

MAINE STATE LEGISLATURE

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M
H.S.

L.D. 1844

DATE: 4-2-04

(Filing No. H-853)

MAJORITY

CRIMINAL JUSTICE AND PUBLIC SAFETY

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STATE OF MAINE HOUSE OF REPRESENTATIVES 121ST LEGISLATURE SECOND SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 1370, L.D. 1844, Bill, "An Act To Amend the Maine Criminal Code and Motor Vehicle Laws as Recommended by the Criminal Law Advisory Commission"

Amend the bill in section 7 in that part designated "~~§1158-A.~~" by striking out all of subsection 2 and inserting in its place the following:

'2. Except as provided in subsection 3, a court may not order the forfeiture of a firearm otherwise qualifying for forfeiture under subsection 1 if another person can satisfy the court by a preponderance of the evidence and prior to the imposition of the defendant's sentence that:

A. Other than in the context of either subsection 1, paragraph A, subparagraph (1) or subsection 1, paragraph B relative to murder or any other unlawful homicide crime in which the firearm used is a handgun, the other person, at the time of the commission of the crime, had a right to possess the firearm to the exclusion of the defendant;

B. In the context of subsection 1, paragraph A, subparagraph (1), the other person, at the time of the commission of the crime, had a right to possess the firearm to the exclusion of the defendant; or

C. In the context of subsection 1, paragraph B relating to murder or any other unlawful homicide crime in which the firearm used is a handgun, the other person, at the time of

COMMITTEE AMENDMENT

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COMMITTEE AMENDMENT "A" to H.P. 1370, L.D. 1844

2 the commission of the crime, was the rightful owner from
3 whom the handgun had been stolen and the other person was
4 not a principal or accomplice in the commission of the crime.

6 3. If another person satisfies subsection 2, paragraph B, a
7 court shall nonetheless order the forfeiture of a firearm
8 otherwise qualifying for forfeiture under subsection 1, paragraph
9 A, subparagraph (1) if the State can satisfy the court by a
10 preponderance of the evidence both that the other person knew or
11 should have known that the defendant was a prohibited person
12 under Title 15, section 393 and that the other person
13 intentionally, knowingly or recklessly allowed the defendant to
14 possess or have under the defendant's control the firearm.'

16 Further amend the bill in section 7 in that part designated
17 "§1158-A." by renumbering the subsections to read consecutively.

18 Further amend the bill in section 8 in subsection 1-B in
19 paragraph A in subparagraph (1) in the 4th line (page 6, line 33
20 in L.D.) by striking out the following: "section" and inserting
21 in its place the following: 'sections 302 and'

24 **SUMMARY**

26 This amendment is the majority report of the Joint Standing
27 Committee on Criminal Justice and Public Safety. This amendment
28 clarifies the burden of proof in cases regarding forfeiture of
29 firearms and adds the Class D crime of criminal restraint to
30 crimes involving domestic violence for purposes of 2-year
sentences of probation.

FISCAL NOTE REQUIRED
(See attached)

**121st Maine Legislature
Office of Fiscal and Program Review**

LD 1844

**An Act To Amend the Maine Criminal Code and Motor Vehicle Laws as
Recommended by the Criminal Law Advisory Commission**



LR 2693(02)

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

Majority Report

Fiscal Note

Minor cost increase - General Fund

Correctional and Judicial Impact Statements:

Clarifies probation for certain Class D and E crimes