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Legislative Document

No. 1401

S.P. 479

In Senate, April 11, 2017

An Act To Allow Nonviolent Felons To Own Firearms at the Court's Discretion

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator JACKSON of Aroostook.
Cosponsored by Representative MARTIN of Eagle Lake and
Senators: DIAMOND of Cumberland, MASON of Androscoggin, Representatives:
GROHMAN of Biddeford, HANINGTON of Lincoln.

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

2 **Sec. 1. 15 MRSA §393, sub-§1**, as amended by PL 2015, c. 470, §1, is further
3 amended to read:

4 **1. Possession prohibited.** ~~A~~ Except as provided in this subsection, a person may not
5 own, possess or have under that person's control a firearm, unless that person has
6 obtained a permit under this section, if that person:

7 A-1. Has been convicted of committing or found not criminally responsible by
8 reason of insanity of committing:

9 (1) A crime in this State that is punishable by imprisonment for a term of one
10 year or more;

11 (2) A crime under the laws of the United States that is punishable by
12 imprisonment for a term exceeding one year;

13 (3) A crime under the laws of any other state that, in accordance with the laws of
14 that jurisdiction, is punishable by a term of imprisonment exceeding one year.
15 This subparagraph does not include a crime under the laws of another state that is
16 classified by the laws of that state as a misdemeanor and is punishable by a term
17 of imprisonment of 2 years or less;

18 (4) A crime under the laws of any other state that, in accordance with the laws of
19 that jurisdiction, does not come within subparagraph (3) but is elementally
20 substantially similar to a crime in this State that is punishable by a term of
21 imprisonment for one year or more; or

22 (5) A crime under the laws of the United States, this State or any other state or
23 the Passamaquoddy Tribe or Penobscot Nation in a proceeding in which the
24 prosecuting authority was required to plead and prove that the person committed
25 the crime with the use of:

26 (a) A firearm against a person; or

27 (b) Any other dangerous weapon.

28 Violation of this paragraph is a Class C crime;

29 C. Has been adjudicated in this State or under the laws of the United States or any
30 other state to have engaged in conduct as a juvenile that, if committed by an adult,
31 would have been a disqualifying conviction:

32 (1) Under paragraph A-1, subparagraphs (1) to (4) and bodily injury to another
33 person was threatened or resulted; or

34 (3) Under paragraph A-1, subparagraph (5).

35 Violation of this paragraph is a Class C crime;

36 D. Is subject to an order of a court of the United States or a state, territory,
37 commonwealth or tribe that restrains that person from harassing, stalking or
38 threatening an intimate partner, as defined in 18 United States Code, Section 921(a),
39 of that person or a child of the intimate partner of that person, or from engaging in

1 other conduct that would place the intimate partner in reasonable fear of bodily injury
2 to the intimate partner or the child, except that this paragraph applies only to a court
3 order that was issued after a hearing for which that person received actual notice and
4 at which that person had the opportunity to participate and that:

5 (1) Includes a finding that the person represents a credible threat to the physical
6 safety of an intimate partner or a child; or

7 (2) By its terms, explicitly prohibits the use, attempted use or threatened use of
8 physical force against an intimate partner or a child that would reasonably be
9 expected to cause bodily injury.

10 Violation of this paragraph is a Class D crime;

11 E. Has been:

12 (1) Committed involuntarily to a hospital pursuant to an order of the District
13 Court under Title 34-B, section 3864 because the person was found to present a
14 likelihood of serious harm, as defined under Title 34-B, section 3801, subsection
15 4-A, paragraphs A to C;

16 (2) Found not criminally responsible by reason of insanity with respect to a
17 criminal charge; or

18 (3) Found not competent to stand trial with respect to a criminal charge.

19 Violation of this paragraph is a Class D crime;

20 F. Is a fugitive from justice. For the purposes of this paragraph, "fugitive from
21 justice" has the same meaning as in section 201, subsection 4. Violation of this
22 paragraph is a Class D crime;

23 G. Is an unlawful user of or is addicted to any controlled substance and as a result is
24 prohibited from possession of a firearm under 18 United States Code, Section
25 922(g)(3). Violation of this paragraph is a Class D crime;

26 H. Is an alien who is illegally or unlawfully in the United States or who was admitted
27 under a nonimmigrant visa and who is prohibited from possession of a firearm under
28 18 United States Code, Section 922(g)(5). Violation of this paragraph is a Class D
29 crime;

30 I. Has been discharged from the United States Armed Forces under dishonorable
31 conditions. Violation of this paragraph is a Class D crime; or

32 J. Has, having been a citizen of the United States, renounced that person's
33 citizenship. Violation of this paragraph is a Class D crime.

34 For the purposes of this subsection, a person is deemed to have been convicted upon the
35 acceptance of a plea of guilty or nolo contendere or a verdict or finding of guilty, or of
36 the equivalent in a juvenile case, by a court of competent jurisdiction.

37 For a person convicted of an offense under paragraph A-1, subparagraphs (1) to (4) in
38 which bodily injury to another person was not threatened and did not result, the court may
39 exempt the person from the prohibitions under this subsection if, upon sentencing or
40 petition by the person after sentencing with notice to the prosecuting office that

1 prosecuted the offense, the court determines that the person does not pose a threat to
2 public safety.

3 In the case of a deferred disposition, a person is deemed to have been convicted when the
4 court imposes the sentence. In the case of a deferred disposition for a person alleged to
5 have committed one or more of the offenses listed in section 1023, subsection 4,
6 paragraph B-1, that person may not possess a firearm during the deferred disposition
7 period. Violation of this paragraph is a Class C crime.

8 For the purposes of this subsection, a person is deemed to have been found not criminally
9 responsible by reason of insanity upon the acceptance of a plea of not criminally
10 responsible by reason of insanity or a verdict or finding of not criminally responsible by
11 reason of insanity, or of the equivalent in a juvenile case, by a court of competent
12 jurisdiction.

13 **SUMMARY**

14 This bill allows a court to exempt from the prohibition against owning a firearm a
15 person convicted of a Class A, B or C crime or a similar offense if bodily injury to
16 another person was not threatened and did not result and the court determines that the
17 person does not pose a threat to public safety.