before the start of the school year to be enrolled as a public secondary school student. The commissioner may grant a waiver upon finding that there are unforeseeable circumstances or undue hardship and that the request that the school administrative unit has submitted is reasonable. The application for a waiver must contain:

1. Documentation. Documentation of actions taken to meet the requirements prior to applying for the waiver;

2. Description. A description of the unforeseeable circumstances or undue hardship, including financial hardship, that led to the application; and

3. Statement. A statement explaining how the waiver requested will not create learning inequities for the students enrolled in the schools in the school administrative unit.

This section is repealed July 1, 2020.

Sec. 5. 20-A MRSA §6301, sub-§1, as repealed and replaced by PL 1989, c. 414, §9, is amended to read:

1. Duty of teacher. A teacher who has reason to believe that a student is a public health threat as a result of ~~being infested with parasites, or having a communicable disease of the skin, mouth or eyes;~~ shall inform the superintendent.

Sec. 6. 20-A MRSA §6301, sub-§2, as amended by PL 1989, c. 414, §10, is further amended to read:

2. Duty of superintendent. A superintendent informed by a teacher under subsection 1 may:

A. Inform the student's parent:

(1) To cleanse the clothing and bodies of ~~their children~~ the student; and

(2) To furnish ~~their children~~ the student with the required home or medical treatment for the relief of ~~their~~ the student's trouble so defined in subsection 1;

B. Exclude the student from the public schools until the student is no longer a public health threat; ~~and~~

C. Exclude the student from public school as soon as safe and proper transportation home is available; ~~and~~

D. Consult with the school nurse.

Sec. 7. 20-A MRSA §6301, sub-§3, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

3. Duty of parent. A parent informed by a superintendent under subsection 2 shall promptly do what is reasonably necessary to ensure that the student is ~~no longer offensive or dangerous~~ not a public health threat.

Sec. 8. 20-A MRSA §6451, as enacted by PL 1981, c. 693, §§5 and 8 and amended by PL 2003, c. 689, Pt. B, §7, is further amended to read:

§6451. Hearing and sight screening

1. Student right to screening for sight and hearing defects. Each student shall ~~must~~ be screened periodically to determine whether ~~they have~~ the student has sight or hearing defects.

2. Commissioner's duties. The commissioner shall:

A. After consultation with the Commissioner of Health and Human Services ~~and in collaboration with the school nurse consultant as described in section 6401-A,~~ adopt rules and provide school administrative units with ~~assistance and materials~~ a copy of these rules and guidance to carry out this subsection; ~~and~~

~~B. Furnish to the administrators of the school administrative units the prescribed directions for the tests of sight and hearing; and~~

C. ~~Furnish test cards, record and report forms and other useful materials~~ guidance, training and sample report and referral forms that may be helpful for carrying out the purpose of this section.

3. Exempt students. A student whose parent objects in writing to screening ~~or religious grounds shall~~ may not be screened unless a sight or hearing defect is reasonably apparent.

Sec. 9. 20-A MRSA §6453, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§6453. Notice to parents of result of screening

The school board shall appoint appropriate school staff to inform the parent of a student suffering from a suspected disease or defect based on the screening results.

Sec. 10. 20-A MRSA §6455, as enacted by PL 2009, c. 407, §1, is repealed.

Sec. 11. 20-A MRSA §8601-A, sub-§1, as amended by PL 2013, c. 167, Pt. C, §1, is further amended to read:

1. Adult education. "Adult education" means an education program primarily operated for individuals beyond the compulsory school age that is administered by school administrative units through a career pathways and service system and that, except as provided in section 8602-B, includes intake, assessment, advising, instruction and individual learning plans; is guided by data management and analysis, annual monitoring and annual professional development plans; uses appropriately certified staff; is designed to meet identified local needs; makes use of partnerships and alignment with workforce development, postsecondary institutions and support services; and offers at least 3 of the following:

A. Basic literacy instruction or instruction in English as a Second Language;

- B. High school completion courses;
- C. College transition courses;
- ~~E. Enrichment courses;~~
- F. Adult workforce training and retraining; and
- G. Adult career and technical education.

"Adult education" also includes enrichment courses offered as part of a school administrative unit's adult education program in accordance with section 8613.

Sec. 12. 20-A MRSA §8606-A, sub-§2, as amended by PL 2011, c. 517, §7, is further amended to read:

2. Budget recommendation. Prior to ~~December 15th~~ February 1st of each year, the commissioner shall ~~certify to the Governor and to the Bureau of the Budget~~ notify each school board of the estimated amount of the funding levels to be allocated to the school administrative unit for the various program categories in adult education for payment in the next fiscal year. The commissioner shall include these funding levels in the department's request to the Legislature for appropriations from the General Fund to carry out the purposes of this chapter.

A. The recommended funding level must include funds in an amount that is sufficient to provide for state administration of adult education programs including funds for the cost of ~~general educational development~~ high school equivalency tests and administration; supporting volunteer literacy programs; state-sponsored professional development; state-level data collection, including the required software for units, regions or centers providing adult education programs; and reimbursement of the costs listed in section 8607-A at the rates established in that section. The recommended funding level may not exceed the maximum allowable expenditures in the base year, adjusted pursuant to paragraph C.

B. A unit, region or center shall provide the commissioner with information requested by the commissioner to carry out the purpose of this chapter. The commissioner may withhold state subsidy payment or a portion of the state subsidy payment from a unit, region or center if the unit, region or center does not provide requested information to the commissioner in compliance with the specified format, content and time schedule established by the commissioner.

C. The recommendation ~~in the commissioner's funding level certification~~ must include local adult education program cost adjustment to the equivalent of the year prior to the year of allocation. This adjustment is calculated according to the same guidelines established, for purposes of chapter 606-B, by section 15689-C, subsection 3.

