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**EDUCATION AND CULTURAL AFFAIRS**

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**STATE OF MAINE  
SENATE  
125TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 473, L.D. 1503, Bill, “An Act To Promote School Attendance and Increase School Achievement”

Amend the bill by inserting after the enacting clause and before section 1 the following:

**Sec. 1. 4 MRSA §152, sub-§4**, as corrected by RR 2001, c. 2, Pt. A, §2, is amended to read:

**4. Exclusive jurisdiction.** Original jurisdiction, not concurrent with that of the Superior Court, of mental health commitment hearings under Title 34-B, chapter 3, subchapter 4, mental retardation certification hearings under Title 34-B, chapter 5, ~~habitual~~ truancy actions under Title 20-A, chapters 119 and 211 under which equitable relief may be granted and small claims actions under Title 14, chapter 738;

Amend the bill by striking out all of sections 2 and 3 and inserting the following:

**Sec. 2. 20-A MRSA §1001, sub-§8-A** is enacted to read:

**8-A. Due process standards for expulsion proceedings.** Following a proper investigation of a student's behavior, a school board that intends to consider expulsion shall ensure proceedings include the following due process provisions.

A. Before a hearing on the expulsion, the superintendent shall:

(1) Provide written notice to the parents or legal guardian and the student of:

(a) The date, time and location of the hearing;

(b) A description of the incident or incidents that occasioned the expulsion hearing;

(c) The student's and parents' or legal guardian's right to review the school records prior to the hearing;

(d) A description of the hearing process; and

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- 1                   (e) An explanation of the consequences of an expulsion; and  
2                   (2) Invite the parents or legal guardian and student to a meeting prior to the  
3                   expulsion hearing to discuss the procedures of the hearing.

4                   B. At a hearing on the expulsion:

- 5                   (1) The student has the right to present and cross-examine witnesses;  
6                   (2) The student has the right to an attorney or other representation; and  
7                   (3) Witnesses must be sworn in and the chair of the hearing has the authority to  
8                   swear in witnesses.

9                   C. After a hearing on the expulsion, the school board shall provide written notice of  
10                  its decision to the parents or legal guardian and the student by certified mail. The  
11                  notice of the school board's written decision must include a reentry plan developed in  
12                  accordance with subsection 9-C.'

13                  Amend the bill in section 4 in subsection 9 in the last blocked paragraph by striking  
14                  out all of the first underlined sentence (page 2, line 22 in L.D.)

15                  Amend the bill in section 5 in subsection 9-C in the first paragraph by inserting at the  
16                  end the following: 'The reentry plan may require the student to take reasonable measures  
17                  determined by the superintendent to be helpful to establish the student's readiness to  
18                  return to school. Professional services must be provided at the expense of the student and  
19                  the student's parents or legal guardian.'

20                  Amend the bill in section 5 in subsection 9-C by inserting after paragraph F the  
21                  following:

22                  'G. The superintendent may, as appropriate, notify an individualized education  
23                  program team for a child with a disability in accordance with subsection 9-B.'

24                  Amend the bill in section 6 in subsection 15-A in paragraph C in the 2nd line (page 3,  
25                  line 31 in L.D.) by inserting after the following: "hand;" the following: 'and'

26                  Amend the bill in section 6 in subsection 15-A by striking out all of paragraph D  
27                  (page 3, lines 32 and 33 in L.D.)

28                  Amend the bill in section 6 in subsection 15-A by relettering the paragraphs to read  
29                  consecutively.

30                  Amend the bill in section 11 in subsection 1 in the first line (page 4, line 23 in L.D.)  
31                  by striking out the following: "20" and inserting the following: '18'

32                  Amend the bill in section 12 in subsection 2 in paragraph B by striking out all of  
33                  subparagraph (1) and inserting the following:

34                  '(1) Reached the age of 15 16 years or completed the 9th grade of age;'

35                  Amend the bill in section 12 in subsection 2 in paragraph B by striking out all of  
36                  subparagraph (3) (page 4, lines 36 and 37 in L.D.) and inserting the following:

37                  ~~'(3) Been approved by the principal for a suitable program of work and study or~~  
38                  ~~training;'~~

1 Amend the bill in section 12 in subsection 2 in paragraph B in subparagraph (3-A) in  
2 the 2nd line (page 5, line 2 in L.D.) by striking out the following: "and"

3 Amend the bill in section 12 in subsection 2 in paragraph B in subparagraph (4) in the  
4 2nd line (page 5, line 4 in L.D.) by striking out the following: "~~and~~" and inserting the  
5 following: 'and'

6 Amend the bill in section 12 in subsection 2 in paragraph B by striking out all of  
7 subparagraph (5) (page 5, lines 5 to 8 in L.D.) and inserting the following:

