

MAINE STATE LEGISLATURE

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INC
ROES

Date: 6/2/11 Minority

CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 874, L.D. 1176, Bill, "An Act To Enhance Reciprocity Agreements Regarding Permits To Carry Concealed Firearms"

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

'An Act To Replace the Good Moral Character Standard with No Evidence of Behavior Contrary to Public Safety in the Issuance of Concealed Firearms Permits'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 25 MRSA §2003, sub-§1, as amended by PL 2007, c. 194, §5, is further amended to read:

1. Criteria for issuing permit. The issuing authority shall, upon written application, issue a permit to carry concealed firearms to an applicant over whom it has issuing authority and who has demonstrated good moral character no evidence of behavior contrary to public safety and who meets the following requirements:

- A. Is 18 years of age or older;
- B. Is not disqualified to possess a firearm pursuant to Title 15, section 393, is not disqualified as a permit holder under that same section and is not disqualified to possess a firearm based on federal law as a result of a criminal conviction;
- D. Submits an application that contains the following:
 - (1) Full name;
 - (2) Full current address and addresses for the prior 5 years;
 - (3) The date and place of birth, height, weight, color of eyes, color of hair, sex and race;
 - (4) A record of previous issuances of, refusals to issue and revocations of a permit to carry concealed firearms or other concealed weapons by any issuing authority in the State or any other jurisdiction. The record of previous refusals

COMMITTEE AMENDMENT

1 alone does not constitute cause for refusal and the record of previous revocations
2 alone constitutes cause for refusal only as provided in section 2005; and

3 (5) Answers to the following questions:

4 (a) Are you less than 18 years of age?

5 (b) Is there a formal charging instrument now pending against you in this
6 State for a crime under the laws of this State that is punishable by
7 imprisonment for a term of one year or more?

8 (c) Is there a formal charging instrument now pending against you in any
9 federal court for a crime under the laws of the United States that is
10 punishable by imprisonment for a term exceeding one year?

11 (d) Is there a formal charging instrument now pending against you in another
12 state for a crime that, under the laws of that state, is punishable by a term of
13 imprisonment exceeding one year?

14 (e) If your answer to the question in division (d) is "yes," is that charged
15 crime classified under the laws of that state as a misdemeanor punishable by
16 a term of imprisonment of 2 years or less?

17 (f) Is there a formal charging instrument pending against you in another state
18 for a crime punishable in that state by a term of imprisonment of 2 years or
19 less and classified by that state as a misdemeanor, but that is substantially
20 similar to a crime that under the laws of this State is punishable by
21 imprisonment for a term of one year or more?

22 (g) Is there a formal charging instrument now pending against you under the
23 laws of the United States, this State or any other state or the Passamaquoddy
24 Tribe or Penobscot Nation in a proceeding in which the prosecuting authority
25 has pleaded that you committed the crime with the use of a firearm against a
26 person or with the use of a dangerous weapon as defined in Title 17-A,
27 section 2, subsection 9, paragraph A?

28 (h) Is there a formal charging instrument now pending against you in this or
29 any other jurisdiction for a juvenile offense that, if committed by an adult,
30 would be a crime described in division (b), (c), (d) or (f) and involves bodily
31 injury or threatened bodily injury against another person?

32 (i) Is there a formal charging instrument now pending against you in this or
33 any other jurisdiction for a juvenile offense that, if committed by an adult,
34 would be a crime described in division (g)?

35 (j) Is there a formal charging instrument now pending against you in this or
36 any other jurisdiction for a juvenile offense that, if committed by an adult,
37 would be a crime described in division (b), (c), (d) or (f), but does not
38 involve bodily injury or threatened bodily injury against another person?

- 1 (k) Have you ever been convicted of committing or found not criminally
2 responsible by reason of mental disease or defect of committing a crime
3 described in division (b), (c), (f) or (g)?
- 4 (l) Have you ever been convicted of committing or found not criminally
5 responsible by reason of mental disease or defect of committing a crime
6 described in division (d)?
- 7 (m) If your answer to the question in division (l) is "yes," was that crime
8 classified under the laws of that state as a misdemeanor punishable by a term
9 of imprisonment of 2 years or less?
- 10 (n) Have you ever been adjudicated as having committed a juvenile offense
11 described in division (h) or (i)?
- 12 (o) Have you ever been adjudicated as having committed a juvenile offense
13 described in division (j)?
- 14 (p) Are you currently subject to an order of a Maine court or an order of a
15 court of the United States or another state, territory, commonwealth or tribe
16 that restrains you from harassing, stalking or threatening your intimate
17 partner, as defined in 18 United States Code, Section 921(a), or a child of
18 your intimate partner, or from engaging in other conduct that would place
19 your intimate partner in reasonable fear of bodily injury to that intimate
20 partner or the child?
- 21 (q) Are you a fugitive from justice?
- 22 (r) Are you a drug abuser, drug addict or drug dependent person?
- 23 (s) Do you have a mental disorder that causes you to be potentially
24 dangerous to yourself or others?
- 25 (t) Have you been adjudicated to be an incapacitated person pursuant to Title
26 18-A, Article 5, Parts 3 and 4 and not had that designation removed by an
27 order under Title 18-A, section 5-307, subsection (b)?
- 28 (u) Have you been dishonorably discharged from the military forces within
29 the past 5 years?
- 30 (v) Are you an illegal alien?
- 31 (w) Have you been convicted in a Maine court of a violation of Title 17-A,
32 section 1057 within the past 5 years?
- 33 (x) Have you been adjudicated in a Maine court within the past 5 years as
34 having committed a juvenile offense involving conduct that, if committed by
35 an adult, would be a violation of Title 17-A, section 1057?
- 36 (y) To your knowledge, have you been the subject of an investigation by any
37 law enforcement agency within the past 5 years regarding the alleged abuse
38 by you of family or household members?

