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Date: (Filing No. H- )

**JUDICIARY**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
128TH LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1175, L.D. 1695, Bill, “An Act To Clarify Educational Placement and Notification in Regard to Parental Rights and Responsibilities”

Amend the bill by striking out the title and substituting the following:

**'An Act To Clarify Parental Authority To Transfer a Child to a New School'**

Amend the bill by striking out everything after the enacting clause and inserting the following:

**'Sec. 1. 19-A MRSA §1653, sub-§15** is enacted to read:

**15. Improper school transfer.** The court may consider the fact that a parent violated section 1660 in determining parental rights and responsibilities with respect to a minor child.

**Sec. 2. 19-A MRSA §1660** is enacted to read:

**§1660. Required consent for student transfer**

If a child has previously been enrolled in a primary or secondary school, a parent may not enroll the child in a different primary or secondary school without the consent of all other persons having parental rights with respect to the child unless a court of competent jurisdiction has allocated to the parent the right to make education decisions for the child or the right to enroll the child in school.

For the purposes of this section, other persons having parental rights with respect to the child may consent to the parent's enrollment of a child in school through a written, notarized document, including by executing a power of attorney pursuant to Title 18-A, section 5-104.

**Sec. 3. 20-A MRSA §2902, sub-§9,** as amended by PL 2001, c. 452, §6, is further amended to read:

**COMMITTEE AMENDMENT**

1           **9. Medication.** Meet the requirements for administering medication under section  
2 254, subsection 5; ~~and~~

3           **Sec. 4. 20-A MRSA §2902, sub-§10,** as enacted by PL 2001, c. 452, §7, is  
4 amended to read:

5           **10. Reintegration planning.** Meet the requirements for administering reintegration  
6 planning under section 254, subsection 12.; ~~and~~

7           **Sec. 5. 20-A MRSA §2902, sub-§11** is enacted to read:

8           **11. Transfer of student by a parent.** Require a parent who seeks to enroll a child  
9 who has previously been enrolled in a different primary or secondary school to provide  
10 evidence as required by section 5202, subsection 3 either that the parent has the sole  
11 authority to make the enrollment decision or that all other persons having parental rights  
12 with respect to the child consent to the new enrollment.

13           **Sec. 6. 20-A MRSA §5202,** as amended by PL 1985, c. 789, §§3 and 9, is further  
14 amended to read:

15 **§5202. Residence; transfer of student by parent**

16           **1. Definitions.** For the purposes of this chapter, "parent" means the parent or  
17 guardian with legal custody.

18           **2. General rule.** A person is eligible to attend schools in the school administrative  
19 unit where the person's parent resides, where the person resides upon reaching ~~the age of~~  
20 18 years of age or upon becoming an emancipated minor. A federal installation ~~shall be~~  
21 is considered part of the school administrative unit in which it is located.

22           **3. Transfer of student by parent.** If a child has previously been enrolled in a  
23 primary or secondary school, a different primary or secondary school may not allow a  
24 parent to enroll the child unless the parent provides evidence either that the parent has the  
25 sole authority to make the enrollment decision or that all other persons having parental  
26 rights with respect to the child consent to the new enrollment. For the purposes of this  
27 subsection, "parent" does not include a guardian with legal custody.

28 A parent satisfies the requirements of this subsection if the parent submits to the school:

29           A. A written, notarized document or documents signed by all other persons having  
30 parental rights with respect to the child either consenting to the enrollment or  
31 granting the parent the authority to make the enrollment decision, including an  
32 executed power of attorney pursuant to Title 18-A, section 5-104;

33           B. A copy of a court order awarding the parent sole parental rights and  
34 responsibilities with respect to the child or allocating to the parent the right to make  
35 education decisions for the child or the right to enroll the child in school; or

36           C. Documentation demonstrating that there are no other living persons having  
37 parental rights with respect to the child.'

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**SUMMARY**

This amendment, which is the minority report of the Joint Standing Committee on Judiciary, replaces the bill, which is a concept draft. The amendment does the following.

1. It prohibits a parent from transferring a child from one primary or secondary school to a different primary or secondary school without the consent of all other persons having parental rights with respect to the child unless a court of competent jurisdiction has awarded the parent sole parental rights and responsibilities with respect to the child or has allocated to the parent the right to make education decisions for the child or the right to enroll the child in school. It requires the parent who seeks to transfer the child from one primary or secondary school to another primary or secondary school to provide written documentation demonstrating the parent's authority to enroll the child.

2. It authorizes a court that is determining parental rights and responsibilities to consider the fact that a parent who has not been granted the authority to make school enrollment decisions for a child has transferred the child to a different primary or secondary school without the consent of other persons having parental rights.