

# MAINE STATE LEGISLATURE

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1002

L.D. 1938

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STATE OF MAINE  
SENATE  
122ND LEGISLATURE  
SECOND REGULAR SESSION

SENATE AMENDMENT "B" 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.'

**SENATE AMENDMENT**

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

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

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

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

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

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

## SUMMARY

This amendment does the following:

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

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

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

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

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. 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,  
permanently marking or, unless reasonable suspicion exists to  
believe the firearm was used in the commission of a crime, test  
firing the firearm. A law enforcement agency that violates this  
prohibition is liable for any reduction in value of the firearm.

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