

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1561

H.P. 1006

House of Representatives, April 11, 2023

**An Act to Restore Firearm Rights and Hunting Privileges to Persons
Previously Convicted of Certain Nonviolent Felony Crimes**

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

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative PERKINS of Dover-Foxcroft.
Cosponsored by Senator HICKMAN of Kennebec and
Representatives: ANDREWS of Paris, ARDELL of Monticello, BOYER of Poland,
FAULKINGHAM of Winter Harbor, HYMES of Waldo, SOBOLESKI of Phillips, WHITE of
Guilford, Senator: HARRINGTON of York.

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

2 **Sec. 1. 12 MRSA §11103**, as amended by PL 2021, c. 54, §6, is further amended to
3 read:

4 **§11103. Prohibition for convicted felons, domestic violence offenders and certain**
5 **nonviolent juvenile offenders**

6 A person who is prohibited from possessing a firearm under Title 15, section 393,
7 subsection 1, 1-A or 1-B is ineligible to obtain or possess any license or permit issued by
8 the department that authorizes a person to hunt with a firearm unless that person possesses
9 a valid permit in accordance with Title 15, section 393, subsection 2 or has had their civil
10 rights relating to firearm possession restored under Title 15, section 394.

11 **Sec. 2. 15 MRSA §393, sub-§1**, as amended by PL 2021, c. 608, Pt. B, §§1 to 5, is
12 further amended to read:

13 **1. Possession prohibited.** A Except as provided in section 394, a person may not
14 own, possess or have under that person's control a firearm, unless that person has obtained
15 a permit under this section, if that person:

16 A-1. Has been convicted of committing or found not criminally responsible by reason
17 of insanity of committing:

18 (1) A crime in this State that is punishable by imprisonment for a term of one year
19 or more;

20 (2) A crime under the laws of the United States that is punishable by imprisonment
21 for a term exceeding one year;

22 (3) A crime under the laws of another jurisdiction that, in accordance with the laws
23 of that jurisdiction, is punishable by a term of imprisonment exceeding one year.
24 This subparagraph does not include a crime under the laws of another jurisdiction
25 that is classified by the laws of that jurisdiction as a misdemeanor and is punishable
26 by a term of imprisonment of 2 years or less;

27 (4) A crime under the laws of another jurisdiction that, in accordance with the laws
28 of that jurisdiction, does not come within subparagraph (3) but is elementally
29 substantially similar to a crime in this State that is punishable by a term of
30 imprisonment of one year or more; or

31 (5) A crime under the laws of this State or another jurisdiction in a proceeding in
32 which the prosecuting authority was required to plead and prove that the person
33 committed the crime with the use of:

34 (a) A firearm against a person; or

35 (b) Any other dangerous weapon.

36 Violation of this paragraph is a Class C crime;

37 C. Has been adjudicated in this State or under the laws of another jurisdiction to have
38 engaged in conduct as a juvenile that, if committed by an adult, would have been a
39 disqualifying conviction:

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

1 (3) Under paragraph A-1, subparagraph (5).

2 Violation of this paragraph is a Class C crime;

3 D. Is subject to an order of a court of this State or another jurisdiction that restrains
4 that person from harassing, stalking or threatening an intimate partner, as defined in 18
5 United States Code, Section 921(a), of that person or a child of the intimate partner of
6 that person, or from engaging in other conduct that would place the intimate partner in
7 reasonable fear of bodily injury to the intimate partner or the child, except that this
8 paragraph applies only to a court order that was issued after a hearing for which that
9 person received actual notice and at which that person had the opportunity to participate
10 and that:

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

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

16 Violation of this paragraph is a Class D crime;

17 E. Has been:

18 (1) Committed involuntarily to a hospital pursuant to an order of the District Court
19 under Title 34-B, section 3864 because the person was found to present a likelihood
20 of serious harm, as defined under Title 34-B, section 3801, subsection 4-A,
21 paragraphs A to C;

22 (2) Found not criminally responsible by reason of insanity with respect to a
23 criminal charge; or

24 (3) Found not competent to stand trial with respect to a criminal charge.

25 Violation of this paragraph is a Class D crime;

26 E-1. Is currently a restricted person under Title 34-B, section 3862-A, subsection 2 or
27 subsection 6, paragraph D except that the prohibition applies to possession and control,
28 and not ownership. Violation of this paragraph is a Class D crime;

29 E-2. Has been ordered to participate in a progressive treatment program pursuant to
30 Title 34-B, section 3873-A and, as part of that order, directed not to possess a
31 dangerous weapon pursuant to Title 34-B, section 3873-A, subsection 7-A for the
32 duration of the treatment program, except that the prohibition applies to possession and
33 control, and not ownership. Violation of this paragraph is a Class D crime;

34 F. Is a fugitive from justice. For the purposes of this paragraph, "fugitive from justice"
35 has the same meaning as in section 201, subsection 4. Violation of this paragraph is a
36 Class D crime;

37 G. Is an unlawful user of or is addicted to any controlled substance and as a result is
38 prohibited from possession of a firearm under 18 United States Code, Section
39 922(g)(3). Violation of this paragraph is a Class D crime;

40 H. Is an alien who is illegally or unlawfully in the United States or who was admitted
41 under a nonimmigrant visa and who is prohibited from possession of a firearm under

- 1 18 United States Code, Section 922(g)(5). Violation of this paragraph is a Class D
2 crime;
- 3 I. Has been discharged from the United States Armed Forces under dishonorable
4 conditions. Violation of this paragraph is a Class D crime; or
- 5 J. Has, having been a citizen of the United States, renounced that person's citizenship.
6 Violation of this paragraph is a Class D crime.

