

# Maine Revised Statutes Annotated

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### **Chapter 15. Possession of Firearms by Prohibited Persons**

#### **§ 393. Possession of firearms prohibited for certain persons**

**1. Possession prohibited.** A person may not own, possess or have under that person's control a firearm, unless that person has obtained a permit under this section, if that person:

**A.** [2001, c. 549, §2 (RP).]

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

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

(2) A crime under the laws of the United States that is punishable by imprisonment for a term exceeding 1 year;

(3) A crime under the laws of any other state that, in accordance with the laws of that jurisdiction, is punishable by a term of imprisonment exceeding 1 year. This subparagraph does not include a crime under the laws of another state that is classified by the laws of that state as a misdemeanor and is punishable by a term of imprisonment of 2 years or less;

(4) A crime under the laws of any other state that, in accordance with the laws of that jurisdiction, does not come within subparagraph (3) but is elementally substantially similar to a crime in this State that is punishable by a term of imprisonment for 1 year or more; or

(5) A crime under the laws of the United States, this State or any other state or the Passamaquoddy Tribe or Penobscot Nation in a proceeding in which the prosecuting authority was required to plead and prove that the person committed the crime with the use of:

(a) A firearm against a person; or

(b) Any other dangerous weapon.

Violation of this paragraph is a Class C crime;

**B.** [2001, c. 549, §2 (RP).]

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

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

(2) [2001, c. 549, § 2 (RP).]

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

Violation of this paragraph is a Class C crime;

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

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

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

Violation of this paragraph is a Class D crime;

**E.** Has been:

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

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

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

Violation of this paragraph is a Class D crime;

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

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

**H.** Is an alien who is illegally or unlawfully in the United States or who was admitted under a nonimmigrant visa and who is prohibited from possession of a firearm under 18 United States Code, § 922(g)(5). Violation of this paragraph is a Class D crime;

**I.** Has been discharged from the United States Armed Forces under dishonorable conditions. Violation of this paragraph is a Class D crime; or

**J.** Has, having been a citizen of the United States, renounced that person's citizenship. Violation of this paragraph is a Class D crime.

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

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

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

**1-A. Limited prohibition for nonviolent juvenile offenses.** A person who has been adjudicated in this State or under the laws of the United States or any other state to have engaged in conduct as a juvenile that, if committed by an adult, would have been a disqualifying conviction under subsection 1, paragraph A-1 or subsection 1-B, paragraph A but is not

an adjudication under subsection 1, paragraph C or an adjudication under subsection 1-B, paragraph B in which bodily injury to another person was threatened or resulted may not own or have in that person's possession or control a firearm for a period of 3 years following completion of any disposition imposed or until that person reaches 18 years of age, whichever is later. Violation of this subsection by a person at least 18 years of age is a Class C crime.

**1-B. Prohibition for domestic violence offenses.** A person may not own, possess or have under that person's control a firearm if that person:

**A.** Has been convicted of committing or found not criminally responsible by reason of insanity of committing:

**(1)** A Class D crime in this State in violation of Title 17-A, § 207-A, 209-A, 210-B, 210-C or 211-A; or

**(2)** A crime under the laws of the United States or any other state that in accordance with the laws of that jurisdiction is elementally substantially similar to a crime in subparagraph (1). Violation of this paragraph is a Class C crime; or

**B.** Has been adjudicated in this State or under the laws of the United States or any other state to have engaged in conduct as a juvenile that, if committed by an adult, would have been a disqualifying conviction under this subsection. Violation of this paragraph is a Class C crime.

Except as provided in subsection 1-A, the prohibition created by this subsection for a conviction or adjudication of an offense listed in paragraph A or B expires 5 years from the date the person is finally discharged from the sentence imposed as a result of the conviction or adjudication if that person has no subsequent criminal convictions during that 5-year period. If a person is convicted of a subsequent crime within the 5-year period, the 5-year period starts anew from the date of the subsequent conviction. In the case of a deferred disposition, the 5-year period begins at the start of the deferred disposition period. If, at the conclusion of the deferred disposition period, the court grants the State's motion to allow a person to withdraw the plea and the State dismisses the pending charging instrument with prejudice, the 5-year period terminates.

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

For the purposes of this subsection, a person is deemed to have been found not criminally responsible by reason of insanity upon the acceptance of a plea of not criminally responsible by reason of insanity or a verdict or finding of not criminally responsible by reason of insanity, or of the equivalent in a juvenile case, by a court of competent jurisdiction. The provisions of this subsection apply only to a person convicted, adjudicated or placed on deferred disposition on or after October 15, 2015.

**2. Application after 5 years.** A person subject to the provisions of subsection 1, paragraph A-1 or C as a result of a conviction or adjudication may, after the expiration of 5 years from the date that the person is finally discharged from the sentences imposed as a result of the conviction or adjudication, apply to the commissioner for a permit to carry a firearm subject to subsection 4. That person may not be issued a permit to carry a concealed handgun pursuant to Title 25, chapter 252. A permit issued pursuant to this subsection is valid for 4 years from the date of issue unless sooner revoked for cause by the commissioner. For purposes of this subsection, "firearm" does not include a firearm defined under 18 United States Code, § 921(3).

**3. Contents.** An application under subsection 2 must be on a form prepared by the Commissioner of Public Safety. The application must include the following: the applicant's full name; all aliases; date and place of birth; place of legal residence; occupation; make, model and serial number of the firearm sought to be possessed; date, place and nature of conviction; sentence imposed; place of incarceration; name and address of probation or parole officer; date of discharge or release from prison or jail or termination of probation, supervised release for sex offenders, parole or administrative release; the reason for the request; and any other information determined by the commissioner to be of assistance. The application must be accompanied by certified or attested copies of the indictment, information or complaint, judgment and commitment and discharge that are the subject of the conviction.

**4. Notification, objection and decision.** Upon receipt of an application, the commissioner shall determine if the application is in proper form. If the application is proper, the commissioner shall within 30 days notify in writing the sentencing or presiding judge, the Attorney General, the district attorney for the county where the applicant resides, the district attorney for the county where the conviction occurred, the law enforcement agency that investigated the crime, the chief of police and sheriff in the municipality and county where the crime occurred and the chief of police and sheriff in the municipality where the applicant resides as of the filing of the application. The commissioner may direct any appropriate investigation to be carried out.

**A.** If, within 30 days of the sending of notice, a person notified objects in writing to the commissioner regarding the initial issuance of a permit and provides the reason for the objection, the commissioner may not issue a permit. The reason for the objection must be communicated in writing to the commissioner in order for it to be the sole basis for denial.

**B.** If, within 30 days of the sending of notice, a person notified objects in writing, including the reason for the objection, to the commissioner regarding a 2nd or subsequent issuance of a permit, the commissioner shall take the objection and its reason into consideration when determining whether to issue a 2nd or subsequent permit to the applicant, but need not deny the issuance of a permit based on an objection alone.

The commissioner may deny any application for a permit even if no objection is filed.

**4-A. Application for relief.** Except as otherwise provided, a person subject to the federal prohibition against possession of firearms pursuant to 18 United States Code, § 922(g)(4) as a result of being adjudicated a mental defective may, after the expiration of 5 years from the date of final discharge from commitment, apply to the commissioner for relief from the

disability.

Relief is not available under this subsection for a person found not criminally responsible by reason of insanity or incompetent to stand trial in a criminal case or a person adjudged by a Probate Court to lack the capacity to contract or manage the person's own affairs.

**A.** An application under this subsection must be on a form developed by the commissioner. The application must include the applicant's full name; all aliases; date and place of birth; place of legal residence; occupation; make and model of the firearm sought to be possessed; reason for the request; date, place and docket number of commitment; name of institution to which applicant was committed; names of providers that provided mental health treatment for the applicant; date of discharge from commitment; release for all mental health records; and any other information determined by the commissioner to be of assistance. The application must be accompanied by certified or attested copies of the commitment from which the applicant seeks relief and the report of an independent psychologist or psychiatrist licensed to practice in this State specifically addressing the factors set forth in paragraph E. The commissioner may establish a roster of psychologists and psychiatrists qualified and interested in doing these evaluations. The psychologist or psychiatrist must be available for cross-examination. The psychologist or psychiatrist listed on the roster is an employee for the purposes of the Maine Tort Claims Act for evaluations under this paragraph.

**B.** The commissioner has the independent authority to establish the following, to be paid by the applicant:

(1) Application fee; and

(2) Fees for evaluations required by paragraph A.

