

# MAINE STATE LEGISLATURE

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**Legislative Record**  
**House of Representatives**  
**One Hundred and Twenty-First Legislature**  
**State of Maine**

**Volume II**

**First Regular Session**

May 27, 2003 – June 14, 2003

**First Special Session**

August 21, 2003 – August 23, 2003

**Second Regular Session**

January 7, 2004 - January 30, 2004

**Second Special Session**

February 3, 2004 - April 7, 2004

Pages 777-1562

finished as well. She said, "I don't know who I am most embarrassed for today, you, me, her?" We both felt that that day.

I listened to the arguments two years ago and I heard arguments that if we don't have any type of screening, then pedophiles are going to flock here from elsewhere. That is why this compromise is before you. If someone has had problems in other states and they apply for certification in the State of Maine, it is just like an initial certification. They have to do the fingerprints and the background check. Someone through the university system deciding to become a teacher, they know that as a condition of certification up front, the fingerprinting and the background check is part of that. In almost every other profession we have heard today, it was with knowledge and at entry or a new applicant, not after you had been at the desk or before the bar or working in daycare 10 or 15 years after the fact.

I think this is a good compromise that has been brought to us. It helps protect our children. It recognizes that we made a mistake.

One other thing that hasn't been discussed here today is that under the current law you have a conditional P on your chest. Once you have gone through the fingerprinting and you have gone through the background check, five years later you have to go through it again and five years later again. It is not only the distress the first time through, but every five year segment that you are up for recertification you have to submit to a background check. You are basically on probation. This new hires repeals that aspect of it as well. I would ask the members of this chamber to come together like your colleagues did in the previous Legislature and send a very positive message in terms of our teaching profession and the men and women who work in our schools.

The SPEAKER: The Chair recognizes the Representative from Holden, Representative Ledwin.

Representative LEDWIN: Mr. Speaker, Ladies and Gentlemen of the House. I would just like to remark on a few things that have been said. The first thing is it has been insinuated because I am on the minority side of this report that I believe that Maine teachers are criminals. I do not believe that Maine teachers are criminals. I have the utmost respect for Maine teachers and teachers in any other part of this country. I am a teacher. I am very proud to be a teacher and I am very upset about that insinuation.

Two, this is not a teacher's bill. It is a school personnel bill. We need to qualify that. This is not just about teachers. It is about school personnel.

Three, the reason we don't have numbers or anything is because in the original statute there is confidentiality. We have tried to have that changed and it just hasn't happened, as we all know.

Four, fingerprinting is not unconstitutional. The Maine Attorney General has researched the constitutionality of the fingerprinting of school personnel and he determined that the constitutional precedent clearly permits preventative measures like fingerprinting and background checks as a condition of licensure. Fingerprinting does not violate the employers or the applicant's right to do process, privacy or protection from unlawful search and seizure. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 179

YEA - Adams, Annis, Barstow, Bennett, Berry, Bierman, Blanchette, Bliss, Bowen, Breault, Brown R, Canavan, Carr, Churchill J, Clark, Courtney, Craven, Cressey, Cummings, Davis,

Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Hatch, Hotham, Hutton, Jackson, Jennings, Joy, Kaelin, Kane, Koffman, Laverriere-Boucher, Makas, Marley, McCormick, McGlocklin, McGowan, McLaughlin, McNeil, Mills J, Murphy, Norton, O'Neil, Paradis, Patrick, Percy, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Rines, Sampson, Saviello, Sherman, Simpson, Smith W, Snowe-Mello, Sullivan, Thomas, Trahan, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Austin, Berube, Bowles, Brannigan, Bull, Bunker, Campbell, Churchill E, Clough, Collins, Curley, Dudley, Dunlap, Duprey B, Fletcher, Glynn, Greeley, Heidrich, Honey, Jacobsen, Jodrey, Landry, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Mailhot, McKee, Millett, Mills S, Moody, Muse, Norbert, Nutting, O'Brien J, Perry A, Richardson M, Rogers, Rosen, Shields, Smith N, Stone, Sukeforth, Suslovic, Sykes, Thompson, Tobin D, Tobin J, Twomey, Usher, Vaughan, Young.

ABSENT - Andrews, Ash, Browne W, Bruno, Bryant-Deschenes, Cowger, Crosthwaite, Daigle, Dugay, Goodwin, Grose, Ketterer, Maietta, Marraché, McKenney, Moore, O'Brien L, Peavey-Haskell, Pellon, Perry J, Tardy, Treadwell.

Yes, 75; No, 54; Absent, 22; Excused, 0.

75 having voted in the affirmative and 54 voted in the negative, with 22 being absent, and accordingly the Majority Ought to Pass as Amended Report was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "A" (H-520) was READ by the Clerk and ADOPTED. The Bill was assigned for SECOND READING Wednesday, May 28, 2003.

The following item was taken up out of order by unanimous consent:

#### UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (8) Ought Not to Pass - Minority (5) Ought to Pass as Amended by Committee Amendment "A" (H-481) - Committee on EDUCATION AND CULTURAL AFFAIRS on Bill "An Act To Repeal the Fingerprinting Requirement for Teachers and School Employees" (H.P. 483) (L.D. 653)

TABLED - May 21, 2003 (Till Later Today) by Representative CUMMINGS of Portland.

PENDING - Motion of same Representative to ACCEPT the Majority OUGHT NOT TO PASS Report.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Davis.

