

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48

STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1025, L.D. 1498, Bill, "An Act to Promote Gun Safety"

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

'An Act to Promote Child Safety'

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 17-A MRSA §554, sub-§1, as amended by PL 1975, c. 740, §71, is repealed and the following enacted in its place:

1. A person is guilty of endangering the welfare of a child if that person:

A. Knowingly permits a child under 16 years of age to enter or remain in a house of prostitution;

B. Knowingly sells, furnishes, gives away or offers to sell, furnish or give away to a child under 16 years of age any intoxicating liquor, cigarettes, tobacco, air rifles, firearms or ammunition; or

C. Otherwise recklessly endangers the health, safety or welfare of a child under 16 years of age by violating a duty of care or protection.

Sec. 2. 17-A MRSA §554, sub-§2, as amended by PL 1989, c. 445, §7, is further amended to read:

2. It is an affirmative defense to prosecution under this section that:

2 A. The defendant was the parent, foster parent, guardian or
other similar person responsible for the long-term general
4 care and welfare of a child under the 16 years of age ef-16
who furnished such the child cigarettes, tobacco or a
6 reasonable amount of intoxicating liquor in the actor's home
and presence; or

8 B. The defendant was a person acting pursuant to authority
expressly or impliedly granted in Title 22, or

10 C. The defendant was the parent, foster parent, guardian or
12 an adult approved by the parent, foster parent or guardian
14 who furnished a child under 16 years of age an air rifle, a
firearm or ammunition for use in a supervised manner.'

16

18

STATEMENT OF FACT

20 This amendment replaces the bill and clarifies the title to
more accurately reflect the purpose of the original bill and this
22 amendment, which is to protect children by preventing
unsupervised access to dangerous instruments such as firearms.

24

26 The amendment modifies the existing crime of endangering the
welfare of a child under 16 years of age. It reduces the
culpable mental state for putting the child's health, safety or
28 welfare in danger from "knowingly" to "recklessly." The Maine
Revised Statutes, Title 17-A, section 554, subsection 1 is
30 reformatted and the 2 specifically detailed activities currently
defined as endangering the welfare of a child are retained, with
32 the current higher culpable mental state of "knowingly." A
person's conduct, that is, an act or failure to act, is "knowing"
34 if the person is aware that it is practically certain that the
conduct will endanger the health, safety or welfare of a child
36 under 16 years of age whose health, safety or welfare the person
has a legal duty to protect. Any other activity in which the
38 child's health, safety or welfare in general is endangered is a
crime if it is done recklessly. A person's conduct, that is, an
40 act or failure to act, is "reckless" if the person consciously
disregards a risk that the person's conduct will endanger the
42 health, safety or welfare of a child under 16 years of age whose
health, safety or welfare the person has a legal duty to protect,
44 and the disregard of that risk, when viewed in light of the
nature and purpose of the person's conduct and the circumstances
46 known to that person, involves a gross deviation from the
standard of conduct that a reasonable and prudent person would
48 observe in the same situation.

COMMITTEE AMENDMENT "A" to H.P. 1025, L.D. 1498

2 The amendment adds to the current language outlining
4 affirmative defenses to the crime of endangering the welfare of a
6 child. An affirmative defense must be proved by the defendant by
8 a preponderance of the evidence to be effective. The affirmative
10 defense added is for furnishing an air rifle, firearm or
ammunition to a child when the person providing it is the child's
parent, foster parent, guardian or an adult approved by the
parent, foster parent or guardian and the air rifle, firearm or
ammunition was provided to be used in a supervised manner.

Reported by the Committee on Judiciary
Reproduced and distributed under the direction of the Clerk of the
House
2/12/92 (Filing No. H-925)