**C.** Upon receipt of a completed application, the commissioner shall notify persons who received notice of the commitment pursuant to Title 34-B, § 3864, subsection 3, paragraph A, subparagraph (2) and the district attorney, chief of police and sheriff in the municipality and county where the applicant resides of the filing of the application, with a request to provide to the commissioner any information relevant to the factors in paragraph E.

**D.** Upon receipt of a completed application, the commissioner shall review the application and determine whether the person has made a prima facie showing of the elements of paragraph E. If the commissioner determines that the person has made a prima facie showing, the commissioner shall schedule a hearing.

**E.** The burden of proof is on the applicant to prove, by clear and convincing evidence, that the circumstances that led to the involuntary commitment to a hospital have changed, that the applicant is not likely to act in a manner dangerous to public safety and that granting the application for relief will not be contrary to the public interest.

**F.** If the commissioner finds by clear and convincing evidence that the circumstances that led to the involuntary commitment have changed, that the applicant is not likely to act in a manner dangerous to public safety and that granting the application for relief will not be contrary to the public interest, the commissioner may grant relief.

**G.** Notwithstanding any other provision of law, and except as indicated in this paragraph, all applications for relief pursuant to this subsection and documents made a part of the application, refusals and any information of record collected by the commissioner during the process of determining whether an applicant qualifies for relief are confidential and may not be made available for public inspection or copying unless:

(1) The applicant waives this confidentiality in writing or on the record of any hearing; or

(2) A court of record so orders. Proceedings relating to the grant or denial of relief are not public proceedings under Title 1, chapter 13.

The commissioner shall make a permanent record, in the form of a summary, of the final decision regarding each application. The summary must include the name of the applicant and indicate whether the application for relief was granted or denied. The information contained in this summary is available for public inspection.

**H.** An applicant may appeal the denial of an application for relief under this subsection within 30 days of receipt of the written notice of decision by filing a complaint in the District Court for de novo review in the district where the Department of Public Safety has its principal office. Hearings are closed unless otherwise agreed to by the applicant. A party aggrieved by a decision of the District Court may not appeal as of right. The time for taking the appeal and the manner and any conditions for the taking of the appeal are as the Supreme Judicial Court provides by rule.

**5. Appeal.** Any person to whom a permit under subsection 2 has been denied may file a petition for review pursuant to Title 5, chapter 375, subchapter 7.

**6. Filing fee.** The commissioner may establish a reasonable filing fee not to exceed \$25 to defray costs of processing applications.

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

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

**B. "Not criminally responsible by reason of insanity"** has the same meaning as used in § 103 and any comparable finding under the laws of the United States or any other state.

**C. "State"** means the State of Maine and "state" means any other state of the United States and includes the District of Columbia, the Commonwealth of Puerto Rico and the possessions of the United States.

**D. "Use of a dangerous weapon"** has the same meaning as in Title 17-A, § 2, subsection 9, paragraph A.

**E. "Commissioner"** means the Commissioner of Public Safety or the commissioner's designee.

**8. Penalty.**

[July 29, 2016, c.470, §4, (RP).]

**9. Prima facie evidence.** Notwithstanding any other law or rule of evidence, a copy of a court abstract provided by a court to the Department of Public Safety, State Bureau of Identification pursuant to Title 34-B, § 3864, subsection 12, if certified by the custodian of the records of that bureau, or the custodian's designee, is admissible in a criminal prosecution brought pursuant to this section as prima facie evidence that the person identified in the abstract has been involuntarily committed by the court issuing the abstract and has been provided the notice required in Title 34-B, § 3864, subsection 5, paragraph A-1 and Title 34-B, § 3864, subsection 13.

**10. Subpoena power.** The commissioner is authorized to issue a subpoena in the name of the commissioner in accordance with Title 5, § 9060, except that this authority applies to any stage of an investigation under this section and is not limited to an adjudicatory hearing. If a witness refuses to obey a subpoena or to give any evidence relevant to proper inquiry by the commissioner, the Attorney General may petition the Superior Court in the county where the refusal occurred to find the witness in contempt. The Attorney General shall cause to be served on that witness an order requiring the witness to appear before the Superior Court to show cause why the witness should not be adjudged in contempt. The court shall, in a summary manner, hear the evidence and, if it is such as to warrant the court in doing so, punish that witness in the same manner and to the same extent as for contempt committed before the Superior Court or with reference to the process of the Superior Court.

**11. Rules.** The commissioner may adopt rules to implement the provisions of subsections 2 to 4-A. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

## Chapter 17. Miscellaneous Provisions

### § 455. Record of sales of firearms

**1. Forms.** A dealer may not:

**A.** Sell, let or loan a firearm to a person without making a copy of the form a dealer must keep as prescribed by 18 United States Code, § 923.

The copy must be made and marked as "STATE COPY" before the firearm is delivered; or

**B.** Refuse to show or refuse to allow inspection of a copy of the form described in paragraph A to a sheriff, deputy sheriff, police officer, constable, game warden or prosecuting attorney.

A person who violates this subsection commits a civil violation for which a fine of \$50 may be adjudged.

**2. False or Fictitious Name.** A person may not give a false or fictitious name to a dealer. A person who violates this subsection commits a civil violation for which a fine of \$50 may be adjudged.

**3. Exception.** This section does not apply to a wholesaler who sells only to other dealers or to a manufacturer who sells only at wholesale.

### § 455-A. Warning requirement upon sales of firearms

**1. Posting of conspicuous warning.** Except as provided in subsection 1-A, any commercial retail sales outlet that sells firearms shall conspicuously post at each purchase counter where firearms may be purchased the following warning in block letters not less than one inch in height:

" ENDANGERING THE WELFARE OF A CHILD IS A CRIME. IF YOU LEAVE A FIREARM AND AMMUNITION WITHIN EASY ACCESS OF A CHILD, YOU MAY BE SUBJECT TO FINE, IMPRISONMENT OR BOTH.

KEEP FIREARMS AND AMMUNITION SEPARATE.

KEEP FIREARMS AND AMMUNITION LOCKED UP.

USE TRIGGER LOCKS."

**1-A. Posting of warnings at gun shows.** The warning sign as described in subsection 1 must be posted at all entrances of an organized gun show.

**2. Violation.** Any person who fails to post the warning in compliance with subsection 1, commits a civil violation for which a civil forfeiture of not more than \$200 may be adjudged.

## TITLE 17-A. Maine Criminal Code

### Part 1. General Principles

#### Chapter 1. Preliminary

**§ 2. Definitions.** As used in this code, unless a different meaning is plainly required, the following words and variants thereof have the following meanings.

### 9. Dangerous Weapon.

**A. "Use of a dangerous weapon"** means the use of a firearm or other weapon, device, instrument, material or substance, whether animate or inanimate, which, in the manner it is used or threatened to be used is capable of producing death or serious bodily injury.

**B. "Armed with a dangerous weapon"** means in actual possession, regardless of whether the possession is visible or concealed, of:

1) A firearm;

2) Any device designed as a weapon and capable of producing death or serious bodily injury; or

3) Any other device, instrument, material or substance, whether animate or inanimate, which, in the manner it is intended to be used by the actor, is capable of producing or threatening death or serious bodily injury. For purposes of this definition, the intent may be conditional.

C. When used in any other context, "dangerous weapon" means a firearm or any device designed as a weapon and capable of producing death or serious bodily injury.

D. For purposes of this subsection, proof that a thing is presented in a covered or open manner as a dangerous weapon gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that it, in fact, is a dangerous weapon.

**12-A. "Firearm"** means any weapon, whether loaded or unloaded, which is designed to expel a projectile by the action of an explosive and includes any such weapon commonly referred to as a pistol, revolver, rifle, gun, machine gun or shotgun. Any weapon which can be made into a firearm by the insertion of a firing pin, or other similar thing, or by repair, is a firearm.

## **Part 2. Substantive Offenses**

### **Chapter 23. Offenses against the Family**

#### **§ 554-A. Unlawful transfer of a firearm other than a handgun to a minor**

1. As used in this section, the following terms have the following meanings.

A. "Transfer" means to sell, furnish, give, lend, deliver or otherwise provide, with or without consideration.

C. "Sell" means to furnish, deliver or otherwise provide for consideration.

D. "Firearm" means a firearm other than a handgun as defined in § 554-B, subsection 1, paragraph A.

2. A person is guilty of unlawfully transferring a firearm to a person under 16 years of age if that person, who is not the parent, foster parent or guardian of the person under 16 years of age, knowingly transfers a firearm to a person under 16 years of age. Violation of this subsection is a Class D crime.

