

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1858

H.P. 1297

House of Representatives, March 16, 1999

An Act to Amend the Possession of Firearms by Felons.

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

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative JABAR of Waterville.
Cosponsored by Representative SAVAGE of Buxton, Senator MILLS of Somerset,
Senator RUHLIN of Penobscot and
Representatives: LaVERDIERE of Wilton, MUSE of South Portland, WATSON of
Farmingdale.

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

2
4 Sec. 1. 15 MRSA §394 is enacted to read:

6 **§394. Restoration of right to possess firearm**

8 **1. Possession prohibited.** A person may not own, possess or
have under that person's control a firearm if that person is
convicted of a Class D or Class E crime of domestic violence.

10 **2. Domestic violence.** For purposes of this section, a
12 person is convicted of a crime of domestic violence if that
person is convicted of a crime in which:

14 **A. The person used or attempted to use physical force, or**
16 **threatened to use a deadly weapon; and**

18 **B. The person:**

20 **(1) Is a current or former spouse, parent or guardian**
22 **of the victim;**

24 **(2) Has a child in common with the victim;**

26 **(3) Is cohabiting with or has cohabited with the**
victim as a spouse, parent or guardian; or

28 **(4) Has a relationship to the victim similar to that**
30 **of a spouse, parent or guardian of the victim.**

32 **3. Applicable convictions.** A person may not be considered
to have been convicted of a Class D or Class E crime of domestic
violence for purposes of this section, unless:

34 **A. The person was represented by counsel in the case or**
36 **knowingly and intelligently waived the right to counsel in**
38 **the case; and**

40 **B. In the case of a prosecution for an offense described in**
this section for which a person was entitled to a jury trial
42 **in the jurisdiction in which the case was tried, either:**

44 **(1) The case was tried by a jury; or**

46 **(2) The person knowingly and intelligently waived the**
right to have the proceeding tried by a jury by
48 **entering a guilty plea or otherwise.**

50 **4. Rights restored.** The prohibition mandated under
subsection 1 terminates, and the person's rights to own, possess

2 or have under that person's control a firearm are restored
3 automatically upon the date that the person is finally discharged
4 from the sentence imposed as a result of the conviction.

6 SUMMARY

8 This bill prohibits the use, possession and control of a
9 firearm by a person convicted of certain Class D or Class E
10 crimes of domestic violence. The prohibition lasts until the
11 person has served the sentence resulting from the conviction.

12 A crime of domestic violence is defined as a crime in which:

13 1. The person used or attempted to use physical force, or
14 threatened to use a deadly weapon; and

15 2. The person and the victim have or had a family-like
16 relationship. Specifically, the person committing the crime must
17 be a current or former spouse, parent or guardian of the victim;
18 a person with whom the victim has a child; or a person who is
19 cohabiting with or has cohabited with the victim as a spouse,
20 parent or guardian or has a similar relationship.

21 In addition, the person who was convicted must have had the
22 assistance of counsel in the proceeding or must have knowingly
23 and intelligently waived the assistance of counsel. A final
24 requirement is that if the person had a right to a jury trial for
25 the domestic violence prosecution, then the case must have been
26 tried by a jury or the person must have knowingly and
27 intelligently waived the right to a trial by jury.