

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1119

H.P. 847

House of Representatives, February 22, 2001

An Act to Limit Access to Firearms by Those Subject to Protection from Abuse Orders.

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

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative MITCHELL of Vassalboro.
Cosponsored by Senator EDMONDS of Cumberland and
Representatives: DESMOND of Mapleton, GERZOFKY of Brunswick, O'BRIEN of
Lewiston, RICHARDSON of Brunswick, SIMPSON of Auburn, Senators: ABROMSON of
Cumberland, PENDLETON of Cumberland.

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

4 **Sec. 1. 19-A MRSA §4006, sub-§5, ¶¶E and F,** as enacted by PL
6 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to
8 read:

10 E. Taking, converting or damaging property in which the
12 plaintiff may have a legal interest; or

14 F. Having any direct or indirect contact with the
16 plaintiff.; or

18 **Sec. 2. 19-A MRSA §4006, sub-§5, ¶G** is enacted to read:

20 G. Possessing a firearm or other dangerous weapon for the
22 duration of the order.

24 **Sec. 3. 19-A MRSA §4007-A** is enacted to read:

26 **§4007-A. Concealed firearms permit prohibited**

28 A person who is the subject of a protective order granted
30 under section 4007 or who is the subject of any similar order may
32 not apply for a concealed firearms permit for at least 2 years
34 after that person is no longer the subject of the protective
36 order. If a concealed firearms permit holder becomes the subject
38 of a protective order, that person's permit must be revoked.
40 That person may not reapply for a permit for at least 2 years
42 after the person is no longer the subject of the protective
44 order. For purposes of this section, a "similar order" means an
46 order issued by any court of the United States or of any other
48 state, territory, commonwealth or tribe that restrains the person
50 from harassing, stalking or threatening an intimate partner or a
child of an intimate partner or from engaging in other conduct
that would place the intimate partner or the intimate partner's
child in reasonable fear of bodily injury, except that this
section applies only when the court order was issued after a
hearing for which that person received actual notice and at which
that person had the opportunity to participate. For purposes of
this section, "intimate partner" has the same meaning as defined
in 18 United States Code, Section 921(a)(32).

44 **Sec. 4. 25 MRSA §2003, sub-§1, ¶C-1** is enacted to read:

46 C-1. Is not the subject of a protective order under Title
48 19-A, section 4007 or of any similar order issued by any
50 court of the United States or of any other state, territory,
commonwealth or tribe that restrains the person from
harassing, stalking or threatening an intimate partner or a
child of an intimate partner or from engaging in other

2 conduct that would place the intimate partner or the
3 intimate partner's child in reasonable fear of bodily
4 injury, except that this paragraph applies only when the
5 court order was issued after a hearing for which that person
6 received actual notice and at which that person had the
7 opportunity to participate. For purposes of this paragraph,
8 "intimate partner" has the same meaning as defined in 18
9 United States Code, Section 921(a)(32);

10 **Sec. 5. 25 MRSA §2003, sub-§1, ¶D**, as amended by PL 1993, c.
11 524, §§6 and 7, is further amended by enacting subparagraph (5),
12 division (j-1) to read:

13 (j-1) Within the past 2 years have you been the
14 subject of a protective order under Title 19-A,
15 section 4007 or of any similar order issued by any
16 court of the United States or of any other state,
17 territory, commonwealth or tribe that restrains
18 you from harassing, stalking or threatening an
19 intimate partner or a child of an intimate partner
20 or from engaging in other conduct that would place
21 the intimate partner or the intimate partner's
22 child in reasonable fear of bodily injury, except
23 that this division applies only when the court
24 order was issued after a hearing for which you
25 received actual notice and at which you had the
26 opportunity to participate? For purposes of this
27 division, "intimate partner" has the same meaning
28 as defined in 18 United States Code, Section
29 921(a)(32).

30
31 **Sec. 6. 25 MRSA §2005, sub-§1, ¶¶D and E**, as enacted by PL
32 1989, c. 917, §13, are amended to read:

33
34 D. For conduct that occurred after a permit was issued,
35 that the permit holder was convicted of operating a motor
36 vehicle, snowmobile, ATV or watercraft while under the
37 influence of intoxicating liquor or drugs or with an
38 excessive blood-alcohol level and, by a preponderance of the
39 evidence, that at the time of the offense the permit holder
40 was in possession of a loaded firearm; or

41
42 E. For conduct that occurred after a permit was issued,
43 that the permit holder was convicted of any violation of
44 Title 17-A, chapter 45-; or

45 **Sec. 7. 25 MRSA §2005, sub-§1, ¶F** is enacted to read:

46
47 F. For conduct that occurred after a permit was issued,
48 that the permit holder became the subject of a protective
49 order under Title 19-A, section 4007 or of any similar order
50 issued by any court of the United States or of any other state,

2 order under Title 19-A, section 4007 or of any similar order
3 issued by any court of the United States or of any other
4 state, territory, commonwealth or tribe that restrains the
5 permit holder from harassing, stalking or threatening an
6 intimate partner or a child of an intimate partner or from
7 engaging in other conduct that would place the intimate
8 partner or the intimate partner's child in reasonable fear
9 of bodily injury, except that this paragraph applies only
10 when the court order was issued after a hearing for which
11 that permit holder received actual notice and at which that
12 permit holder had the opportunity to participate. For
13 purposes of this paragraph, "intimate partner" has the same
14 meaning as defined in 18 United States Code, Section
15 921(a)(32).

16 **Sec. 8. 25 MRSA §2005, sub-§3**, as amended by PL 1989, c. 917,
17 §15, is further amended to read:

18 **3. Reapplication.** If a permit has been revoked solely
19 under subsection 1, paragraph D, the former permit holder may
20 reapply upon successful completion of a substance abuse treatment
21 program approved by the Department of Human Services as
22 appropriate for the permit holder's problem or condition. If a
23 permit has been revoked solely under subsection 1, paragraph F,
24 the former permit holder may reapply 2 years after the former
25 permit holder is no longer the subject of a protective order.
26 Except as specified in this subsection, no person, otherwise
27 eligible, who has had a permit revoked, is eligible for
28 reapplication until the expiration of 5 years from the date of
29 revocation.

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SUMMARY

35 This bill gives judges discretion to remove firearms from a
36 defendant's possession when issuing an interim protection from
37 abuse order. The bill also prohibits the issuance of a concealed
38 firearms permit to a person who is the subject of a protective
39 order and specifies that the person can not apply to receive a
40 concealed firearms permit until at least 2 years after the person
41 is no longer the subject of the protective order. If a concealed
42 firearms permit holder becomes the subject of a protective order,
43 that person's permit must be revoked. That person may not
44 reapply for a permit for at least 2 years after the person is no
longer the subject of the protective order.