**2-A.** A person is guilty of unlawfully selling a firearm to a person 16 years of age or older and under 18 years of age if that person, who is not the parent, foster parent or guardian of the person 16 years of age or older and under 18 years of age, knowingly sells a firearm to a person 16 years of age or older and under 18 years of age.

A. A person who violates this subsection commits a civil violation for which a fine of not more than \$500 may be adjudged.

B. A person who violates this subsection after having been adjudicated as having committed one or more violations under this subsection commits a Class D crime.

3. It is an affirmative defense to a prosecution under subsection 2 that:

A. The actor reasonably believed the person receiving the firearm had attained 16 years of age. A reasonable belief cannot be based solely upon the physical appearance of the person or upon the oral representation of that person as to that person's age; or

B. The transfer of the firearm to the person under 16 years of age was approved by the parent, foster parent or guardian of the person under 16 years of age.

**3-A.** It is an affirmative defense to a prosecution under subsection 2-A that:

A. The actor reasonably believed the person receiving the firearm had attained 18 years of age. A reasonable belief cannot be based solely upon the physical appearance of the person or upon the oral representation of that person as to that person's age; or

B. The sale of the firearm to the person 16 years of age or older and under 18 years of age was approved by the parent, foster parent or guardian of the person 16 years of age or older and under 18 years of age.

#### **§ 554-B. Unlawful transfer of handgun to minor**

1. As used in this section, the following terms have the following meanings.

A. "Handgun" means a firearm that has a short stock and is designed to be held and fired by the use of a single hand, or any combination of parts from which a handgun can be assembled.

B. "Minor" means a person under 18 years of age.

C. "Transfer" means to sell, furnish, give, lend, deliver or otherwise provide, with or without consideration.

2. A person is guilty of unlawfully transferring a handgun to a minor if that person knowingly transfers a handgun to a person who the transferor knows or has reasonable cause to believe is a minor.

3. This section does not apply to:

A. A temporary transfer of a handgun to a minor:

1) With the prior written consent of the minor's parent or guardian and that parent or guardian is not prohibited by federal, state or local law from possessing a firearm; or

2) In the course of employment, target practice, hunting or instruction in the safe and lawful use of a handgun. The minor may transport an unloaded handgun in a locked container directly from the place of transfer to a place at which an activity described in this subparagraph is to take place and directly from the place at which such an activity took place to the transferor;

B. A minor who is a member of the United States Armed Forces or the National Guard who possesses or is armed with a handgun in the line of duty;

C. A transfer by inheritance of title to, but not possession of, a handgun to a minor; or

- D. The transfer of a handgun to a minor when the minor takes the handgun in self-defense or in defense of another person against an intruder into the residence of the minor or a residence in which the minor is an invited guest.
4. The State may not permanently confiscate a handgun that is transferred to a minor in circumstances in which the transferor is not in violation of this section and if the possession of the handgun by the minor subsequently becomes unlawful because of the conduct of the minor. When that handgun is no longer required by the State for the purposes of investigation or prosecution, the handgun must be returned to the lawful owner.
5. The following penalties apply.
- A. A person who violates this section commits a Class D crime, except as provided in paragraph B.
- B. A person who violates this section and, at the time of the offense, has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. § 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime.

## Chapter 29. Forgery and Related Offenses

### § 705. Criminal simulation

1. A person is guilty of criminal simulation if:
- A. With intent to defraud, the person makes or alters any property so that it appears to have an age, rarity, quality, composition, source or authorship that it does not in fact possess or, with knowledge of its true character and with intent to defraud, the person transfers or possesses property so simulated. A violation of this paragraph is a Class E crime;
- E. With intent to defraud or to prevent identification:
- (1) The person alters, removes or obscures the manufacturer's make, model or serial number on any firearm. A violation of this subparagraph is a Class C crime; or
- (2) The person possesses a firearm altered as set out in subparagraph (1) or intentionally or knowingly transports any such firearm. A violation of this subparagraph is a Class C crime.

## Chapter 43. Weapons

### § 1051. Possession of machine gun

1. A person is guilty of possession of a machine gun if, without authority to do so, he knowingly possesses a machine gun.
2. As used in this chapter, "machine gun" means a weapon of any description, by whatever name known, loaded or unloaded, which is capable of discharging a number of projectiles in rapid succession by one manual or mechanical action on the trigger or firing mechanism.
3. Possession of a machine gun is a Class D crime.

**§ 1052. Right to possess, carry or transport machine gun.** Any law enforcement officer of the State of Maine, any law enforcement officer of another state or a territory of the United States, members of the Armed Forces, Maine National Guard and Maine State Guard may possess a machine gun if the possession or carrying of such weapon is in the discharge of his official duties and has been authorized by his appointing authority. Machine guns manufactured, acquired, transferred or possessed in accordance with the National Firearms Act, as amended, shall be exempt from this chapter.

**§ 1053. Confiscation and seizure of machine gun.** Any machine gun possessed in violation of § 1051 is declared to be contraband and is subject to forfeiture to the State. Any law enforcement officer shall have the power to seize the same with due process.

When a machine gun is seized as provided, the officer seizing the same shall immediately file with the judge before whom such warrant is returnable, a libel against the machine gun, setting forth the seizure and describing the machine gun and the place of seizure in a sufficient manner to reasonably identify it, that it was possessed in violation of law and pray for a decree of forfeiture thereof. Such judge shall fix a time for the hearing of such libel and shall issue his monition and notice of same to all persons interested, citing them to appear at the time and place appointed to show cause why such machine gun should not be declared forfeited, by causing true and attested copies of said libel and monition to be posted in 2 public and conspicuous places in the town and place where such machine gun was seized, 10 days at least before said libel is returnable. In addition, a true and attested copy of the libel and monition shall be served upon the person from whom said machine gun was seized and upon the owner thereof, if their whereabouts can be readily ascertained 10 days at least before said libel is returnable. In lieu of forfeiture proceedings, title to such seized machine gun may be transferred in writing to the State of Maine by the owner thereof. If title to and ownership in the machine gun is transferred to the State, a receipt for the machine gun shall be given to the former owner by the law enforcement officer who seized the machine gun.

**§ 1054. Forfeiture of machine gun.** If no claimant for a machine gun seized under the authority of § 1053 appears, the judge shall, on proof of notice, declare the same to be forfeited to the State. If any person appears and claims such machine gun, as having a right to the possession thereof at the time when the same was seized, he shall file with the judge a claim in writing stating specifically the right so claimed, the foundation thereof, the item so claimed, any exemption claimed, the time and place of the seizure and the name of the law enforcement officer who seized the machine gun, and in it declare that it was not possessed in violation of this chapter, and state his business and place of residence and sign

and make oath to the same before said judge. If any person so makes claim, he shall be admitted as a party to the process, and the libel, and may hear any pertinent evidence offered by the libelant or claimant. If the judge is, upon hearing, satisfied that said machine gun was not possessed in violation of this chapter, and that claimant is entitled to the custody thereof, he shall give an order in writing, directed to the law enforcement officer having seized the same, commanding him to deliver to the claimant the machine gun to which he is so found to be entitled, within 48 hours after demand. If the judge finds the claimant not entitled to possess the machine gun, he shall render judgment against him for the libelant for costs, to be taxed as in civil cases before such judge, and issue execution thereon, and shall declare such machine gun forfeited to the State. The claimants may appear and shall recognize with sureties as on appeals in civil actions from a judge. The judge may order that the machine gun remain in the custody of the seizing law enforcement officer, pending the disposition of the appeal. All machine guns declared forfeited to the State, or title to which have been transferred to the State in lieu of forfeiture proceedings shall be turned over to the Chief of the Maine State Police. If said machine gun is found to be of a historic, artistic, scientific or educational value, the State Police may retain the machine gun for an indefinite period of time. Any other machine gun declared forfeited and in possession of the State Police shall be destroyed by a means most convenient to the Chief of the State Police.