Representative DAVIS: Mr. Speaker, Ladies and Gentlemen of the House. I didn't realize this was coming up this evening. I probably should have. This is my bill. I thought that the abolition of it would be the best thing. I still do. However, I do realize that schools may be more trouble than when I first started teaching. If I had my wish, I would make public schools more disciplined, as they used to be. I don't know how to do that for 2003. That is what I would do. This is my bill and I urge you to pass it. I will understand if you don't. This originally was in the 119th and it passed the House. We were going to abolish fingerprinting and the Governor vetoed it. Vote your conscience. Thank you.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Cummings.

Representative CUMMINGS: Mr. Speaker, Ladies and Gentlemen of the House. The bill, "An Act To Repeal the Fingerprinting Requirement for Teachers and School Employees"

received a majority Ought Not to Pass. I am one of those who do not believe that the full repeal is a wise choice. I strongly supported new hires. I thank people for the previous vote.

In this issue, however, I do think there are people unknown to the profession. Representative Dunlap has asked a very important question. What is the issue with freedom when you still argue that you can screen new hires? My response to that is very simple, the tree of liberty is, in fact nurtured by the soil of freedom of choice. You have the choice to openly and knowingly enter a profession, then you will have the option, you will be fingerprinted. To me, that is a world of difference. It is a constitutional difference between those who have proven their integrity and are not assumed to be guilty. In this case, I would not support and the majority of the committee did not support the full repeal under the assumption that some may, in fact, unproven and enter the teaching profession for the wrong reasons.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Twomey.

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. I cosponsored this legislation because in the 119th, I totally believed that we should repeal fingerprinting because it was cost effective, the numbers were not there. I did my homework. It was less than 1 percent. Pedophiles were parents, aunts and uncles or neighbors. It was not teachers. I have four grandchildren and two are in the school system. I really researched this before I took a stand on this. It was a terrible message and a terrible thing we did to single out teachers when, in fact, after school they go to Sunday School and we know what has happened since then. It was a terrible message to send to teachers. It is still a terrible message. We can't protect everyone all the time. I still believe this is a good bill. I did not vote for the last bill because I agreed with Representative McKee that if you believe that this is unconstitutional, which I do, I understand we have the Attorney General's decision, I still want to believe in America. You are innocent until you are proven guilty. I believe this goes against everything we believe in. I still will be supporting that thought. Thank you.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. I appreciate the comments of my good friend from Portland, Representative Cummings, especially in regards to my previous question about the tree of liberty. However, I would dare to remind the member that the actual quote went something along the lines of, the tree of liberty is occasionally nurtured with the blood of martyrs. I guess my question before the body is, which ones, the martyrs who happen to consider themselves martyrs with the sensitivities of what they consider their unalienable freedoms or those martyrs who could be the lives of broken children. I would urge you to accept the Ought Not to Pass report.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Davis.

Representative **DAVIS**: Mr. Speaker, Ladies and Gentlemen of the House. The martyrs, to answer Representative Dunlap's question are the 167 teachers, idealists, who quite their jobs. I met many of them and I thought they were very good teachers. Let's go to supper. I ask for a roll call.

Representative **DAVIS** of Falmouth **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought

Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 180**

**YEA** - Austin, Barstow, Berry, Berube, Bowen, Bowles, Brannigan, Breault, Brown R, Bull, Bunker, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cummings, Curley, Dudley, Dunlap, Duplessie, Duprey B, Earle, Faircloth, Fischer, Fletcher, Gerzofsky, Glynn, Greeley, Hatch, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Kaelin, Kane, Landry, Laverriere-Boucher, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Mailhot, McGlocklin, McKee, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Murphy, Muse, Norbert, Nutting, O'Brien J, O'Neil, Perry A, Pineau, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Sampson, Saviello, Sherman, Shields, Simpson, Smith N, Stone, Sukeforth, Suslovic, Sykes, Tobin D, Treadwell, Usher, Vaughan, Wheeler, Wotton, Young, Mr. Speaker.

**NAY** - Adams, Annis, Bennett, Bierman, Blanchette, Bliss, Campbell, Canavan, Clark, Craven, Cressey, Davis, Duprey G, Eder, Finch, Gagne-Friel, Hutton, Jackson, Joy, Koffman, Makas, Marley, McCormick, McGowan, Norton, Paradis, Patrick, Percy, Pingree, Piotti, Rector, Smith W, Snowe-Mello, Thomas, Thompson, Trahan, Twomey, Walcott, Watson, Woodbury.

**ABSENT** - Andrews, Ash, Browne W, Bruno, Bryant-Deschenes, Cowger, Crosthwaite, Daigle, Dugay, Goodwin, Grose, Jennings, Ketterer, Maietta, Marraché, McKenney, Moore, O'Brien L, Peavey-Haskell, Pellon, Perry J, Sullivan, Tardy, Tobin J.

Yes, 87; No, 40; Absent, 24; Excused, 0.

87 having voted in the affirmative and 40 voted in the negative, with 24 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

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The following items were taken up out of order by unanimous consent:

**REPORTS OF COMMITTEE**

**Divided Report**

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act To Provide an Exception to the Laws Governing Fingerprinting of Educational Personnel" (EMERGENCY)

(H.P. 924) (L.D. 1250)

Signed:

Senators:

DOUGLASS of Androscoggin

BRENNAN of Cumberland

MITCHELL of Penobscot

Representatives:

CUMMINGS of Portland

GAGNE-FRIEL of Buckfield

NORTON of Bangor

THOMAS of Orono

FINCH of Fairfield

FISCHER of Presque Isle

MURPHY of Kennebunk

ANDREWS of York

LEDWIN of Holden

Minority Report of the same Committee reporting **Ought to Pass** on same Bill.