

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 1902

H.P. 1336

House of Representatives, May 9, 2007

**An Act To Bring Maine into Compliance with Federal Law  
Regarding Purchases of Firearms by Persons Found To Be a Danger  
to Themselves or Others**

(AFTER DEADLINE)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative FAIRCLOTH of Bangor.  
Cosponsored by Senator NUTTING of Androscoggin and  
Representatives: GERZOFKY of Brunswick, HANLEY of Gardiner, PATRICK of Rumford,  
Senator: McCORMICK of Kennebec.

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

2 **Sec. 1. 15 MRSA §393, sub-§1, ¶C**, as amended by PL 2001, c. 549, §2, is  
3 further amended to read:

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

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

9 (3) Under paragraph A-1, subparagraph (5); or

10 **Sec. 2. 15 MRSA §393, sub-§1, ¶D**, as enacted by PL 1997, c. 334, §2, is further  
11 amended to read:

12 D. Is subject to an order of a court of the United States or a state, territory,  
13 commonwealth or tribe that restrains that person from harassing, stalking or  
14 threatening an intimate partner, as defined in 18 United States Code, Section 921(a),  
15 of that person or a child of the intimate partner of that person, or from engaging in  
16 other conduct that would place the intimate partner in reasonable fear of bodily injury  
17 to the intimate partner or the child, except that this paragraph applies only to a court  
18 order that was issued after a hearing for which that person received actual notice and  
19 at which that person had the opportunity to participate and that:

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

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

25 **Sec. 3. 15 MRSA §393, sub-§1, ¶E** is enacted to read:

26 E. Has been adjudged by a court or determined by a licensed psychiatrist or licensed  
27 psychologist to be a danger to self or to others or has been involuntarily hospitalized  
28 pursuant to Title 34-B, section 3864.

29 **Sec. 4. 15 MRSA §393, sub-§2**, as amended by PL 2005, c. 419, §9 and affected  
30 by §12, is further amended to read:

31 **2. Application after 5 years.** A person subject to the provisions of subsection 1,  
32 except for subsection 1, paragraph E, may, after the expiration of 5 years from the date  
33 that the person is finally discharged from the sentences imposed as a result of the  
34 conviction or adjudication, apply to the Commissioner of Public Safety for a permit to  
35 carry a firearm or crossbow. That person may not be issued a permit to carry a concealed  
36 firearm pursuant to Title 25, chapter 252. A person subject to the provisions of  
37 subsection 1, paragraph E is subject to the requirements of subsection 2-A.

38 **Sec. 5. 15 MRSA §393, sub-§2-A** is enacted to read:

1        **2-A. Restoration of right of firearm possession by formerly dangerous person.**  
2        A person who has been prohibited from possessing a firearm because that person was  
3        adjudged by a court or determined by a licensed psychiatrist or licensed psychologist to  
4        be a danger to self or to others or who has been involuntarily hospitalized pursuant to  
5        Title 34-B, section 3864 may apply to the Commissioner of Public Safety for restoration  
6        of the right to possess a firearm. That person may not be issued a permit to carry a  
7        concealed firearm pursuant to Title 25, chapter 252.

8        In addition to the application content requirements of subsection 3, the person shall  
9        provide a certified order of a court or a notarized statement from a licensed psychiatrist or  
10       licensed psychologist attesting that the person is no longer a danger to self or others.

11       **Sec. 6. 15 MRSA §393, sub-§8**, as amended by PL 2005, c. 527, §5, is further  
12       amended to read:

13       **8. Penalty.** A violation of subsection 1, paragraph A-1 or C or E is a Class C crime.  
14       A violation of subsection 1, paragraph D is a Class D crime. A violation of subsection  
15       1-A by a person at least 18 years of age is a Class C crime.

16       **Sec. 7. 25 MRSA §1541, sub-§3, ¶C** is enacted to read:

17       C. The commanding officer shall provide to the Federal Bureau of Investigation any  
18       report from a court pursuant to Title 34-B, section 3864, subsection 12 or from a  
19       licensed psychiatrist or licensed psychologist pursuant to Title 34-B, section 1207,  
20       subsection 6.

21       **Sec. 8. 25 MRSA §2013** is enacted to read:

22       **§2013. Application for purchase of firearms**

23       **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
24       following terms have the following meanings.

25       A. "Firearm" has the same meaning as in Title 17-A, section 2, subsection 12-A.

26       B. "Firearm dealer" means a person who is licensed as a dealer under 18 United  
27       States Code, Section 923, or who is required to be licensed as a dealer under that  
28       section.

29       **2. Application; background check.** Prior to selling a firearm, a firearm dealer shall  
30       obtain from the purchaser a completed application, as developed pursuant to subsection 3,  
31       submit that application to the State Bureau of Identification and the Federal Bureau of  
32       Investigation for the completion of a background check and verify that the purchaser is  
33       eligible to purchase a firearm.

34       **3. Rules; form.** The State Bureau of Identification shall adopt routine technical  
35       rules, as defined in Title 5, chapter 375, subchapter 2-A, to implement the provisions of  
36       this section. The bureau shall develop an application and provide the application to  
37       firearm dealers. In developing the application, the bureau shall use the requirements of  
38       the application developed pursuant to Title 15, section 393, subsection 3.



1       A person who has been involuntarily committed to a state mental health facility or  
2 determined to be a danger to self or others may obtain a firearm only upon application to  
3 the Commissioner of Public Safety and must include with the application a certified court  
4 order or notarized statement of a licensed psychologist or psychiatrist that the person is  
5 no longer a danger to self or others.