- 1 (z) Have you been convicted in any jurisdiction within the past 5 years of 3
2 or more crimes punishable by a term of imprisonment of less than one year or
3 of crimes classified under the laws of a state as a misdemeanor and
4 punishable by a term of imprisonment of 2 years or less?
- 5 (aa) Have you been adjudicated in any jurisdiction within the past 5 years to
6 have committed 3 or more juvenile offenses described in division (o)?
- 7 (bb) To your knowledge, have you engaged within the past 5 years in
8 reckless or negligent conduct that has been the subject of an investigation by
9 a governmental entity?
- 10 (cc) Have you been convicted in a Maine court within the past 5 years of any
11 Title 17-A, chapter 45 drug crime?
- 12 (dd) Have you been adjudicated in a Maine court within the past 5 years as
13 having committed a juvenile offense involving conduct that, if committed by
14 an adult, would have been a violation of Title 17-A, chapter 45?
- 15 (ee) Have you been adjudged in a Maine court to have committed the civil
16 violation of possession of a useable amount of marijuana, butyl nitrite or
17 isobutyl nitrite in violation of Title 22, section 2383 within the past 5 years?
- 18 (ff) Have you been adjudicated in a Maine court within the past 5 years as
19 having committed the juvenile crime defined in Title 15, section 3103,
20 subsection 1, paragraph B of possession of a useable amount of marijuana, as
21 provided in Title 22, section 2383?; and

22 E. Does the following:

- 23 (1) At the request of the issuing authority, takes whatever action is required by
24 law to allow the issuing authority to obtain from the Department of Health and
25 Human Services, limited to records of patient committals to Riverview
26 Psychiatric Center and Dorothea Dix Psychiatric Center, the courts, law
27 enforcement agencies and the military information relevant to the following:
- 28 (a) The ascertainment of whether the information supplied on the application
29 or any documents made a part of the application is true and correct;
- 30 (b) The ascertainment of whether each of the additional requirements of this
31 section has been met; and
- 32 (c) Section 2005;
- 33 (2) If a photograph is an integral part of the permit to carry concealed firearms
34 adopted by an issuing authority, submits to being photographed for that purpose;
- 35 (3) If it becomes necessary to resolve any questions as to identity, submits to
36 having fingerprints taken by the issuing authority;
- 37 (4) Submits an application fee along with the written application to the proper
38 issuing authority pursuant to the following schedule:

1 (a) Resident of a municipality or unorganized territory, \$35 for an original
2 application and \$20 for a renewal, except that a person who paid \$60 for a
3 concealed firearms permit or renewal during 1991 or 1992 is entitled to a
4 credit toward renewal fees in an amount equal to \$30 for a person who paid
5 \$60 for an original application and \$45 for a person who paid \$60 for a
6 permit renewal. The credit is valid until fully utilized; and

7 (b) Nonresident, \$60 for an original or renewal application, except that a
8 person who paid \$80 for a concealed firearms permit during 1991 or 1992 is
9 entitled to a \$20 credit toward permit renewal fees. The credit is valid until
10 fully utilized; and

11 (5) Demonstrates to the issuing authority a knowledge of handgun safety. The
12 applicant may fully satisfy this requirement by submitting to the issuing
13 authority, through documentation in accordance with this subparagraph, proof
14 that the applicant has within 5 years prior to the date of application completed a
15 course that included handgun safety offered by or under the supervision of a
16 federal, state, county or municipal law enforcement agency or a firearms
17 instructor certified by a private firearms association recognized as knowledgeable
18 in matters of firearms safety by the issuing authority or by the state in which the
19 course was taken. A course completion certificate or other document, or a
20 photocopy, is sufficient if it recites or otherwise demonstrates that the course
21 meets all of the requirements of this subparagraph.

22 As an alternative way of fully satisfying this requirement, an applicant may
23 personally demonstrate knowledge of handgun safety to an issuing authority, if
24 the issuing authority is willing to evaluate an applicant's personal demonstration
25 of such knowledge. The issuing authority is not required to offer this 2nd option.

