

CLAC MEMORANDUM/TESTIMONY
LD 1009 (Opposed)

TO: Senator Anne Carney
Representative Amy Kuhn
Joint Standing Committee on Judiciary

FR: Criminal Law Advisory Commission (CLAC)
c/o laura.yustak@maine.gov

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

DA: May 1, 2025

The Criminal Law Advisory Commission (CLAC)* respectfully submits the following testimony in opposition to LD 1009.

LD 1009 is essentially the same bill that was considered by the Legislature in 2023, then titled LD 1561, An Act to Restore Firearms and Hunting Rights. CLAC's testimony concerning LD 1561 is included below, and incorporated here.

In addition, CLAC notes that proposed 15 M.R.S. § 396(4), Effect of restoration, which cross-references the definition at 18 U.S.C. § 921(20), makes clear that the restoration of rights proposed in LD 1009 goes beyond eliminating the Maine prohibition against possession of firearms based on certain criminal convictions, and is intended to eliminate the federal firearms prohibition that would otherwise stem from conviction of "a crime punishable by imprisonment for a term exceeding one year" (which includes Maine's Class A, B and C crimes).

*CLAC is an advisory body established by the Legislature. 17-A M.R.S. §§ 1351-1357. It consists of 9 members appointed by the Attorney General. Our current members include current defense attorneys, prosecutors, Maine Bar Counsel, and a retired practitioner with experience as defense counsel, prosecutor and in court administration. In addition, three sitting judges and one retired practitioner, appointed by the Chief Justice of the Supreme Judicial Court, and, by statute, the Co-Chairs of the Legislature's Committee on Criminal Justice and Public Safety, serve as consultants. The Supreme Judicial Court's Criminal Process Manager serves as liaison from the Court to CLAC. CLAC advises the Legislature on matters relating to crimes in the Criminal Code and in other Titles, the Bail and Juvenile Codes, and with respect to other statutes related to criminal justice processes.

CLAC MEMORANDUM/TESTIMONY
LD 1561 (Opposed)

TO: Senator Anne Beebe-Center
Representative Suzanne Salisbury
Joint Standing Committee on Criminal Justice and Public Safety

FR: Criminal Law Advisory Commission (CLAC)
c/o laura.yustak@maine.gov

RE: LD 1561, An Act to Restore Firearms Rights and Hunting Privileges

DA: May 8, 2023

The Criminal Law Advisory Commission (CLAC)* respectfully submits the following testimony in opposition to LD 1561 as drafted. CLAC is not expressing a policy position on the general concept of restoring firearms rights.

LD 1561 would create an incongruous approach to restoring firearms rights. Under current 15 M.R.S. § 393(2)-(4), a prohibited person can apply for a permit to carry a black powder firearm. This process requires notification of agencies and officials that/who likely have knowledge of the applicant, and an opportunity to object to the application. No such notice and opportunity to object is included in this proposal. Although LD 1561 would give public safety and court officials less notice and no discretion with respect to such applications, it restores more firearms rights (any firearm) than the current 15 M.R.S. § 393, which only applies to black powder firearms and does not restore federal firearms rights.

The language of the bill is internally inconsistent, as well as inconsistent with the terminology of the Maine Criminal Code and 15 M.R.S. § 393. It introduces a definition of "felony," which was replaced in 1976 with Maine's classification of crimes (Class A-E; murder), and then references crimes both by using the current classifications and by the use of the term "felony." It does not describe crimes in other jurisdictions using the same language as in 15 M.R.S. § 393, which would require courts to reconcile the statutes in order to apply the new law. It is not clear why it uses the term "adjudication," which is generally reserved for civil violations and juvenile offenses.

It is not apparent how this proposal would be implemented procedurally, for example, whether an order is to be issued in a previously closed criminal case or a new civil matter, or whether some type of petition must be filed in court. There is no mechanism for alerting the court or Dept. of Public Safety when a person is subsequently convicted of a disqualifying offense, especially if that conviction occurs in another jurisdiction.

Under this proposal, crimes in 15 M.R.S. § 393 and Title 17-A M.R.S., Chapter 43 (crimes related to firearms and other weapons) do not disqualify a person from restoration and/or are not

excluded from eligible convictions. This may be an inadvertent omission, as it is logical for a person to be required to demonstrate continued compliance with laws related to firearms in order to have rights to firearms restored.

The proposal is not needed for hunting privileges, as individuals convicted of disqualifying crimes can apply for permits pursuant to 15 M.R.S. § 393(2)-(4), which would allow use and possession of muzzle-loading weapons or "antique firearms" that are not within the definition of "firearm" under 18 U.S.C. § 921.

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