#### **§ 1056. Possession of armor-piercing ammunition**

1. A person is guilty of possession of armor-piercing ammunition if, without authority to do so, the person knowingly possesses armor-piercing ammunition other than as part of a bona fide collection.
2. As used in this chapter, "armor-piercing ammunition" means a projectile or projectile core that may be used in a handgun and that is constructed entirely, excluding the presence of traces of other substances, from one or a combination of tungsten alloys, steel, iron, brass, beryllium copper or depleted uranium, including but not limited to ammunition commonly known as KTW ammunition. "Armor-piercing ammunition" does not include shotgun shot required by federal or state environmental or game laws, rules or regulations for hunting purposes, a frangible projectile designed for target shooting or any projectile or projectile core found by the United States Secretary of the Treasury or the secretary's delegate, pursuant to 27 Code of Federal Regulations, § 178.148 or § 178.149, to be:
  - A. Primarily intended to be used for sporting purposes; or
  - B. Used for industrial purposes, including a charge used in an oil and gas well perforating device.
3. Possession of armor-piercing ammunition is a Class C crime.
4. This section does not apply to members of the United States Armed Forces, the United States Reserve Forces or the National Guard, or to law enforcement officers or agencies or forensic laboratories, in the course of duty or employment.

#### **§ 1057. Possession of firearms in an establishment licensed for on-premises consumption of liquor**

1. A person is guilty of criminal possession of a firearm if:
  - A. Not being a law enforcement officer or a professional investigator licensed under Title 32, chapter 89 and actually performing as a professional investigator, the person possesses any firearm on the premises of a licensed establishment posted to prohibit or restrict the possession of firearms in a manner reasonably likely to come to the attention of patrons, in violation of the posted prohibition or restriction; or
  - B. While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs or with an excessive alcohol level, the person possesses a firearm in a licensed establishment.
2. For the purposes of this section, "licensed establishment" means a licensed establishment as defined by Title 28-A, § 2, subsection 15, the license for which is held by an on-premise retail licensee, as defined by Title 28-A, § 2, subsection 27, paragraph B. For the purposes of this section, "premises" has the same meaning as set forth in Title 28-A, § 2, subsection 24.
3. It is not a defense to a prosecution under subsection 1 that the person holds a permit to carry a concealed handgun issued under Title 25, chapter 252.
4. A law enforcement officer who has probable cause to believe that a person has violated subsection 1, paragraph B, may require that person to submit to chemical testing to determine an alcohol level or drug concentration. If the court is satisfied that the law enforcement officer had probable cause to believe that the defendant was in violation of subsection 1, paragraph B, and that the person was informed of the requirement to submit to chemical testing, the person's failure to comply with the requirement to submit to chemical testing is admissible evidence on the issue of whether that person was under the influence of intoxicating liquor or drugs.
5. For purposes of this section, "under the influence of intoxicating liquor or drugs or a combination of liquor and drugs or with an excessive alcohol level" has the same meaning as "under the influence of intoxicants" as defined in Title 29-A, § 2401, subsection 13. "Excessive alcohol level" means an alcohol level of 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath. Standards, tests and procedures applicable in determining whether a person is under the influence or has an excessive alcohol level within the meaning of this section are those applicable pursuant to Title 29-A, §§ 2411 and 2431; except that the suspension of a permit to carry concealed handguns issued pursuant to Title 25, chapter 252, or of the authority of a professional investigator licensed to carry a concealed handgun pursuant to Title 32, chapter 89, is as provided in those chapters.
6. Criminal possession of a firearm is a Class D crime. In addition, as part of every judgment of conviction and sentence imposed, the court shall:
  - A. Revoke any permit to carry a concealed firearm issued to the person so convicted; and



**B.** If the person so convicted is licensed as a professional investigator, suspend for a period of 5 years that person's permit to carry a concealed firearm.

A person convicted of a violation of this section is not eligible to obtain or apply for a permit to carry a concealed firearm for 5 years from the date of that conviction.

#### **§ 1058. Unauthorized possession of firearm in courthouse**

**1.** A person is guilty of unauthorized possession of a firearm in a courthouse if that person in fact possesses a firearm in a courthouse.

**2.** This section does not apply to:

**A.** A law enforcement officer, a corrections officer or a corrections supervisor engaged in the performance of the law enforcement officer's, corrections officer's or corrections supervisor's public duty;

**B.** A person possessing an unloaded firearm for the purpose of offering the firearm as evidence in a civil or criminal proceeding if the presiding judge or justice has granted prior approval in writing to the person and the person possesses a copy of the written approval; or

**C.** An employee of a courier or security service in the course and scope of employment for the courier or security service, as approved by the judicial marshal.

**2-A.** It is not a defense to a prosecution under this section that the person holds a valid permit to carry a concealed handgun issued under Title 25, chapter 252.

**3.** Unauthorized possession of a firearm in a courthouse is a Class D crime.

### **Part 3. [Punishments]**

#### **Chapter 47. General Sentencing Provisions**

#### **§ 1158-A. Forfeiture of firearms**

**1.** As part of every sentence imposed, except as provided in subsection 2, a court shall order that a firearm must be forfeited to the State if:

**A.** That firearm constitutes the basis for conviction under:

(1) Title 15, § 393;

(2) Section 1105-A, subsection 1, paragraph C-1;

(3) Section 1105-B, subsection 1, paragraph C;

(4) Section 1105-C, subsection 1, paragraph C-1;

(5) Section 1105-D, subsection 1, paragraph B-1; or

(6) Section 1118-A, subsection 1, paragraph B;

**B.** The State pleads and proves that the firearm is used by the defendant or an accomplice during the commission of any murder or Class A, Class B or Class C crime or any Class D crime defined in chapter 9, 11 or 13; or

**C.** The defendant, with the approval of the State, consents to the forfeiture of the firearm.

**2.** Except as provided in subsection 3, a court may not order the forfeiture of a firearm otherwise qualifying for forfeiture under subsection 1 if another person can satisfy the court by a preponderance of the evidence and prior to the imposition of the defendant's sentence that:

**A.** Other than in the context of either subsection 1, paragraph A, subparagraph (1) or subsection 1, paragraph B relative to murder or any other unlawful homicide crime, the other person, at the time of the commission of the crime, had a right to possess the firearm to the exclusion of the defendant;

**B.** In the context of subsection 1, paragraph A, subparagraph (1), the other person, at the time of the commission of the crime, had a right to possess the firearm to the exclusion of the defendant; or

**C.** In the context of subsection 1, paragraph B relating to murder or any other unlawful homicide crime, the other person, at the time of the commission of the crime, was the rightful owner from whom the firearm had been stolen and the other person was not a principal or accomplice in the commission of the crime.

**3.** If another person satisfies subsection 2, paragraph B, a court shall nonetheless order the forfeiture of a firearm otherwise qualifying for forfeiture under subsection 1, paragraph A, subparagraph (1) if the State can satisfy the court by a preponderance of the evidence both that the other person knew or should have known that the defendant was a prohibited person under Title 15, § 393 and that the other person intentionally, knowingly or recklessly allowed the defendant to possess or have under the defendant's control the firearm.

**4.** The Attorney General shall adopt rules governing the disposition to state, county and municipal agencies of firearms forfeited under this section. A firearm not excepted under subsection 2, paragraph C must be destroyed by the State.

### **Title 19-A. Domestic Relations**

#### **Part 4. Protection from Abuse**

#### **Chapter 101. Protection from Abuse**

#### **§ 4006. Hearings**

**2-A. Temporary orders; possession of dangerous weapons.** The court may direct the defendant not to possess a firearm, muzzle-loading firearm, bow, crossbow or other dangerous weapon for the duration of the temporary order if the complaint demonstrates:

**A.** Abuse that involves a firearm, muzzle-loading firearm, bow, crossbow or other dangerous weapon; or

**B.** A heightened risk of immediate abuse to the plaintiff or a minor child.

If the court prohibits the defendant from possessing a firearm, muzzle-loading firearm, bow, crossbow or other dangerous weapon in a temporary order and if the defendant moves for dissolution or modification of an order pursuant to subsection 7, the court must hear and decide the motion as expeditiously as possible and must issue a written decision on the motion within 24 hours after a hearing on that motion.

If the court prohibits the defendant from possessing a dangerous weapon other than a firearm, muzzle-loading firearm, bow or crossbow in a temporary order, the court shall specify the type of weapon the defendant is prohibited from possessing.

