

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

SECOND SPECIAL SESSION
June 19, 2018 to September 13, 2018

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
DECEMBER 13, 2018

ONE HUNDRED AND TWENTY-NINTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2018 to June 20, 2019

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 2019

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

Augusta, Maine
2019

See title page for effective date.

CHAPTER 154
H.P. 586 - L.D. 798

**An Act To Protect Maine
Children and Students from
Preventable Diseases by
Repealing Certain Exemptions
from the Laws Governing
Immunization Requirements**

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

Sec. 1. 20-A MRSA §6355, sub-§2, as amended by PL 2001, c. 326, §2, is further amended to read:

2. Medical exemption. The parent or the child provides a physician's written statement from a licensed physician, nurse practitioner or physician assistant that, in the licensed physician's, nurse practitioner's or physician assistant's professional judgment, immunization against one or more of the diseases may be medically inadvisable.

Sec. 2. 20-A MRSA §6355, sub-§3, as amended by PL 2001, c. 326, §2, is repealed.

Sec. 3. 20-A MRSA §6355, sub-§4 is enacted to read:

4. Student covered by individualized education plan. A student covered by an individualized education plan on September 1, 2021 who elected a philosophical or religious exemption from immunization requirements on or before September 1, 2021 pursuant to the law in effect prior to that date may continue to attend school under that student's existing exemption as long as:

A. The parent or guardian of the student provides a statement from a licensed physician, nurse practitioner or physician assistant that the physician, nurse practitioner or physician assistant has consulted with that parent or guardian and has made that parent or guardian aware of the risks and benefits associated with the choice to immunize; or

B. If the student is 18 years of age or older, the student provides a statement from a licensed physician, nurse practitioner or physician assistant that the physician, nurse practitioner or physician assistant has consulted with that student and has made that student aware of the risks and benefits associated with the choice to immunize.

Sec. 4. 20-A MRSA §6358, as amended by PL 2001, c. 326, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

§6358. Rules; requirements; reports

1. Rules authorized. The commissioner and the Director of the Bureau of Health, Maine Center for Disease Control and Prevention within the Department of Health and Human Services, shall jointly issue rules necessary for the effective implementation of this subchapter, including, but not limited to, rules specifying those diseases for which immunization is required and establishing school record keeping and reporting requirements or guidelines and procedures for the exclusion of nonimmunized children from school. The rules may not include any provision governing medical exemptions. Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A except that rules adopted pursuant to this subchapter specifying the diseases for which immunization is required are major substantive rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

2. Local requirements authorized. Immunization requirements more stringent than the provisions of this subchapter may be adopted by ordinance enacted by a municipality, by regulation of a school board or by policy of a private school's governing board.

3. Report. By January 1st of each odd-numbered year, the Director of the Maine Center for Disease Control and Prevention within the Department of Health and Human Services shall submit a report to the joint standing committees of the Legislature having jurisdiction over health and human services matters and education matters concerning any new developments in the evaluation of vaccine safety and effectiveness. The joint standing committees of the Legislature having jurisdiction over health and human services matters and education matters are each authorized to submit a bill during the legislative session in which the report was submitted.

Sec. 5. 20-A MRSA §6359, sub-§3, ¶A, as amended by PL 1991, c. 146, §3, is further amended to read:

A. The parent or the student provides a ~~physician's written statement~~ or a written statement from a school health provider from a licensed physician, nurse practitioner or physician assistant that, in the physician's, nurse practitioner's or physician assistant's professional judgment, immunization against one or more of the diseases may be medically inadvisable.

Sec. 6. 20-A MRSA §6359, sub-§3, ¶B, as amended by PL 2001, c. 326, §6, is repealed.

Sec. 7. 20-A MRSA §6359, sub-§6, as amended by PL 1991, c. 146, §4, is further amended to read:

6. Rules; requirements; reports. The Director of the Bureau of Health, Maine Center for Disease

Control and Prevention within the Department of Health and Human Services shall adopt rules necessary for the effective implementation of this subchapter, including, but not limited to, rules establishing immunization requirements ~~and medical exceptions to receiving vaccines or toxoids~~ for each disease, school record keeping and reporting requirements or guidelines and procedures for the exclusion of nonimmunized students from school. The rules may not include any provision governing medical exemptions. Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A except that rules adopted pursuant to this subchapter specifying the diseases for which immunization is required are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Immunization requirements more stringent than the provisions of this subchapter may be adopted by a school board or by policy of a private school's governing board.

Sec. 8. 22 MRSA §802, sub-§4-B, ¶A, as enacted by PL 2001, c. 185, §2, is amended to read:

A. A medical exemption is available to an employee who provides a ~~physician's~~ written statement ~~from a licensed physician, nurse practitioner or physician assistant that, in the physician's, nurse practitioner's or physician assistant's professional judgment,~~ immunization against one or more diseases may be medically inadvisable.

Sec. 9. 22 MRSA §802, sub-§4-B, ¶B, as enacted by PL 2001, c. 185, §2, is repealed.

Sec. 10. 22 MRSA §8402, sub-§3, ¶A, as amended by PL 2001, c. 645, §10, is further amended to read:

A. The department shall adopt rules regarding the health of staff as required to protect the health and safety of the children. The rules must include a requirement that every 2 years each licensee, administrator or other staff member of the nursery school who provides care for children be declared free from communicable disease by a licensed physician, ~~except that this requirement may be waived for a person who objects on the grounds of sincerely held religious or philosophical belief, nurse practitioner or physician assistant.~~ Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

Sec. 11. Rules. The Department of Education and the Department of Health and Human Services shall amend their rules to remove any rules exempting persons from immunization requirements because of their religious or philosophical beliefs.

Rules adopted pursuant to this section are routine technical rules pursuant to the Maine Revised Statutes,

Title 20-A, section 6358, subsection 1 and section 6359, subsection 6.

Sec. 12. Effective date. Those sections of this Act that amend the Maine Revised Statutes, Title 22, section 802, subsection 4-B, paragraph A and Title 22, section 8402, subsection 3, paragraph A and that repeal Title 20-A, section 6355, subsection 3 and Title 20-A, section 6359, subsection 3, paragraph B take effect September 1, 2021.

See title page for effective date, unless otherwise indicated.

**CHAPTER 155
H.P. 1081 - L.D. 1479**

**An Act To Clarify
Guardianship over Detainees
under 18 Years of Age
Regarding Mental Health Care**

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

Sec. 1. 34-A MRSA §3809-A, sub-§2, as amended by PL 1999, c. 583, §32, is further amended to read:

2. Juvenile detainee. The commissioner has all the power over a juvenile detainee that a guardian has over a ward and that a parent has over a child with regard to necessary medical care and necessary mental health care. If a juvenile detainee is or becomes 18 years of age while still detained, the statutory guardianship of the commissioner over the juvenile detainee terminates, but the juvenile remains subject to the control of the commissioner, staff and rules of the facility until release from the facility.

Sec. 2. 34-A MRSA §4111, sub-§2, as amended by PL 2017, c. 148, §20, is further amended to read:

2. Juvenile detainee. The commissioner has all the power over a juvenile detainee that a guardian has over a ward and that a parent has over a child with regard to necessary medical care and necessary mental health care. If a juvenile detainee is or becomes 18 years of age while still detained, the statutory guardianship of the commissioner over the juvenile detainee terminates, but the juvenile remains subject to the control of the commissioner and the staff and rules of the Mountain View Correctional Facility until release from the Mountain View Correctional Facility.

See title page for effective date.