

MAINE STATE LEGISLATURE

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SMG
ROFS

L.D. 827

Date: 6/13/11

(Filing No. H-612)

Minority

CRIMINAL JUSTICE AND PUBLIC SAFETY

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STATE OF MAINE

HOUSE OF REPRESENTATIVES

125TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 623, L.D. 827, Bill, "An Act To Bring the State's Laws into Compliance with the National Instant Criminal Background Check System"

Amend the bill in section 2 in subsection 4-A in the first paragraph in the 3rd line (page 1, line 20 in L.D.) by striking out the following: "Section" and inserting the following: '~~Section~~ Sections 922(d)(4) and'

Amend the bill in section 2 in subsection 4-A in the first paragraph in the 3rd line (page 1, line 20 in L.D.) by striking out the following: "or" and inserting the following: 'or'

Amend the bill in section 2 in subsection 4-A in the first paragraph in the 3rd to last line (page 1, line 23 in L.D.) by inserting after the following: "3864" the following: ', committed to a mental institution or'

Amend the bill in section 2 in subsection 4-A in the first paragraph in the 2nd to last line (page 1, line 24 in L.D.) by striking out the following: "5 years from the date of final discharge from" and inserting the following: '§ 2 years from the date of final discharge from adjudication or'

Amend the bill in section 2 in subsection 4-A in paragraph A in the 12th to 15th lines (page 1, lines 40 and 41 and page 2, lines 1 and 2 of L.D.) by striking out the following: "In reviewing the application, the commissioner shall also receive and consider the circumstances regarding the disability, the applicant's mental health and criminal history records and the applicant's reputation, which must be developed, at a minimum, through character witness statements and any other character evidence." and inserting the following: 'In reviewing the application, the commissioner shall also receive and consider the circumstances regarding the disability, the applicant's record, including mental health and criminal history records, and the applicant's reputation, which must be developed, at a minimum, through character witness statements, testimony or any other character evidence.'

COMMITTEE AMENDMENT

ROFS

COMMITTEE AMENDMENT "A" to H.P. 623, L.D. 827

1 Amend the bill in section 2 in subsection 4-A in paragraph E in the 2nd line (page 2,
2 line 24 in L.D.) by striking out the following: "involuntary commitment to a hospital" and
3 inserting the following: 'adjudication, involuntary admission or involuntary commitment
4 ~~to a hospital~~'

5 Amend the bill in section 2 in subsection 4-A in paragraph F in the 2nd line (page 2,
6 line 29 in L.D.) by striking out the following: "involuntary" and inserting the following:
7 'adjudication, involuntary admission or involuntary'

8 Amend the bill by adding after section 2 the following:

9 '**Sec. 3. 18-A MRSA §5-106** is enacted to read:

10 **§5-106. Firearms possession prohibition notification**

11 A court that finds a person to be an incapacitated person shall inform the person that
12 possession, ownership or control of a firearm by that person is prohibited pursuant to
13 Title 15, section 393, subsection 1. As used in this section, "firearm" has the same
14 meaning as in Title 17-A, section 2, subsection 12-A.'

15 Amend the bill in section 3 in paragraph C by striking out all of subparagraph (1)
16 (page 3, lines 18 to 21 in L.D.) and inserting the following:

17 '(1) ~~Committed~~ Admitted involuntarily to a hospital pursuant to Title 34-B,
18 section 3863 or committed involuntarily pursuant to an order of the District Court
19 under Title 34-B, section 3864 because the person was found to present a
20 likelihood of serious harm, as defined under Title 34-B, section 3801, subsection
21 4-A, paragraphs A to D;'

22 Amend the bill in section 3 in paragraph C in subparagraph (2) in the last line (page
23 3, line 23 in L.D.) by striking out the following: "or" and inserting the following: 'ø'

24 Amend the bill in section 3 in paragraph C in subparagraph (3) in the first line (page
25 3, line 24 in L.D.) by striking out the following: "charge." and inserting the following:
26 'charge.; ~~or~~'

27 Amend the bill in section 3 in paragraph C by inserting after subparagraph (3) the
28 following:

29 '(4) Found incapacitated as defined in Title 18-A, section 5-101, subsection (1)
30 and lacking the capacity to contract or manage the person's own affairs.'

31 Amend the bill by adding after section 3 the following:

32 '**Sec. 4. 34-B MRSA §3863, sub-§9** is enacted to read:

33 **9. Firearms possession prohibition notification.** A person who is admitted to a
34 psychiatric hospital on an emergency basis under this section must be informed that the
35 person is prohibited from possession, ownership or control of a firearm pursuant to Title
36 15, section 393, subsection 1. As used in this subsection, "firearm" has the same meaning
37 as in Title 17-A, section 2, subsection 12-A.'

38 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
39 section number to read consecutively.

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SUMMARY

This amendment is the minority report of the committee. It shortens the waiting period for applying to have the right to own, possess or control a firearm from 5 years from the date of final discharge from commitment to 2 years from the date of adjudication or commitment. The amendment expands the restoration of rights to also include the provisions of 18 United States Code, Section 922(d)(4). The amendment also adds new sections regarding involuntary commitment pursuant to the Maine Revised Statutes, Title 34-B, section 3863 and regarding persons found to be incapacitated pursuant to Title 18-A, section 5-101 to inform a person subject to these provisions that the person is prohibited from owning, possessing or controlling firearms.

FISCAL NOTE REQUIRED
(See attached)



125th MAINE LEGISLATURE

LD 827

LR 1355(02)

An Act To Bring the State's Laws into Compliance with the National Instant Criminal Background Check System

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

Fiscal Note

Potential current biennium cost increase - General Fund

Fiscal Detail and Notes

The Judicial Department may require additional General Fund appropriations to create a mechanism to capture and record these emergency petitions if it is a responsibility of the court. The costs will not be incurred if the hospitals are required to provide a notification of commitment. The Department of Health and Human Services may also require additional General Fund appropriations to implement these changes. Whether these costs can be absorbed or would require additional staff and resources cannot be determined at this time.