26 The demonstration of knowledge of handgun safety to the issuing authority may
27 not be required of any applicant who holds a valid ~~State~~ state permit to carry a
28 concealed firearm as of April 15, 1990 or of any applicant who was or is in any
29 of the Armed Forces of the United States and has received at least basic firearms
30 training.

31 **Sec. 2. 25 MRSA §2003, sub-§2, ¶A-2**, as enacted by PL 2003, c. 341, §6, is
32 amended to read:

33 A-2. That the applicant understands that an affirmative answer to subsection 1,
34 paragraph D, subparagraph (5), division (p) is cause for refusal if the order of the
35 court meets the preconditions contained in Title 15, section 393, subsection 1,
36 paragraph D. If the order of the court does not meet the preconditions, the conduct
37 underlying the order may be used by the issuing authority, along with other
38 information, in judging ~~good moral character~~ evidence of behavior contrary to public
39 safety under subsection 4;

40 **Sec. 3. 25 MRSA §2003, sub-§2, ¶B-1**, as amended by PL 2003, c. 341, §8, is
41 further amended to read:

42 B-1. That the applicant understands that an affirmative answer to one or more of the
43 questions in subsection 1, paragraph D, subparagraph (5), divisions (b) to (j), (m), (y),

1 (z) or (aa) to (ff) is used by the issuing authority, along with other information, in
2 judging ~~good moral character~~ evidence of behavior contrary to public safety under
3 subsection 4; and

4 **Sec. 4. 25 MRSA §2003, sub-§4**, as amended by PL 1995, c. 694, Pt. D, §51 and
5 affected by Pt. E, §2, is further amended to read:

6 **4. Evidence of behavior contrary to public safety.** The issuing authority in
7 judging ~~good moral character~~ evidence of behavior contrary to public safety shall make
8 its determination in writing based solely upon information recorded by governmental
9 entities within 5 years of receipt of the application, including, but not limited to, the
10 following matters:

11 A. Information of record relative to incidents of abuse by the applicant of family or
12 household members, provided pursuant to Title 19-A, section 4012, subsection 1;

13 B. Information of record relative to 3 or more convictions of the applicant for crimes
14 punishable by less than one year imprisonment or one or more adjudications of the
15 applicant for juvenile offenses involving conduct that, if committed by an adult, is
16 punishable by less than one year imprisonment;

17 C. Information of record indicating that the applicant has engaged in reckless or
18 negligent conduct; or

19 D. Information of record indicating that the applicant has been convicted of or
20 adjudicated as having committed a violation of Title 17-A, chapter 45 or Title 22,
21 section 2383, or adjudicated as having committed a juvenile crime that is a violation
22 of Title 22, section 2383 or a juvenile crime that would be defined as a criminal
23 violation under Title 17-A, chapter 45 if committed by an adult.

24 **Sec. 5. 25 MRSA §2003, sub-§5**, as amended by PL 1995, c. 694, Pt. D, §52 and
25 affected by Pt. E, §2 and amended by PL 2005, c. 236, §§3 and 4, is further amended to
26 read:

27 **5. Access to confidential records.** Notwithstanding that certain records retained by
28 governmental entities are by law made confidential, the records pertaining to patient
29 committals to Riverview Psychiatric Center and Dorothea Dix Psychiatric Center, and
30 records compiled pursuant to Title 19-A, section 4012, subsection 1, that are necessary to
31 the issuing authority's determination of ~~whether the applicant's good moral character~~
32 applicant shows any evidence of behavior contrary to public safety and compliance
33 complies with the additional requirements of this section and of section 2005 must, at the
34 request of the issuing authority, be made available for inspection by and dissemination to
35 the issuing authority.

36 **Sec. 6. 25 MRSA §2006, first ¶**, as enacted by PL 1985, c. 478, §2, is amended
37 to read:

38 Notwithstanding Title 1, sections 401 to 410, all applications for a permit to carry
39 concealed firearms and documents made a part of the application, refusals and any
40 information of record collected by the issuing agency during the process of ascertaining
41 whether an applicant ~~is of good moral character~~ does not show evidence of behavior
42 contrary to public safety and meets the additional requirements of sections 2003 and
43 2005, are confidential and may not be made available for public inspection or copying.

1 The applicant may waive this confidentiality by written notice to the issuing authority.
2 All proceedings relating to the issuance, refusal or revocation of a permit to carry
3 concealed firearms are not public proceedings under Title 1, chapter 13, unless otherwise
4 requested by the applicant.'

5 **SUMMARY**

6 This amendment is the minority report of the committee. It removes the requirement
7 that an applicant for a concealed firearms permit demonstrate that the applicant is of good
8 moral character and replaces it with the requirement that the applicant show no evidence
9 of behavior contrary to public safety.