



HOUSE OF REPRESENTATIVES

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22 Apr 25

MEMORANDUM FOR RECORD

SUBJECT: LD 1009, An Act to Restore Full Civil Rights to Possess Firearms to Persons Previously Convicted of Certain Nonviolent Felony Crimes

Senator Carney, Representative Kuhn and distinguished members of the Joint Standing Committee on Judiciary,

Thank you for allowing me to bring forth my bill, An Act to Restore Full Civil Rights to Possess Firearms to Persons Previously Convicted of Certain Nonviolent Felony Crimes.

The purpose of this bill is to restore full Civil Rights to persons previously convicted of certain non-violent felony offenses, including the right to possess or own firearms by certain individuals that are specifically prohibited under Title 15 §393-1-A-1 under certain circumstances.

I was working a patrol shift one day in a small Piscataquis County town when I was accosted by two violent individuals who were going around town raising trouble and threatening people. The two individuals had a long history of police involvement and one was known for his violent behavior. My nearest backup was more than 15 minutes away. As I struggled to get both of them under control, getting kicked in the jaw in the process, a member of the community came out of his home to assist me. With his help I was able to get both suspects into cuffs and loaded into my cruiser safely. On that day, that member of the community was of great service to me and probably assisted in resolving the incident without further injury to any party. I knew the gentleman, he was well known and well liked in town, and he was considered a pillar of the community. Later that day, after delivering the two

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individuals to the county jail I returned to his home to thank him. As we talked for a few minutes he explained to me that at one time he was "on the wrong side of the law", that he was a convicted felon.

He explained that when he was 18 years old he and two of his friends broke into a camp in the woods and were convicted of felony burglary. In the almost 40 years since then, he had never been in trouble with the law again. He also lamented that he had never been able to go shoot a deer with his son. As I listened to him I thought to myself, he would not have been able to defend himself or his family if it ever came it.

Since I have moved to my current residence, I have become close friends with another young man who fits this category. He too committed a burglary when he was 18. I remember him at that age because he was a student at the academy where I worked and I remember the details of his crime at the time. Yet, since then he had gained a skilled career in the healthcare field, trusted with patient care and their private medical information and most recently has worked for the State of Maine since the pandemic working on the COVID response. Yet, despite the fact that he is now a convicted felon, I trust him more than some people I have known for decades. He is a trustworthy, honest and honorable man and he has not been in trouble since his first, and only, non-violent felony crime.

In the past twenty years or so, I have met scores of people that fall into a similar category. These are people who made a stupid mistake earlier in life, a crime for which they have adequately paid their debt to society, yet were still disenfranchised from one of their basic Civil Rights, a right enumerated in the Bill of Rights and protected by the constitution. These people are not the 'frequent fliers' I have had consistent contact with while working in my role as a law enforcement officer. These are not people that consistently and continuously show blatant disregard for the law or lack of respect for the rights of others. These are people that committed a crime, learned from their mistakes, and did not make committing crimes a pattern of behavior. Universally, these people committed non-violent or property crimes, did not use a weapon in the commission of their crime and understand the gravity of their actions for which they have remorse.

Yet these people cannot fully enjoy the great outdoor heritage of the great state in which they live. They cannot hunt a moose like you or I can, or go hunting for grouse with their grand kids. Nor can they obtain the means to adequately defend their home and family if needed.

Currently, a person who is convicted of a felony level or equivalent (Class A, B or C) crime, with a crime punishable by imprisonment for a term of one year or more, under Maine law loses their right to own or possess a firearm. Similarly, anyone who is convicted of a federal felony crime or a crime from another jurisdiction that is a felony or is substantially similar is likewise prohibited from owning or possessing a firearm. There are other persons who are not

allowed to own or possess firearms in the State of Maine. Such disallowed persons include fugitives from justice, domestic violence offenders, those involuntarily committed by a court for being a danger to themselves or others, is an unlawful user of illicit substances, those that have been discharged under dishonorable conditions from the Armed Forces, those in the United States unlawfully and those that have renounced their US citizenship. Collectively, they are known as prohibited persons.

While various courts have upheld rulings in the past that the government has an interest in keeping guns out of the hands of people who are a continuing danger to the public and more recently those that have committed serious crimes, the Third Circuit Court recently ruled on remand from the Supreme Court in *Range v Attorney General of the United States* that certain classes of crimes alone do not mean that a person is more likely to misuse firearms. The court also decided that firearm prohibitions for felons did not meet the history and longstanding tradition requirements of Bruen. Furthermore, it clarified a phrase in Heller determining that "the people", all of whom have a constitutional right to own firearms, was not limited people who had never committed a crime.

It is on the focus of these 'villainous persons', as described by the court, that such bans were originally designed and why many states have carve-outs to certain felony crimes that exempt them from the class of crimes that cause a person to lose their Second Amendment rights. These are often referred to as 'white collar' crimes such as business related and certain financial fraud crimes. While the severity of some crimes demonstrate the willingness of the actor to disregard the safety of others, that is not necessarily so for all crimes, not even all felony crimes. Certainly, it is true that there are certain misdemeanor level crimes that are more dangerous to the safety of others than some felony crimes. In fact, Maine's prohibitions are far more restrictive than the federal standards which have exceptions for certain "white collar crimes".

