



120th MAINE LEGISLATURE

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Legislative Document

No. 1620

H.P. 1198

House of Representatives, March 13, 2001

An Act to Enact Mandatory Minimum Sentences for Firearms Offenses to Make the State Eligible for Firearms Sentencing Incentive Grants.

(EMERGENCY)

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

Millicent M. Mac Jailand

MILLICENT M. MacFARLAND, Clerk

Presented by Representative MUSE of South Portland. Cosponsored by Representative GLYNN of South Portland. **Emergency preamble. Whereas,** Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, violence and drugs take a toll on the citizens of the State, particularly women and children; and

8 Whereas, the use and possession of firearms greatly aggravate violent and drug-related criminal activity; and

Whereas, the Federal Government is offering states grants to 12 combat the use of firearms in violent and drug-related criminal activity; and

Whereas, these grants can not be received to help protect16the citizens of the State from criminal activity involving
firearms until the provisions of this legislation are18implemented; and

20 Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of 22 Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and 24 safety; now, therefore,

- 26 Be it enacted by the People of the State of Maine as follows:
- 28 Sec. 1. 17-A MRSA §2, sub-5-C is enacted to read:

 30 <u>5-C. Crime of violence. "Crime of violence" means a crime</u> that involves damage or destruction of property, offensive
32 physical contact or bodily injury or the threat of damage or destruction of property, offensive physical contact or bodily
34 injury.

- 36 Sec. 2. 17-A MRSA §§1058 and 1059 are enacted to read:
- 38 **§1058.** Criminal possession of firearm

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- 40 **1.** A person is guilty of criminal possession of a firearm if:
 - A. The person has been convicted of a crime of violence; and
 - B. Is in possession of a firearm.

2. Notwithstanding any other provision of this Title, a
48 person convicted under this section must be sentenced to a term of imprisonment of 5 years and may not be placed on probation.
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	3. Criminal possession of a firearm is a Class C crime.
2	<u>\$1059. Criminal use of firearm</u>
4	1. A person is guilty of criminal use of a firearm if:
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8	<u>A. The person uses a firearm while committing a crime of violence or a Class A, B or C crime under chapter 45; or</u>
10	<u>B. Carries a firearm while committing a crime of violence</u> or a Class A, B or C crime under chapter 45.
12 14	2. A violation under this section is an offense separate and distinct from the underlying crime being committed.
16	3. Notwithstanding any other provision of this Title, a person convicted under this section must be sentenced to a term
18	of imprisonment of 5 years and may not be placed on probation.
20	4. The mandatory minimum sentence must run consecutively to any sentence received for the underlying crime and the defendant
22	may not be placed on probation.
24	5. Criminal use of a firearm is a Class C crime.
26	Sec. 3. Public awareness and community support program. The Commissioner of Public Safety shall implement within 6 months of
28	the effective date of this Act a public awareness and community support program that builds support for and warns potential
30	violators of the provisions of the Maine Revised Statutes, Title 17-A, sections 1058 and 1059.
32	Emergency clause. In view of the emergency cited in the
34	preamble, this Act takes effect when approved.
36	SUMMARY
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40	This bill creates the offenses of criminal possession of a firearm and criminal use of a firearm, both of which are Class C crimes that carry mandatory minimum 5-year sentences. A person
42	is guilty of criminal possession of a firearm if the person has
44	been convicted of a crime of violence and is in possession of a firearm. A person is guilty of criminal use of a firearm if the
46	person uses or carries a firearm while committing a crime of violence or a Class A, B or C drug offense. This bill also
48	requires the Commissioner of Public Safety to implement a public awareness and community support program that builds support for and warns potential violators of the provisions of the new law.

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