8 '(5) Agreed in writing with that person's parent and the school board or its  
9 designee to meet annually until that person's ~~17th~~ 18th birthday to review that  
10 person's educational needs. When the request to be excused from school has been  
11 denied pursuant to this paragraph, the student's parent may appeal to the  
12 commissioner;'

13 Amend the bill by striking out all of sections 14 and 15 and inserting the following:

14 '**Sec. 14. 20-A MRSA §5051-A**, as amended by PL 2007, c. 304, §§5 to 7, is  
15 further amended to read:

16 **§5051-A. Truancy**

17 **1. Truant.** A student is ~~habitually~~ truant if the student is subject to section 5001-A  
18 and:

19 B. Has completed grade 6 and has the equivalent of 10 full days of unexcused  
20 absences or 7 consecutive school days of unexcused absences during a school year; or

21 C. Is at least ~~7~~ 6 years of age and has not completed grade 6 and has the equivalent  
22 of 7 full days of unexcused absences or 5 consecutive school days of unexcused  
23 absences during a school year.

24 **2. Procedures; written notice; referral.** This subsection governs the procedure to  
25 be followed when a student is ~~habitually~~ truant.

26 ~~A. If a principal of a public school and the attendance coordinator determine that a~~  
27 ~~student is habitually truant, the principal shall inform the superintendent. The~~  
28 ~~superintendent or the superintendent's designee shall first try to correct the problem~~  
29 ~~informally. Informal attempts to correct the problem must include meeting with the~~  
30 ~~student and the student's parents to identify possible causes of the habitual truancy~~  
31 ~~and develop a plan to implement solutions to the problem. If an initial meeting does~~  
32 ~~not resolve the problem, the superintendent or superintendent's designee shall~~  
33 ~~implement interventions that best address the problem. The interventions may~~  
34 ~~include, but are not limited to:~~

35 ~~(1) Frequent communication between the teacher and the family;~~

36 ~~(2) Changes in the learning environment;~~

37 ~~(3) Mentoring;~~

38 ~~(4) Student counseling;~~

39 ~~(5) Tutoring, including peer tutoring;~~

- 1           ~~(6) Placement into different classes;~~
- 2           ~~(7) Evaluation for alternative education programs;~~
- 3           ~~(8) Attendance contracts;~~
- 4           ~~(9) Referral to other agencies for family services; and~~
- 5           ~~(10) Other interventions, including, but not limited to, referral to the school~~
- 6           ~~attendance coordinator, student assistance team or dropout prevention committee.~~

7           ~~Failure of the student or the student's parents to appear at scheduled meetings does~~  
8           ~~not preclude the school administrators from implementing a plan to address the~~  
9           ~~student's habitual truancy.~~

10          A-1. The principal, upon determining that a student is truant under subsection 1,  
11          shall notify the superintendent of the student's truancy within 5 school days of the last  
12          unexcused absence.

13          A-2. A student who is determined truant under subsection 1 must be referred to the  
14          school's student assistance team or the school personnel designated by the  
15          superintendent in accordance with the school administrative unit's intervention  
16          system under section 4710 to determine the cause of the truancy and assess the effect  
17          of the student's absences, as well as any future absences for the student. If it is  
18          determined that a negative effect exists, the student assistance team or the school  
19          personnel designated by the superintendent in accordance with the school  
20          administrative unit's intervention system under section 4710 shall develop an  
21          intervention plan to address the student's absences and the negative effect of these  
22          absences. An intervention plan may include, but is not limited to:

- 23           (1) Frequent communication between the teacher and the family;
- 24           (2) Changes in the learning environment;
- 25           (3) Mentoring;
- 26           (4) Student counseling;
- 27           (5) Tutoring, including peer tutoring;
- 28           (6) Placement into different classes;
- 29           (7) Consideration of multiple pathways as described under section 4703;
- 30           (8) Attendance contracts;
- 31           (9) Referral to other agencies for family services; and
- 32           (10) Other interventions, including, but not limited to, referral to the school
- 33           attendance coordinator, student assistance team or dropout prevention committee.

34          Failure of the student or the student's parents or guardian to appear at scheduled  
35          meetings does not preclude the school administrators from implementing an  
36          intervention plan to address the student's truancy.