Sec. 13. 20-A MRSA §8613 is enacted to read:

§8613. Enrichment courses

Notwithstanding any other provision of this chapter, a school administrative unit may offer enrichment courses as part of its adult education program as long as the school administrative unit tracks and reports annually to the department the number of enrichment courses offered and the total student enrollment in those courses. A school administrative unit is not required to undertake student intake, assessment, advising, instruction and individual learning plans for enrichment courses.

Sec. 14. 20-A MRSA §13012-A, sub-§4, as enacted by PL 2017, c. 235, §11 and affected by §41, is amended to read:

4. Requirements. If a school administrative unit employs a conditionally certified teacher ~~or educational specialist~~, the school administrative unit shall for at least the first year of employment or longer if determined to be necessary:

- A. Ensure that the conditionally certified teacher ~~or educational specialist~~ receives high-quality professional development that is sustained, intensive and classroom-focused in order to have a positive and lasting impact on classroom instruction while teaching; and
- B. Provide a program of intensive supervision for the conditionally certified teacher ~~or educational specialist~~ that consists of structured guidance and regular ongoing support or a mentoring program, which is separate from any student-teacher requirement that may be required under another authority.

Sec. 15. 20-A MRSA §13013, sub-§2-B, ~~¶C,~~ as enacted by PL 2017, c. 235, §12 and affected by §41, is amended to read:

- C. Has successfully completed a preparation program in a state with which the State is participating in an interstate compact, subject to the following:
 - (1) Completion of an approved preparation program for the endorsement or certificate being sought with a formal recommendation for certification from the institution; ~~or and~~
 - (2) In the 5 years prior to applying for certification in this State, the applicant has 3 years of successful teaching experience under a valid comparable certificate in a state with which the State is participating in the interstate compact.

If advanced study or tests are required in the State, the commissioner has the right, as specified

in the interstate compact, to issue only a conditional certificate under section 13012-A; or

Sec. 16. 20-A MRSA §15672, sub-§23, as amended by PL 2017, c. 284, Pt. C, §§27 and 28, is further amended to read:

23. Property fiscal capacity. "Property fiscal capacity" means:

A. Prior to fiscal year 2014-15, the certified state valuation for the year prior to the most recently certified state valuation;

B. For fiscal year 2014-15, the average of the certified state valuations for the 2 most recent years prior to the most recently certified state valuation;

C. For fiscal years 2015-16, 2016-17 and 2017-18, the average of the certified state valuations for the 3 most recent years prior to the most recently certified state valuation; ~~and~~

D. For fiscal year 2018-19 ~~and each subsequent fiscal year~~, the average of the certified state valuations for the 2 most recent years prior to the most recently certified state valuation; ~~and~~

E. For fiscal year 2019-20 and each subsequent fiscal year, the average of the certified state valuations for the 3 most recent years prior to the most recently certified state valuation or the certified state valuation for the most recent prior year, whichever is lower.

Sec. 17. 20-A MRSA c. 802, as amended, is repealed.

Sec. 18. Provide copy of confidential version of report. Notwithstanding the Maine Revised Statutes, Title 1, section 402, subsection 3, paragraph L, the Department of Education may provide a copy of the confidential version of the report, "School Safety, Security and Emergency Management Assessment," prepared by Safe Havens International Inc. dated March 17, 2014 to the Department of Defense, Veterans and Emergency Management, Maine Emergency Management Agency.

See title page for effective date.

CHAPTER 382
S.P. 718 - L.D. 1875

**An Act To Amend the Maine
Life and Health Insurance
Guaranty Association Act**

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

Sec. 1. 24-A MRSA §4386, sub-§1, as enacted by PL 1981, c. 347, is amended to read:

1. Insolvency; assets disbursed. Within 120 days ~~of~~ after a final determination of insolvency of a company by a court of competent jurisdiction of this State, the receiver shall make application to the court for approval of a proposal to disburse assets out of the company's marshaled assets, from time to time as those assets become available, to the Maine Insurance Guaranty Association, to the Maine Life and Health Insurance Guaranty Association and to any similar organization in another state. The Maine Insurance Guaranty Association, the Maine Life and Health Insurance Guaranty Association and any similar organizations in other states ~~shall be~~ are referred to, collectively, as the associations.

Sec. 2. 24-A MRSA §4603, sub-§1, as amended by PL 2005, c. 346, §2 and affected by §16, is further amended to read:

1. Application. This chapter applies to direct nongroup life insurance policies, health insurance policies, annuity contracts and contracts supplemental to life and health insurance policies and annuity contracts and to certificates under direct group life insurance policies, health insurance policies and annuity contracts, except as limited by this chapter. For the purposes of this chapter, ~~annuity contracts and certificates under group annuity contracts include allocated funding agreements, structured settlement annuities and any immediate or deferred annuity contracts;~~

A. Health insurance policies include individual and group health maintenance organization enrollment contracts, and health maintenance organizations are considered to be health insurers;

B. Annuity contracts and certificates under group annuity contracts include allocated funding agreements, structured settlement annuities and any immediate or deferred annuity contracts; and

C. Benefits provided by a long-term care rider to a life insurance policy or annuity contract are considered the same type of benefits as the base life insurance policy or annuity contract to which the rider relates.

Sec. 3. 24-A MRSA §4603, sub-§1-A, as amended by PL 2005, c. 346, §2 and affected by §16, is further amended to read:

1-A. Persons covered. This chapter provides coverage for the policies and contracts specified in subsection 1:

A. To any person, regardless of where the person resides, except for a nonresident certificate holder under a group policy or contract, who is the beneficiary, assignee or payee, including a health care provider rendering services covered under a health insurance policy or certificate, of a person covered under paragraph B;