7 For the purposes of this subsection, a person is deemed to have been convicted upon the
8 acceptance of a plea of guilty or nolo contendere or a verdict or finding of guilty, or of the
9 equivalent in a juvenile case, by a court of competent jurisdiction.

10 In the case of a deferred disposition, a person is deemed to have been convicted when the
11 court imposes the sentence. In the case of a deferred disposition for a person alleged to
12 have committed one or more of the offenses listed in section 1023, subsection 4, paragraph
13 B-1, that person may not possess a firearm during the deferred disposition period. Violation
14 of this paragraph is a Class C crime.

15 For the purposes of this subsection, a person is deemed to have been found not criminally
16 responsible by reason of insanity upon the acceptance of a plea of not criminally
17 responsible by reason of insanity or a verdict or finding of not criminally responsible by
18 reason of insanity, or of the equivalent in a juvenile case, by a court of competent
19 jurisdiction.

20 **Sec. 3. 15 MRSA §394** is enacted to read:

21 **§394. Restoration of civil rights relating to firearm possession**

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

24 A. "Another jurisdiction" has the same meaning as in Title 17-A, section 2, subsection
25 3-B.

26 B. "Department" means the Department of Public Safety.

27 C. "Felony crime" means:

28 (1) A crime in this State that is punishable by imprisonment for a term of one year
29 or more;

30 (2) A crime under the laws of the United States that is punishable by imprisonment
31 for a term exceeding one year;

32 (3) A crime under the laws of another jurisdiction that, in accordance with the laws
33 of that jurisdiction, is punishable by a term of imprisonment exceeding one year,
34 not including a crime under the laws of another jurisdiction that is classified by the
35 laws of that jurisdiction as a misdemeanor and is punishable by a term of
36 imprisonment of 2 years or less; or

37 (4) A crime under the laws of another jurisdiction that, in accordance with the laws
38 of that jurisdiction, does not come within subparagraph (3) but is elementally
39 substantially similar to a crime in this State that is punishable by a term of
40 imprisonment of one year or more.

1 D. "Final discharge" means the completion by a person of all authorized sentences
2 imposed as a result of a criminal conviction, including, but not limited to, a sentence
3 of imprisonment, a period of administrative release, a period of supervised release, a
4 period of probation, community service and the full payment of any fine or restitution.

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

6 **2. Eligibility for restoration of civil rights.** Except as provided in subsection 5, a
7 person prohibited pursuant to the federal Gun Control Act of 1968, 18 United States Code,
8 Section 922(g)(1) or section 393, subsection 1, paragraph A-1 or C from owning,
9 possessing or having under the person's control a firearm as the result of a criminal
10 conviction or adjudication by a court in this State, 10 years after the date of final discharge
11 from any sentence imposed as a result of the conviction or adjudication, becomes eligible
12 to apply for a restoration of the person's civil rights in accordance with subsection 3. To be
13 eligible for a restoration of civil rights under subsection 3, a person must satisfy the
14 following conditions:

15 A. The person has not been convicted or adjudicated of a felony crime in this State or
16 in another jurisdiction prior to or concurrently with the underlying conviction or
17 adjudication;

18 B. The person has not been convicted or adjudicated of any crime in this State or in
19 another jurisdiction for a period of 10 years since the date of final discharge from any
20 sentence imposed as a result of the underlying conviction or adjudication and is not
21 subject to any adjudication for committing a crime in this State or in another
22 jurisdiction; and

23 C. The underlying criminal conviction or adjudication is for a Class B or Class C crime,
24 except that if the underlying conviction or adjudication is for any of the following Class
25 B or Class C crimes, the person is not eligible to apply under subsection 3:

26 (1) Any Class B or Class C crime in violation of Title 17-A, chapter 9, 11, 12, 13,
27 33 or 45;

28 (2) Robbery in violation of Title 17-A, section 651;

29 (3) Assault on an officer in violation of Title 17-A, section 752-A;

30 (4) Assault on an emergency medical care provider in violation of Title 17-A,
31 section 752-C;

32 (5) Assault on a firefighter in violation of Title 17-A, section 752-E;

33 (6) Aggravated sex trafficking in violation of Title 17-A, section 852; or

34 (7) Sex trafficking in violation of Title 17-A, section 853.

35 **3. Application for restoration of civil rights.** A person meeting the eligibility
36 requirements of subsection 2 may submit a request to the department to have restored the
37 person's right to own, possess and have under the person's control a firearm. Upon receipt
38 of a request, the department shall conduct a review of the person's criminal history to ensure
39 the person is eligible under subsection 2. Upon a determination that the person is eligible,
40 the department shall notify the court having jurisdiction over the crime on which the
41 person's firearm prohibition is based, and that court shall issue an order restoring the
42 person's right to own, possess and have under the person's control a firearm.