1           ~~B. As part of correcting the problem informally, the superintendent or~~  
2           ~~superintendent's designee shall require the student and the student's parents to attend~~  
3           ~~one or more meetings with the student's teacher or other school personnel designated~~  
4           ~~by the superintendent. The purpose of the meetings is to reinforce the plan developed~~  
5           ~~in paragraph A or to develop an alternative plan. The meeting or meetings may~~  
6           ~~involve the presence of others, including, but not limited to, case managers,~~  
7           ~~therapeutic treatment providers and representatives of the Department of Human~~  
8           ~~Services, the Department of Behavioral and Developmental Services and the~~  
9           ~~Department of Corrections. The superintendent or superintendent's designee shall~~  
10          ~~arrange mutually convenient meeting times.~~

11          B-1. The superintendent shall develop procedures to refer a student who is truant to  
12          the student assistance team or the school personnel designated by the superintendent  
13          in accordance with the school administrative unit's intervention system under section  
14          4710 in accordance with this section. These procedures may include, but are not  
15          limited to:

16                 (1) Identifying school personnel responsible for notifying the student assistance  
17                 team or the school personnel designated by the superintendent in accordance with  
18                 the school administrative unit's intervention system when a student is truant;

19                 (2) A process for referral of a student who is truant, including identifying school  
20                 personnel responsible for inviting the parents or guardian and the student to  
21                 participate in any meeting that results from this referral;

22                 (3) A timeline for setting up a meeting and developing an intervention plan  
23                 under paragraph A-2;

24                 (4) A plan for dealing with future absences of a student who is truant; and

25                 (5) A plan for reporting of the results of the intervention plan developed pursuant  
26                 to paragraph A-2.

27          ~~C. If the superintendent or superintendent's designee intervention plan developed~~  
28          ~~pursuant to paragraph A-2 is unable to correct the truancy of the child, the~~  
29          ~~superintendent or superintendent's designee shall serve or cause to be served upon the~~  
30          ~~parent in hand or by registered mail a written notice that attendance of the child at~~  
31          ~~school is required by law. The notice must:~~

32                 (1) State that the student is required to attend school pursuant to section 5001-A;

33                 (2) Explain the parent's right to inspect the student's attendance records,  
34                 attendance coordinator's reports and principal's reports;

35                 (3) Explain that the failure to send the student to school and maintain the student  
36                 in regular attendance is a civil violation in accordance with section 5053-A and  
37                 ~~explain the possible penalties~~ will jeopardize the student's status in the grade that  
38                 the student is in;

39                 (4) State that the superintendent ~~or the superintendent's designee~~ may notify the  
40                 local law enforcement department of a violation of ~~this statute~~ section 5053-A

1 and the Department of Health and Human Services of a violation under  
2 subsection 1, paragraph C; and

3 (5) Outline the plan developed to address the student's ~~habitual~~ truancy and the  
4 steps that have been taken to implement that plan.

5 D. Prior to notifying the local law enforcement department under paragraph E, the  
6 superintendent ~~or superintendent's designee~~ shall schedule at least one meeting as  
7 required in paragraph ~~B~~ B-1 and may invite a local prosecutor.

8 E. If, after 3 school days after service of the notice referred to in paragraph C, the  
9 student remains truant and the parent and student refuse to attend the meeting  
10 scheduled according to paragraph D, the superintendent ~~or superintendent's designee~~  
11 shall report the facts of the unlawful absence to the local law enforcement  
12 department, which may proceed with an action to enforce section 5053-A against the  
13 parent unless the student is at once placed in an appropriate school or otherwise  
14 meets the requirements under section 5001-A.

15 F. When a student is determined ~~habitually~~ to be truant and in violation of section  
16 5001-A and the student assistance team or the school personnel designated by the  
17 superintendent in accordance with the school administrative unit's intervention  
18 system under section 4710 and the superintendent ~~or superintendent's designee~~ ~~has~~  
19 ~~have~~ made a good faith attempt to meet the requirements of paragraph ~~B~~ B-1, the  
20 superintendent ~~or superintendent's designee~~ shall notify the school board and the local  
21 law enforcement department of the student's truancy. ~~After this notification, a local~~  
22 ~~law enforcement officer who sees the truant student may transport the truant student~~  
23 ~~to the appropriate school if the truant student:~~

24 (1) ~~Is off school grounds during school hours; and~~

25 (2) ~~Is not under the supervision of school personnel.~~

26 **3. Reports.** This subsection applies to reports of ~~habitual~~ truancy.

27 A. A superintendent shall submit an annual report to the commissioner before  
28 October 1st. The report must:

29 (1) Identify the number of ~~habitual~~ truants in the school administrative unit in the  
30 preceding school year;

31 (2) Describe the unit's efforts to deal with ~~habitual~~ truancy;

32 (3) Account for actions brought under this section including the number of  
33 truants reported to the student assistance team or the school personnel designated  
34 by the superintendent in accordance with the school administrative unit's  
35 intervention system under section 4710; and

36 (4) Include any other information on truancy requested by the commissioner.