Currently, while every state allows for the restoration of Civil Rights through a pardon, there are 22 states that have some sort of additional process for restoring Second Amendment rights of citizens who have been previously convicted of felony crimes (Alaska, Georgia, Indiana, Kansas, Louisiana, Massachusetts, Michigan, Minnesota, Mississippi, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont). Most have a time limit that must have passed after the fulfillment of sentencing requirements before a person can get their Second Amendment rights returned from 5-20 years; though some states allow for those rights to be restored immediately. I favor 10 years as the State of Florida conducted a study on the restoration of voting rights and found that a convicted felon who went a period of 8 years without committing another felony crime had an almost zero statistical chance of re-offending. Most of these states restore only Second Amendment rights in their state which can run afoul of federal law and can be problematic. In some of these states the process is automatic and in others a hearing before a judge or panel is required to show need or character. In some

states it applies only to first time offenders, in others only for persons convicted of certain crimes and in one state only long gun rights are restored.

This bill, narrowly crafted, would restore the right for some of these convicted persons to own, possess and have a firearm under their control. In order to accomplish this, 10 years must have passed since the completion of any sentence imposed on them, to include imprisonment, probation and the final settlement of any restitution. To restate this plainly, the person must have completely paid their debt to society for their crime as imposed by the judicial system.

Eligibility for the restoration of full Civil Rights is excluded for certain categories of crimes, including murder; any Class A, B or C felony crime in violation of Title 17-A, chapters 9 (Offenses Against the person), 11 (Sexual Assaults), 12 (Sexual Exploitation of Minors), 13 (Kidnapping and Criminal Restraint), 45 (Drugs); robbery; assault on an officer; assault on an emergency medical care provider; assault on a firefighter; aggravated sex trafficking; and sex trafficking. Note, while the bill text also states that excluded crimes include all crimes under chapter 33, my intent was to only include §802 Arson and §803-A Causing a Catastrophe from that section. Additionally as there are now felony classes to §506-B Violation of a Protection Order I hereby suggest it be amended with both changes.

If a person has their Civil Rights restored under this statute and later loses their Second Amendment rights (becomes a prohibited person) from a subsequent felony conviction, that person would not be eligible to regain their Civil Rights again under this statute.

Currently, according to Title 15 §393-2, the Office of the Governor can restore the right to own or possess a firearm to persons convicted of a felony crime under §393-1-A-1 five years after that person has discharged all of the obligations imposed upon them at the sentencing of their crime. However, Maine's current pardon guidelines do not allow for pardons simply to restore Second Amendment rights.

If passed, this bill would change the requirements for these processes for those that qualify to have their civil rights restored under 18 USC §921-a-21 and effectively transfers the discretionary authority from the Office of the Executive to statutory rule with the Judiciary. Of course, the Governor can still exercise the power to restore Civil Rights with a pardon. Also, as the bill would restore full civil rights under 18 USC §921, that person would have no limitations on their right to own, possess or purchase a firearm and would remove any roadblocks that DPS is currently experiencing, but only for those that qualify under this legislation.

Additionally, on March 20th the Department of Justice published a final rule, "Withdrawing the Attorney General's Delegation of Authority" (27 CFR Part 478) which took effect immediately. This change allowed the Attorney General to reassign the responsibilities for processing relief petitions under at the federal level 18 U.S.C. 925(c) from the ATF to another department within the Department of Justice. This rule change was designed to restart a program that ran under the Department of Justice from 1968 to 1992 allowing for petitioners to apply for relief at the federal level. However, to apply the petitioner must have state eligibility for relief. This bill allows for that relief (and it aligns with US v Caron).

As for a few final points, I would be agreeable to the committee amending the bill if passed to allow for the following, issues which were only recently brought to my attention.

First, under juvenile law there is an automatic time-out provision of three years for some adjudications. In order to keep parity, I would request that language specifically be added to include to include persons with a disqualifying juvenile adjudication that is of an equivalent class crime that the bill currently makes eligible for restoration of rights, and any juvenile adjudication that isn't subject to the timing-out provision in the law.

The second would be to allow persons under a firearm disability due to a conviction in another jurisdiction to apply for a restoration of their gun rights in Maine.

Additionally, the bill excludes Class A crimes, which goes against the spirit of the Range ruling. If there are any non-violent Class A crimes that are not otherwise excluded by section they should be included as eligible for relief.

Finally, even though the right to carry is specifically stated for non-prohibited persons under Title 5 § 2003, if the committee thought it was helpful I would be agreeable to adding language to this bill stating so.

LD 1009 is truly a restorative justice bill, allowing for a person to get back all of their Constitutionally protected rights after paying their full debt to society.

I thank the committee for their time and ask that you support this bill with a vote of 'Ought To Pass' with the amended changes in regard to 17-A §802, §803-A and §506-B and any of the four above mentioned considerations. I will gladly answer any questions to my ability.

Respectfully,

A handwritten signature in black ink, appearing to read "Chad R. Perkins", with a stylized, flowing script.

Rep. Chad R. Perkins
District 31