

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

R.O.S

DATE: 4-6-06

(Filing No. S- 565)

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE
SENATE
122ND LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 739, L.D. 1938, Bill, "An Act To Protect Victims of Domestic Violence"

Amend the amendment by inserting before section 1 the following:

'Sec. 1. 14 MRSA §8104-A, sub-§5 is enacted to read:

5. Firearm seized pursuant to protection from abuse proceeding. A law enforcement agency seizing, confiscating or receiving a firearm pursuant to Title 19-A, section 4006, subsection 2-A or section 4007, subsection 1, paragraph A-1 is liable for any loss, damage or reduction in value of that firearm due to the lack of reasonable care by that law enforcement agency. For the purposes of this subsection, "firearm" has the same meaning as in Title 17-A, section 2, subsection 12-A and includes a scope, sight, bipod, sling, light, magazine, clip, ammunition or other firearm accessory attached to or seized, confiscated or relinquished with a firearm.

Sec. 2. 19-A MRSA §4005, sub-§6 is enacted to read:

6. Bad faith remedy. If the court finds that a plaintiff has commenced in bad faith a proceeding alleging abuse, the court, notwithstanding any law to the contrary, shall direct the individual to pay the defendant actual damages and reasonable attorney's fees. A failure to prove by a preponderance of the evidence an allegation of abuse does not, in itself, constitute bad faith for purposes of this subsection.'

R.O.S.

2 Further amend the amendment by inserting after section 2 the
following:

4

'Sec. 3. 19-A MRS §4012, sub-§11 is enacted to read:

6

11. Receipt of firearms; procedure; liability. A law
8 enforcement agency seizing, confiscating or receiving a firearm
pursuant to section 4006, subsection 2-A or 4007, subsection 1,
10 paragraph A-1 shall provide the owner of that firearm with a
signed and dated receipt. The receipt must include the serial
12 number of the firearm, the condition of the firearm and any other
firearm accessories seized, confiscated or received with the
14 firearm.

16 The law enforcement agency may not engrave or permanently mark in
any manner the firearm. Unless reasonable suspicion exists to
18 believe that a particular firearm has been used in the commission
of a crime, the firearm may not be test fired.

20

A law enforcement agency seizing, confiscating or receiving a
22 firearm pursuant to section 4006, subsection 2-A or section 4007,
subsection 1, paragraph A-1 is liable for damage to the firearm
24 that results in a reduction in value of the firearm, including,
without limitation, engraving, permanently marking or test firing
26 the firearm.'

28 Further amend the amendment by relettering or renumbering
any nonconsecutive Part letter or section number to read
30 consecutively.

32

SUMMARY

34

This amendment does the following:

36

1. It amends the provision of law granting immunity from
38 civil suit to governmental entities to hold a law enforcement
agency liable for damage or loss of firearms seized, confiscated
40 or received by that law enforcement agency pursuant to an order
of the court in a protection from abuse proceeding;

42

2. It requires a court to order a person seeking a
44 protection from abuse order in bad faith to pay damages and
reasonable attorney's fees to the defendant;

46

3. It requires a law enforcement agency seizing,
48 confiscating or receiving a firearm pursuant to an order of a
court in a protection from abuse proceeding to provide the owner

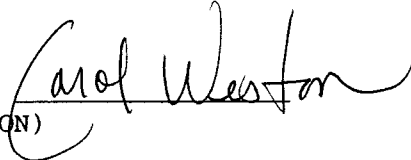
R. of S.

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 739,
L.D. 1938

2 of the firearm with a signed and dated receipt, which must
include the serial number and condition of the firearm and any
firearm accessories obtained with the firearm; and

4
6 4. It prohibits a law enforcement agency seizing,
confiscating or receiving a firearm pursuant to an order of a
court in a protection from abuse proceeding from engraving,
8 permanently marking or, unless reasonable suspicion exists to
believe the firearm was used in the commission of a crime, test
10 firing the firearm. A law enforcement agency that violates this
prohibition is liable for any reduction in value of the firearm.

12
14
16
18
20

SPONSORED BY: 
(Senator WESTON)

COUNTY: Waldo