If the court prohibits the defendant from possessing a firearm, muzzle-loading firearm, bow, crossbow or other dangerous weapon in a temporary order, the court shall direct the defendant to relinquish, within 24 hours after service of the order on the defendant or such earlier time as the court specifies in the order, all firearms, muzzle-loading firearms, bows, crossbows and specified dangerous weapons in the possession of the defendant to a law enforcement officer or other individual for the duration of the order. If the weapons are relinquished to an individual other than a law enforcement officer, the defendant must file, within 24 hours after such relinquishment, with the court or local law enforcement agency designated in the order a written statement that contains the name and address of the individual holding the weapons and a description of all weapons held by that individual. The court may subsequently issue a search warrant authorizing a law enforcement officer to seize any firearms, muzzle-loading firearms, bows, crossbows and other dangerous weapons at any location if there is probable cause to believe such firearms, muzzle-loading firearms, bows, crossbows or dangerous weapons have not been relinquished by the defendant.

## **§ 4007. Relief**

### **1. Protection order; consent agreement.**

The court, after a hearing and upon finding that the defendant has committed the alleged abuse or engaged in the alleged conduct described in § 4005, subsection 1, may grant a protective order or, upon making that finding, approve a consent agreement to bring about a cessation of abuse or the alleged conduct. This subsection does not preclude the parties from voluntarily requesting a consent agreement without a finding of abuse. The court may enter a finding that the defendant represents a credible threat to the physical safety of the plaintiff or a minor child residing in the plaintiff's household. Relief granted under this section may include:

**A-1.** Directing the defendant not to possess a firearm, muzzle-loading firearm, bow, crossbow or other dangerous weapon for the duration of the order;

**1-A. No possession of firearm, muzzle-loading firearm, bow or crossbow or dangerous weapons for duration of order.** If the court prohibits the defendant from possessing a dangerous weapon other than a firearm, muzzle-loading firearm, bow or crossbow, the court shall specify the type of weapon the defendant is prohibited from possessing.

If the court prohibits the defendant from possessing a firearm, muzzle-loading firearm, bow, crossbow or other dangerous weapon, the court shall direct the defendant to relinquish, within 24 hours after service of the order on the defendant or such earlier time as the court specifies in the order, all firearms, muzzle-loading firearms, bows, crossbows and specified dangerous weapons in the possession of the defendant to a law enforcement officer or other individual for the duration of the order. If the weapons are relinquished to an individual other than a law enforcement officer, the defendant must file, within 24 hours after such relinquishment, with the court or local law enforcement agency designated in the order a written statement that contains the name and address of the individual holding the weapons and a description of all weapons held by that individual. The court may subsequently issue a search warrant authorizing a law enforcement officer to seize any firearms, muzzle-loading firearms, bows, crossbows and other dangerous weapons at any location if there is probable cause to believe such firearms, muzzle-loading firearms, bows, crossbows or dangerous weapons have not been relinquished by the defendant.

**8. Action by plaintiff.** A plaintiff may extinguish or modify an order only by legal process in accordance with the Maine Rules of Civil Procedure. Any other action or inaction on the part of the plaintiff does not alter, diminish or negate the effectiveness of the order. Criminal sanctions may not be imposed upon the plaintiff for violation of a provision of the plaintiff's order for protection.

## **TITLE 25. Internal Security and Public Safety**

### **Part 5. Public Safety**

#### **Chapter 252. Permits to Carry Concealed Handguns**

### **§ 2001-A. Threatening display of or carrying concealed weapon**

**1. Display or carrying prohibited.** A person may not, unless excepted by a provision of law:

**A.** Display in a threatening manner a firearm, slungshot, knuckles, bowie knife, dirk, stiletto or other dangerous or deadly weapon usually employed in the attack on or defense of a person; or

**B.** Wear under the person's clothes or conceal about the person's person a firearm, slungshot, knuckles, bowie knife, dirk, stiletto or other dangerous or deadly weapon usually employed in the attack on or defense of a person.

**2. Exceptions.** The provisions of this section concerning the carrying of concealed weapons do not apply to:

**A.** A handgun carried by a person to whom a valid permit to carry a concealed handgun has been issued as provided in this chapter;

**A-1.** A handgun carried by a person who is 21 years of age or older and is not otherwise prohibited from carrying a firearm or is 18 years of age or older and under 21 years of age and is on active duty in the Armed Forces of the United States or the National Guard or is an honorably discharged veteran of the Armed Forces of the United States or the National Guard and is not otherwise prohibited from carrying a firearm;

**D.** A handgun carried by a law enforcement officer, a corrections officer or a corrections supervisor as permitted in writing by the officer's or supervisor's employer;

**E.** A firearm carried by a person engaged in conduct for which a state-issued hunting or trapping license is required and possessing the required license, or a firearm carried by a resident person engaged in conduct expressly authorized by Title 12, § 11108 and § 12202, subsection 1. This paragraph does not authorize or permit the carrying of a concealed or loaded firearm in a motor vehicle;

**F.** A handgun carried by a person to whom a valid permit to carry a concealed handgun has been issued by that person's state of residence if that person's state of residence honors a permit to carry a concealed handgun issued under this chapter;

**G.** A handgun carried by an authorized federal, state or local law enforcement officer in the performance of the officer's official duties;

**H.** A handgun carried by a qualified law enforcement officer pursuant to 18 United States Code, § 926B. The qualified law enforcement officer must have in the law enforcement officer's possession photographic identification issued by the law enforcement agency by which the person is employed as a law enforcement officer; and

**I.** A handgun carried by a qualified retired law enforcement officer pursuant to 18 United States Code, § 926C. The qualified retired law enforcement officer must have in the retired law enforcement officer's possession:

**(1)** Photographic identification issued by the law enforcement agency from which the person retired from service as a law enforcement officer that indicates that the person has, not less recently than one year before the date the person carries the concealed handgun, been tested or otherwise found by that agency to meet the standards established by that agency for training and qualification for an active law enforcement officer to carry a handgun of the same type as the concealed handgun; or

**(2)** Photographic identification issued by the law enforcement agency from which the person retired from service as a law enforcement officer and a certification issued by the state in which the person resides that indicates that the person has, not less recently than one year before the date the person carries the concealed handgun, been tested or otherwise found by that state to meet the standards established by that state for training and qualification for an active law enforcement officer to carry a handgun of the same type as the concealed handgun.

**3. Firearm safety brochure.** Upon purchase of a handgun, a person exempt under subsection 2, paragraph A-1 shall sign in the presence of the firearm dealer an acknowledgment that the person was provided a basic firearm safety brochure in accordance with § 2012, subsection 2, paragraph A. The purchaser shall retain the acknowledgment. The Department of Public Safety shall post on the department's publicly accessible website a basic firearm safety brochure, an acknowledgment form and a list of safety programs certified by a national nonprofit membership organization that provides a volunteer safety program, including the training of people in the safe handling and use of handguns.

**§ 2002. Definitions.** As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Corrections Officer.** "Corrections officer" has the same meaning as set forth in § 2801-A, subsection 2.

**1-A. Conviction.** "Conviction" means the acceptance of a plea of guilty or nolo contendere or a verdict or finding of guilty, or the equivalent in a juvenile case, by a court of competent jurisdiction.

**1-B. Corrections Supervisor.** "Corrections supervisor" has the same meaning as set forth in Title 17-A, § 2, subsection 5-B.

**2. Dependency-Related Drug.** "Dependency-related drug" has the same meaning as set forth in Title 5, § 20003, subsection 7.

**3. Drug Abuser.** "Drug abuser" has the same meaning as set forth in Title 5, § 20003, subsection 10.

**4. Drug Addict.** "Drug addict" has the same meaning as set forth in Title 5, § 20003, subsection 11.

**5. Drug-Dependent Person.** "Drug-dependent person" has the same meaning as set forth in Title 5, § 20003, subsection 12.

**6. Firearm.** "Firearm" has the same meaning as set forth in Title 17-A, § 2, subsection 12-A.

**7. Formal Charging Instrument.** "Formal charging instrument" means a complaint, indictment, information, juvenile petition or other formal written accusation against a person for some criminal or juvenile offense.

**8. Fugitive from Justice.** "Fugitive from justice" has the same meaning as set forth in Title 15, § 201, subsection 4.

**8-A. Handgun.** "Handgun" means a type of firearm commonly referred to as a pistol or revolver originally designed to be fired by the use of a single hand and that is designed to fire or is capable of firing fixed cartridge ammunition. "Handgun" does not include a shotgun or rifle that has been altered by having its stock or barrel cut or shortened or an automatic firearm that may be held with a single hand.