37 B. The commissioner shall submit an annual report to the Governor and the  
38 Legislature before January 15th. The report must aggregate the information provided  
39 by superintendents under paragraph A and must evaluate the effect of state laws on  
40 the incidence of truancy.

1           **Sec. 15. 20-A MRSA §5052-A**, as amended by PL 2007, c. 143, §1, is further  
2 amended to read:

3           **§5052-A. Attendance coordinators**

4           The following provisions apply to attendance coordinators.

5           **1. Appointment.** The following provisions apply to the ~~election~~ appointment of  
6 attendance coordinators.

7           A. A ~~school board~~ superintendent shall ~~elect~~ appoint an attendance coordinator or  
8 coordinators.

9           B. Vacancies ~~shall~~ must be filled as they occur.

10          **2. Qualifications.** An attendance coordinator ~~shall~~ must be a professionally certified  
11 or registered person in the mental health, social welfare or educational system who is  
12 qualified to carry out the duties in accordance with rules to be established by the State  
13 Board of Education.

14          **3. Duties.** The duties of an attendance coordinator include, but are not limited to, the  
15 following:

16          A. ~~When notified by a principal that a student's attendance is irregular, interviewing~~  
17 ~~the student and the parent or parents or guardian or guardians~~ Interviewing a student  
18 whose attendance is irregular and meeting with the student and the parents or  
19 guardian to determine the cause of the irregular attendance and ~~file~~ filing a written  
20 report with the principal;

21          B. Filing an annual report with the superintendent summarizing school year  
22 activities, findings and recommendations regarding truants;

23          C. Serving as a member of the dropout prevention committee in accordance with  
24 section 5103; and

25          D. Serving as the liaison between the school and the local law enforcement agency in  
26 matters pertaining to student absenteeism under ~~sections~~ section 5001-A ~~and 5051-A~~.

27          **4. Department assistance.** The department shall provide technical assistance to  
28 school attendance coordinators for carrying out these duties, through the Office of  
29 Truancy, Dropout Prevention and Alternative Education.'

30          Amend the bill in section 18 in subsection 4 in the 3rd line (page 10, line 33 in L.D.)  
31 by striking out the following: ",excused or otherwise."

32          Amend the bill by inserting after section 19 the following:

33          '**Sec. 20. 20-A MRSA §5103, sub-§5, ¶A**, as amended by PL 2007, c. 667, §7, is  
34 further amended to read:

35          A. The dropout prevention committee shall:

36               (1) Study the problem of dropouts and ~~habitual~~ truancy and the need for  
37 alternative education programs, kindergarten to grade 12;

38               (2) Make recommendations for addressing the problems; and

1 (3) Submit a plan of action to the school board, in accordance with section 4502,  
2 subsection 5, paragraph L-1.'

3 Amend the bill by striking out all of sections 21 to 25.

4 Amend the bill by striking out all of section 29.

5 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
6 section number to read consecutively.

7 **SUMMARY**

8 This amendment makes the following changes to the bill.

9 1. It strikes the definition of "response to intervention team" and all uses of the term  
10 from the bill and replaces it with references to a student assistance team or the school  
11 personnel designated by the superintendent in accordance with the system of intervention  
12 established by the school administrative unit in accordance with the Maine Revised  
13 Statutes, Title 20-A, section 4710.

14 2. It amends the due process standards proposed for school expulsion proceedings by  
15 removing the provisions pertaining to a student's right to appeal the decision of the school  
16 board to the Superior Court within 30 days.

17 3. It amends the provision that requires a reentry plan to be developed for a student  
18 who has been expelled by a school board by providing that:

19 A. The reentry plan may require the student to take reasonable measures determined  
20 by the superintendent to be helpful to establish the student's readiness to return to  
21 school;

22 B. The expelled student's parents or guardian are responsible for the cost of any  
23 professional services necessary to establish the student's readiness to return to school  
24 under the reentry plan; and

25 C. For a child with a disability who is expelled by a school board, the superintendent  
26 may, as necessary, provide the reentry plan to the student's individualized education  
27 program team.

28 4. It strikes the provision that requires a school board to use suspensions and  
29 expulsions only as a last resort when taking disciplinary action against a student who has  
30 violated the school administrative unit's student code of conduct.

31 5. It amends the changes to the compulsory school age statutes by reducing the age  
32 threshold under which a child who has not attained high school graduation or equivalency  
33 is expected to attend secondary school from 20 to 18 years of age. The amendment also  
34 makes technical changes to clarify the exceptions to the compulsory school age  
35 requirements.

36 6. It strikes the proposed changes to the truancy laws that would have counted  
37 excused absences, as well as unexcused absences, towards the number of days of  
38 absences that would determine when a student is truant.