**9. Issuing Authority.** "Issuing authority" means the following:

**A.** To a legal resident of a municipality:

**1)** The mayor and municipal officers or councilors of a city, the municipal officers or councilors of a town or the assessors of a plantation or, if they so choose, their full-time chief of police as their designee; or

**2)** The Chief of the State Police as the designee of the municipal officers under § 2002-A;

**B.** To a resident of an unorganized territory:

1) The Chief of the State Police;

**C.** To a nonresident:

1) The Chief of the State Police; and

**D.** To a professional investigator licensed under Title 32, chapter 89:

1) The Chief of the State Police.

**10. Law Enforcement Officer.** "Law enforcement officer" has the same meaning as set forth in Title 17-A, § 2, subsection 17.

**10-A. Not Criminally Responsible by Reason of Mental Disease or Defect.** "Not criminally responsible by reason of mental disease or defect" has the same meaning as used in Title 17-A, § 39 and includes the former finding in this State under former provisions of Title 15, § 103 of "not guilty by reason of mental disease or defect excluding responsibility" as well as any comparable finding under the laws of the United States or any other state.

**11. Reckless or Negligent Conduct.** "Reckless or negligent conduct" means that the applicant, either consciously disregarding or failing to be aware of a risk that his conduct would cause such a result, engaged in conduct which in fact created a substantial risk of death, serious bodily injury or bodily injury to another human being and the applicant's disregard or failure to be aware of that risk, when viewed in light of the nature and purpose of the applicant's conduct and the circumstances known to him, involved a deviation from the standard of conduct that a reasonable and prudent person would observe in the same situation.

**12. Bodily Injury.** "Bodily injury" has the same meaning as set forth in Title 17-A, § 2, subsection 5.

**13. State and State.** "State" means the State of Maine and "state" means any other state of the United States and includes the District of Columbia, the Commonwealth of Puerto Rico and the possessions of the United States.

**14. Use of a Dangerous Weapon.** "Use of a dangerous weapon" has the same meaning as in Title 17-A, § 2, subsection 9, paragraph A.

### **§ 2003. Permits to carry concealed handguns**

**1. Criteria for issuing permit.** The issuing authority shall, upon written application, issue a permit to carry concealed handguns to an applicant over whom it has issuing authority and who has demonstrated good moral character 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, § 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;

**C.** [1993, c. 368, §4 (RP).]

**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, handguns or other concealed weapons by any issuing authority in the State or any other jurisdiction. The record of previous refusals alone does not constitute cause for refusal and the record of previous revocations alone constitutes cause for refusal only as provided in § 2005; and

(5) Answers to the following questions:

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

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

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

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

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

(f) Is there a formal charging instrument pending against you in another state for a crime punishable in that state by a term of imprisonment of 2 years or less and classified by that state as a misdemeanor, but that is substantially similar to a crime that under the laws of this State is punishable by imprisonment for a term of 1 year or more?

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

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

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

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

**(k)** Have you ever been convicted of committing or found not criminally responsible by reason of mental disease or defect of committing a crime described in division (b), (c), (f) or (g)?

**(l)** Have you ever been convicted of committing or found not criminally responsible by reason of mental disease or defect of committing a crime described in division (d)?

**(m)** If your answer to the question in division (l) is "yes," was that crime classified under the laws of that state as a misdemeanor punishable by a term of imprisonment of 2 years or less?

**(n)** Have you ever been adjudicated as having committed a juvenile offense described in division (h) or (i)?

**(o)** Have you ever been adjudicated as having committed a juvenile offense described in division (j)?

**(p)** Are you currently subject to an order of a Maine court or an order of a court of the United States or another state, territory, commonwealth or tribe that restrains you from harassing, stalking or threatening your intimate partner, as defined in 18 United States Code, § 921(a), or a child of your intimate partner, or from engaging in other conduct that would place your intimate partner in reasonable fear of bodily injury to that intimate partner or the child?

**(q)** Are you a fugitive from justice?

**(r)** Are you a drug abuser, drug addict or drug dependent person?

**(s)** Do you have a mental disorder that causes you to be potentially dangerous to yourself or others?

**(t)** Have you been adjudicated to be an incapacitated person pursuant to Title 18-A, Article 5, Parts 3 and 4 and not had that designation removed by an order under Title 18-A, § 5-307, subsection (b)?

**(u)** Have you been dishonorably discharged from the military forces within the past 5 years?

**(v)** Are you an illegal alien?

**(w)** Have you been convicted in a Maine court of a violation of Title 17-A, § 1057 within the past 5 years?

**(x)** Have you been adjudicated in a Maine court within the past 5 years as having committed a juvenile offense involving conduct that, if committed by an adult, would be a violation of Title 17-A, § 1057?

**(y)** To your knowledge, have you been the subject of an investigation by any law enforcement agency within the past 5 years regarding the alleged abuse by you of family or household members?

**(z)** Have you been convicted in any jurisdiction within the past 5 years of 3 or more crimes punishable by a term of imprisonment of less than one year or of crimes classified under the laws of a state as a misdemeanor and punishable by a term of imprisonment of 2 years or less?

**(aa)** Have you been adjudicated in any jurisdiction within the past 5 years to have committed 3 or more juvenile offenses described in division (o)?

**(bb)** To your knowledge, have you engaged within the past 5 years in reckless or negligent conduct that has been the subject of an investigation by a governmental entity?

**(cc)** Have you been convicted in a Maine court within the past 5 years of any Title 17-A, chapter 45 drug crime?

**(dd)** Have you been adjudicated in a Maine court within the past 5 years as having committed a juvenile offense involving conduct that, if committed by an adult, would have been a violation of Title 17-A, chapter 45?

**(ee)** Have you been adjudged in a Maine court to have committed the civil violation of possession of a useable amount of marijuana, butyl nitrite or isobutyl nitrite in violation of Title 22, § 2383 within the past 5 years?

**(ff)** Have you been adjudicated in a Maine court within the past 5 years as having committed the juvenile crime defined in Title 15, § 3103, subsection 1, paragraph B of possession of a useable amount of marijuana, as provided in Title 22, § 2383?; and

**E.** Does the following:

**(1)** At the request of the issuing authority, takes whatever action is required by law to allow the issuing authority to obtain from the Department of Health and Human Services, limited to records of patient committals to Riverview Psychiatric Center and Dorothea Dix Psychiatric Center, the courts, law enforcement agencies and the military information relevant to the following:

**(a)** The ascertainment of whether the information supplied on the application or any documents made a part of the application is true and correct;

**(b)** The ascertainment of whether each of the additional requirements of this section has been met; and

**(c)** Section 2005;

**(2)** If a photograph is an integral part of the permit to carry concealed handguns adopted by an issuing authority, submits to being photographed for that purpose;

**(3)** If it becomes necessary to resolve any questions as to identity, submits to having fingerprints taken by the issuing authority;

**(4)** Submits an application fee along with the written application to the proper issuing authority pursuant to the following schedule:

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

**(b)** Nonresident, \$60 for an original or renewal application; and

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

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

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

**2. Complete application; certification by applicant.** The requirements set out in subsection 1, constitute a complete application. By affixing the applicant's signature to the application, the applicant certifies the following:

**A.** That the statements the applicant makes in the application and any documents the applicant makes a part of the application are true and correct;

**A-1.** That the applicant understands that an affirmative answer to the question in subsection 1, paragraph D, subparagraph (5), division (l) or (o) is cause for refusal unless the applicant is nonetheless authorized to possess a firearm under Title 15, § 393;

**A-2.** That the applicant understands that an affirmative answer to subsection 1, paragraph D, subparagraph (5), division (p) is cause for refusal if the order of the court meets the preconditions contained in Title 15, § 393, subsection 1, paragraph D. If the order of the court does not meet the preconditions, the conduct underlying the order may be used by the issuing authority, along with other information, in judging good moral character under subsection 4;

**B.** That the applicant understands that an affirmative answer to one or more of the questions in subsection 1, paragraph D, subparagraph(5), divisions (a), (k), (n) or (q) to (x) is cause for refusal;

**B-1.** That the applicant understands that an affirmative answer to one or more of the questions in subsection 1, paragraph D, subparagraph(5), divisions (b) to (j), (m), (y), (z) or (aa) to (ff) is used by the issuing authority, along with other information, in judging good moral character under subsection 4; and

**C.** That the applicant understands any false statements made in the application or in any document made a part of the application may result in prosecution as provided in § 2004.

**3. Copy of laws furnished to applicant.** A copy of this chapter and the definitions from other chapters that are used in this chapter must be provided to every applicant.

**3-A. Model forms.** The Attorney General shall develop model forms for the following:

**A.** An application for a resident permit to carry concealed handguns;

**B.** An application for a nonresident permit to carry concealed handguns;

**C.** A resident permit to carry concealed handguns of which a photograph is an integral part;

**D.** A resident permit to carry concealed handguns of which a photograph is not an integral part;

**E.** A nonresident permit to carry concealed handguns; and

**F.** Authority to release information to the issuing authority for the purpose of evaluating information supplied on the application.

Each issuing authority shall utilize only the model forms.

**4. Good moral character.** The issuing authority in judging good moral character shall make its determination in writing based solely upon information recorded by governmental entities within 5 years of receipt of the application, including, but not limited to, the following matters:

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

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

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

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

**5. Access to confidential records.** Notwithstanding that certain records retained by governmental entities are by law made confidential, the records pertaining to patient committals to Riverview Psychiatric Center and Dorothea Dix Psychiatric Center, and records compiled pursuant to Title 19-A, § 4012, subsection 1, that are necessary to the issuing authority's determination of the applicant's good moral character and compliance with the additional requirements of this section and of § 2005 must, at the request of the issuing authority, be made available for inspection by and dissemination to the issuing authority.

**8. Term of permit.** All concealed handgun permits are valid for 4 years from the date of issue, unless sooner revoked for cause by the issuing authority. If a permit renewal is issued before the expiration date of the permit being renewed or within 6 months of the expiration date of the permit being renewed, the permit renewal is valid for 4 years from the expiration date of the permit being renewed.

**9. Information contained in permit.** Each permit to carry concealed handguns issued must contain the following: The name, address and physical description of the permit holder; the holder's signature; the date of issuance; and the date of expiration. A permit to carry concealed handguns may additionally contain a photograph of the permit holder if the issuing authority makes a photograph an integral part of the permit to carry concealed handguns.

**10. Validity of permit throughout the State.** Permits issued authorize the person to carry those concealed handguns throughout the State.

**11. Permit to be in permit holder's immediate possession.** Every permit holder, including a nonresident who holds a permit issued by the nonresident's state of residence, shall have the holder's permit in the holder's immediate possession at all times when carrying a concealed handgun and shall display the same on demand of any law enforcement officer. A person charged with violating this subsection may not be adjudicated as having committed a civil violation if that person produces in court the concealed handgun permit that was valid at the time of the issuance of a summons to court or, if the holder exhibits the permit to a law enforcement officer designated by the summoning officer not later than 24 hours before the time set for the court appearance, a complaint may not be issued.

**12. Permit for a resident of 5 or more years to be issued or denied within 30 days; permit for a nonresident and resident of less than 5 years to be issued or denied within 60 days.** The issuing authority, as defined in this chapter, shall issue or deny, and reply in writing as to the reason for any denial, within 30 days of the application date in the case of a resident of 5 or more years and within 60 days of the application date in the case of a nonresident or in the case of a resident of less than 5 years. If the issuing authority does not issue or deny a request for a permit renewal within the time limits specified in this subsection, the validity of the expired permit is extended until the issuing authority issues or denies the renewal.

**13. Fee waiver.** An issuing authority may waive the permit fee for a permit issued to a law enforcement officer certified by the Maine Criminal Justice Academy.

**14. Lapsed permit.** A person may apply for renewal of a permit at the permit renewal rate at any time within 6 months after expiration of a permit. A person who applies for a permit more than 6 months after the expiration date of the permit last issued to that person must submit an original application and pay the original application fee.

**15. Duty of issuing authority; application fees.** The application fees submitted by the applicant as required by subsection 1, paragraph E, subparagraph (4) are subject to the following.

**A.** If the issuing authority is other than the Chief of the State Police, \$25 of the fee for an original application and \$15 of the fee for a renewal must be paid over to the Treasurer of State.

**B.** If the Chief of the State Police is the issuing authority as the designee of a municipality under § 2002-A, \$25 of the fee for an original application and \$15 of the fee for a renewal must be paid over to the Treasurer of State.

**C.** If the Chief of the State Police is the issuing authority because the applicant is a resident of an unorganized territory, a nonresident or an applicant under subsection 18, the application fee must be paid over to the Treasurer of State. The fee must be applied to the expenses of administration incurred by the State Police.

**16. Application fee; use.** The application fee submitted by the applicant as required by subsection 1, paragraph E, subparagraph (4) covers the cost of processing the application by the issuing authority and the cost of the permit to carry concealed handguns issued by the issuing authority.

**17. Waiver of law enforcement agency record and background check fees.** Notwithstanding any other provision of law, a law enforcement agency may not charge an issuing authority a fee in association with the law enforcement agency's conducting a concealed handgun permit applicant record check or background check for the issuing authority.

**18. Certain persons on active duty in United States Armed Forces.** A person on active duty in the United States Armed Forces who qualifies as a resident of the State under the Department of Administrative and Financial Services, Bureau of Revenue Services rules and is otherwise qualified to be issued a permit under this section is eligible for a permit under this section issued by the Chief of the State Police upon payment of the application fee for a resident specified in subsection 1, paragraph E, subparagraph (4), division (a).

**§ 2003-A. Duty to inform law enforcement .** When an individual who is carrying a concealed handgun pursuant to the authority of this chapter and who does not have a valid permit to carry a concealed handgun that has been issued as provided in this chapter first comes into contact with any law enforcement officer of this State or its political subdivisions or a federal law enforcement officer during the course of any arrest, detainment or routine traffic stop, that individual shall immediately inform that law enforcement officer of the fact that the individual is carrying a concealed handgun.

#### **§ 2004. Penalty**

**1. False statements.** A person who intentionally or knowingly makes a false statement in the written application for a permit to carry a concealed handgun or any documents made a part of the application commits a Class D crime.

**2. Carries or conceals dangerous weapon.** A person who violates § 2001-A commits a Class D crime.

**3. Failure to possess permit.** A person who fails to comply with § 2003, subsection 11 commits a civil violation for which a fine of not more than \$100 may be adjudged.

**4. Violation of confidentiality.** A person who intentionally or knowingly violates the confidentiality provisions of § 2006

commits a Class E crime.

**5. Failure to inform law enforcement.** A person who fails to comply with § 2003-A commits a civil violation for which a fine of not more than \$100 may be adjudged.

### **§ 2005. Revocation; change of residence**

**1. Revocation.** The issuing authority shall revoke a permit on the basis of one or more of the following determinations:

- A.** The application or any documents made part of the application contained a material misstatement;
- B.** The permit holder has been convicted of a violation of § 2001-A;
- C.** The permit holder becomes ineligible to possess a permit under this chapter. Ineligibility is determined on the basis of the criteria contained in § 2003;
- D.** For conduct that occurred after a permit was issued, that the permit holder was convicted of operating a motor vehicle, snowmobile, ATV or watercraft while under the influence of intoxicating liquor or drugs or with an excessive alcohol level and, by a preponderance of the evidence, that at the time of the offense the permit holder was in possession of a loaded firearm; or
- E.** For conduct that occurred after a permit was issued, that the permit holder was convicted of any violation of Title 17-A, chapter 45.

**2. Change of Residence.** Except as provided in paragraph A, change of legal residence from one municipality to another during the term of the permit renders the permit invalid starting 30 days after the change is made. An invalid permit is not considered revoked for the purposes of subsection 3.

**A.** If the permit holder changes the permit holder's legal residence from one municipality to another during the term of the permit, the permit remains valid if the permit holder provides the permit holder's new address to the issuing authority of the permit holder's new residence within 30 days of making that change. The issuing authority of the new residence shall immediately reissue the permit with the corrected address for a fee of not more than \$2.

**B.** If the issuing authority of the permit holder's new residence so requests, the previous issuing authority shall provide a photocopy of the permit holder's application, documents made a part of the application and any information of record collected by that previous issuing authority.

**3. Reapplication.** If a permit has been revoked solely under subsection 1, paragraph D, the former permit holder may reapply upon successful completion of a substance abuse treatment program approved by the Department of Health and Human Services as appropriate for the permit holder's problem or condition. Except as specified in this subsection, no person, otherwise eligible, who has had a permit revoked, is eligible for reapplication until the expiration of 5 years from the date of revocation.

### **§ 2005-A. Suspension of permit upon refusal**

**1. Immediate suspension.** If the permit holder is required by law to submit to chemical testing for the presence of intoxicating liquor or drugs pursuant to Title 17-A, § 1057 or for conduct that occurs while the permit holder is in possession of a loaded firearm, and the permit holder refuses to submit to the required testing, the permit to carry a concealed handgun issued to that person is immediately suspended and must be surrendered at that time by the permit holder to the law enforcement officer.

**2. Notice to issuing authority.** The law enforcement officer who has probable cause to require chemical testing shall promptly notify the issuing authority, in writing, of the permit holder's refusal and shall return the surrendered permit to the issuing authority.

**3. Suspension in effect during pendency.** The suspension remains in effect until the entry of judgment if charges are filed of violating Title 17-A, § 1057 or of operating a motor vehicle, snowmobile, ATV, or watercraft under the influence of intoxicating liquor or drugs, unless it is determined by the court in which the criminal charge or civil violation is pending, or by the Secretary of State if a hearing is held pursuant to Title 29-A, § 2521, 2522 or 2523, that the law enforcement officer did not have probable cause to require the permit holder to submit to chemical testing.

**4. Suspension terminated.** If the permit holder is acquitted of the criminal charges to which the refusal pertains, if the charges are dismissed by the State or by the court or if a determination of no probable cause is made, the suspension is terminated and the court or the State shall promptly notify the issuing authority in writing. Upon receipt of the written notice the issuing authority shall return the permit.

### **§ 2006. Access to information and proceedings**

**1. Application, refusals and collected information; proceedings.** All applications for a permit to carry concealed handguns and documents made a part of the application, refusals and any information of record collected by the issuing authority during the process of ascertaining whether an applicant is of good moral character and meets the additional requirements of §§ 2003 and 2005 are confidential and are not public records for the purposes of Title 1, chapter 13, subchapter 1. The applicant may waive this confidentiality by written notice to the issuing authority. All proceedings relating to the issuance, refusal, suspension or revocation of a permit to carry concealed handguns are not public proceedings under Title 1, chapter 13, unless otherwise requested by the applicant.

**2. Permanent record of permit.** The issuing authority shall make a permanent record of each permit to carry concealed handguns in a suitable book or file kept for that purpose. The record must include the information contained in the permit itself. The record is confidential except that the following information about each permit holder is not confidential and is a public record:



## Chapter 252-A. Firearms Regulation

### § 2011. State preemption

**1. Preemption.** The State intends to occupy and preempt the entire field of legislation concerning the regulation of firearms, components, ammunition and supplies. Except as provided in subsection 3, any existing or future order, ordinance, rule or regulation in this field of any political subdivision of the State is void.

**2. Regulation Restricted.** Except as provided in subsection 3, no political subdivision of the State, including, but not limited to, municipalities, counties, townships and village corporations, may adopt any order, ordinance, rule or regulation concerning the sale, purchase, purchase delay, transfer, ownership, use, possession, bearing, transportation, licensing, permitting, registration, taxation or any other matter pertaining to firearms, components, ammunition or supplies.

**3. Exception.** This section does not prohibit an order, ordinance, rule or regulation of any political subdivision which, with the exception of appropriate civil penalty provisions, conforms exactly with any applicable provision of state law or which regulates the discharge of firearms within a jurisdiction.

**4. Law Enforcement Agency.** Nothing in this section limits the power of any law enforcement agency to regulate the type and use of firearms issued or authorized by that agency for use by its employees. For the purposes of this section "law enforcement agency" has the same meaning as set forth in § 3701.

**5. Restrictions on Firearms and Ammunition Prohibited During State of Emergency.** The provisions of this subsection apply to restrictions on firearms and ammunition during a state of emergency, as declared by the Governor pursuant to Title 37-B, § 742, subsection 1.

**A.** During a state of emergency, notwithstanding any provision of law to the contrary, a person acting on behalf or under the authority of the State or a political subdivision of the State may not:

1) Prohibit or restrict the otherwise lawful possession, use, carrying, transfer, transportation, storage or display of a firearm or ammunition. The provisions of this paragraph regarding the lawful transfer of a firearm or ammunition do not apply to the commercial sale of a firearm or ammunition if an authorized person has ordered an evacuation or general closure of businesses in the area of the business engaged in the sale of firearms or ammunition;

2) Seize or confiscate, or authorize the seizure or confiscation of, an otherwise lawfully possessed firearm or ammunition unless the person acting on behalf of or under the authority of the State is:

- a) Acting in self-defense against an assault;
- b) Defending another person from an assault;
- c) Arresting a person in actual possession of a firearm or ammunition for a violation of law; or
- d) Seizing or confiscating the firearm or ammunition as evidence of a crime; or

3) Require registration of a firearm or ammunition for which registration is not otherwise required by state law.

**B.** An individual aggrieved by a violation of this subsection may seek relief in an action at law or in equity for redress against any person who subjects that individual, or causes that individual to be subjected, to an action prohibited by this subsection.

**C.** In addition to any other remedy at law or in equity, an individual aggrieved by the seizure or confiscation of a firearm or ammunition in violation of this subsection may bring an action for the return of the firearm or ammunition in the Superior Court of the county in which that individual resides or in which the firearm or ammunition is located.

**D.** In an action or proceeding to enforce this subsection, the court shall award a prevailing plaintiff costs and reasonable attorney's fees.

### § 2012. Sale of firearms to include safety brochure

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

**A. "Basic firearm safety brochure"** means a brochure, produced by a national, nonprofit membership organization that provides a comprehensive voluntary safety program including the training of people in the safe handling and use of firearms or by any other organization, that contains the following information relating to firearms:

- (1) Rules for safe handling, storage and use of firearms;
- (2) Nomenclature and descriptions of various types of firearms;
- (3) Responsibilities of firearm ownership; and
- (4) The following information developed by the Department of Public Safety:
  - (a) A list of locations where handguns are prohibited; and
  - (b) Information concerning the use of handguns for self-defense.

**B. "Firearm"** has the same meaning as in Title 17-A, § 2, subsection 12-A.

**C. "Firearm dealer"** means a person who is licensed as a dealer under 18 United States Code, § 923, or who is required to be licensed as a dealer under that section.

**2. Requirement.** A firearm dealer must:

**A.** Include a basic firearm safety brochure with every firearm sold at retail in this State, except that the brochure need not be supplied by the firearm dealer if the firearm manufacturer provides a basic firearm safety brochure with the firearm. The dealer may collect a charge for the brochure, which may not be greater than the dealer's cost to obtain the brochure;

**B.** Offer to demonstrate to the purchaser the use of a trigger locking device; and

**C.** Post in a conspicuous place information relating to the availability of known local voluntary firearm safety programs.

**3. No liability.** Organizations that produce basic firearm safety brochures for distribution to firearm dealers for subsequent distribution to purchasers of firearms and firearm dealers are not liable for injuries resulting from the accidental discharge of nondefective firearms purchased from any dealer.

**§ 2013. Chief law enforcement officer's certification; certain firearms**

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

**A. "Certification"** means the participation and assent of a chief law enforcement officer necessary under federal law for the approval of an application to transfer or make a firearm.

**B. "Chief law enforcement officer"** means an official or the official's designee who the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives or successor agency identifies as eligible to provide certification.

**C. "Firearm"** has the same meaning as in the National Firearms Act, 26 United States Code, § 5845(a).

**2. Chief law enforcement officer's certification.** Within 15 days of receipt of an application for certification, the chief law enforcement officer shall provide the certification unless the chief law enforcement officer has information that prevents the chief law enforcement officer from providing the certification.

**A.** If the chief law enforcement officer denies an application for certification under this section, the chief law enforcement officer shall provide the applicant with a written notification of the denial and the reason for the denial, which may not be based upon a generalized objection to a private person's possessing, making or transferring a firearm or to a certain type of firearm that is otherwise lawful.

**B.** The denial of an application for certification or a failure or refusal to provide a certification in accordance with this section by a chief law enforcement officer may be appealed by an applicant in the following manner:

**(1)** If the chief law enforcement officer is employed by a state agency, the denial may be appealed pursuant to Title 5, § 11001 and the Maine Rules of Civil Procedure, Rule 80C; and

**(2)** If the chief law enforcement officer is not employed by a state agency, the denial may be appealed pursuant to the Maine Rules of Civil Procedure, Rule 80B.

**3. Criminal history record check; search of premises.** In making a certification required by subsection 2, a chief law enforcement officer may require the applicant to provide only such information as required by federal or state law to identify the applicant and conduct a criminal history record check or to determine the disposition of an arrest or proceeding relevant to the applicant's eligibility to lawfully possess or receive a firearm. A chief law enforcement officer may not require access to or consent for an inspection of any private premises as a condition of making a certification under this section.