

# MAINE STATE LEGISLATURE

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L.D. 1884

Date: 4/18/2018

(Filing No. S-489)

JUDICIARY

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STATE OF MAINE  
SENATE  
128TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "B" to S.P. 719, L.D. 1884, Bill, "An Act To Create a Community Protection Order To Allow Courts To Prevent High-risk Individuals from Possessing Firearms"

Amend the bill by striking out the title and substituting the following:

**'An Act To Specify the Procedures Regarding the Court-ordered Surrender of Dangerous Weapons'**

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

**'Sec. 1. 15 MRSA §393, sub-§1, ¶E,** as amended by PL 2015, c. 470, §1, is further amended to read:

E. Has been:

- (1) Committed involuntarily to a hospital pursuant to an order of the District Court under Title 34-B, section 3864 because the person was found to present a likelihood of serious harm, as defined under Title 34-B, section 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; or
- (4) Ordered to participate in a progressive treatment program pursuant to Title 34-B, section 3873-A and, as part of that order, directed not to possess firearms pursuant to Title 34-B, section 3873-A, subsection 7-A.

Violation of this paragraph is a Class D crime;

**Sec. 2. 15 MRSA §393, sub-§1-C** is enacted to read:

**1-C. Dissolution or modification of court order prohibiting firearms. If a court of this State enters an order dissolving, terminating or vacating an order or any portion of**

**COMMITTEE AMENDMENT**

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1 an order that constitutes grounds to prohibit a person from possessing a firearm pursuant  
2 to subsection 1, 1-A or 1-B, the court shall promptly transmit that information to the  
3 Department of Public Safety, Bureau of State Police, State Bureau of Identification. The  
4 State Bureau of Identification shall promptly notify the Federal Bureau of Investigation  
5 and request that the Federal Bureau of Investigation promptly update the National Instant  
6 Criminal Background Check System so that it no longer reflects the dissolved, terminated  
7 or vacated order as a ground for prohibiting the subject of the order from possessing a  
8 firearm.

9 **Sec. 3. 34-B MRSA §3873-A, sub-§5, ¶A-1** is enacted to read:

10 A-1. Prior to the commencement of the hearing, the court shall inform the patient  
11 that if an order is entered pursuant to subsection 7-A, that patient is a prohibited  
12 person and may not own, possess or have under that person's control a firearm  
13 pursuant to Title 15, section 393, subsection 1.

14 **Sec. 4. 34-B MRSA §3873-A, sub-§§7-A and 7-B** are enacted to read:

15 7-A. Firearms. If the court directs a patient to follow an individualized treatment  
16 plan pursuant to subsection 6, the court may also prohibit the patient from possessing a  
17 firearm, muzzle-loading firearm, bow, crossbow or other dangerous weapon for the  
18 duration of the treatment plan. If the court prohibits the patient from possessing a  
19 dangerous weapon other than a firearm, muzzle-loading firearm, bow or crossbow, the  
20 court shall specify the type of weapon the patient is prohibited from possessing.

21 If the court prohibits the patient from possessing a firearm, muzzle-loading firearm, bow,  
22 crossbow or other dangerous weapon, the court shall notify the patient that possession of  
23 a firearm by the person is prohibited pursuant to Title 15, section 393. The court also  
24 shall direct the patient to relinquish, within 24 hours after service of the order on the  
25 patient or such earlier time as the court specifies in the order, all firearms, muzzle-loading  
26 firearms, bows, crossbows and specified dangerous weapons in the possession of the  
27 patient to a law enforcement officer or other individual for the duration of the order. If  
28 the weapons are relinquished to an individual other than a law enforcement officer, the  
29 patient must file, within 24 hours after such relinquishment, with the court or local law  
30 enforcement agency designated in the order a written statement that contains the name  
31 and address of the individual holding the weapons and a description of all weapons held  
32 by that individual.

33 The duties and liability of a law enforcement agency with respect to firearms surrendered  
34 pursuant to this subsection are governed by Title 25, section 2804-C, subsection 2-C.

35 7-B. Transmission of abstract of court ruling to the State Bureau of  
36 Identification. Notwithstanding any other provision of this section or section 1207, a  
37 court shall transmit to the Department of Public Safety, Bureau of State Police, State  
38 Bureau of Identification an abstract of any order issued by the court pursuant to this  
39 section that includes a prohibition on the possession of a firearm pursuant to subsection  
40 7-A. The abstract must include:

- 41 A. The name, date of birth and gender of the person who is the subject of the order;
- 42 B. The court's order pursuant to subsection 7-A and the expiration date of that order;
- 43 and

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COMMITTEE AMENDMENT "B" to S.P. 719, L.D. 1884

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C. A notation that the person has been notified by the court in accordance with subsection 5, paragraph A-1 and subsection 7-A.

The abstract required by this subsection is confidential and is not a public record as defined in Title 1, chapter 13; however, a copy of the abstract may be provided by the State Bureau of Identification to a criminal justice agency for legitimate law enforcement purposes, to the Federal Bureau of Investigation, National Instant Criminal Background Check System or to an issuing authority for the purpose of processing concealed firearm permit applications. The State Bureau of Identification shall request that the Federal Bureau of Investigation ensure that, immediately after an order issued pursuant to subsection 7-A expires, the National Instant Criminal Background Check System no longer reflects that expired order as a ground for prohibiting the subject of the order from possessing a firearm.

For the purposes of this subsection, "criminal justice agency" means a federal, state, tribal, district, county or local government agency or any subunit of those entities that performs the administration of criminal justice under a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice. Courts and the Department of the Attorney General are considered criminal justice agencies. "Criminal justice agency" also includes any equivalent criminal justice agency at any level of Canadian government.'

**SUMMARY**

This amendment, which is the minority report of the committee, strikes and replaces the bill. The amendment authorizes a court to order a person admitted to a progressive treatment program not to possess firearms, muzzle-loading firearms, bows, crossbows or other specified dangerous weapons for the duration of the patient's court-ordered participation in the program. Possession of a firearm by a patient in violation of such an order is a Class D crime. A law enforcement officer to whom a patient surrenders a firearm must exercise reasonable care to avoid loss, damage or reduction in value of the surrendered firearm.

The amendment also directs a court of this State that enters an order dissolving, terminating or vacating an order or any portion of an order that constitutes grounds to prohibit a person from possessing a firearm pursuant to the Maine Revised Statutes, Title 15, section 393 to promptly notify the Department of Public Safety, Bureau of State Police, State Bureau of Identification of this information. The State Bureau of Identification is required to then promptly notify the Federal Bureau of Investigation and request that the National Instant Criminal Background Check System be promptly updated to reflect the dissolution, termination, vacation or modification of the underlying order.

**FISCAL NOTE REQUIRED**

(See attached)



Approved: 04/18/18 *MAC*

# 128th MAINE LEGISLATURE

LD 1884

LR 2943(03)

An Act To Create a Community Protection Order To Allow Courts To Prevent High-risk Individuals from Possessing Firearms

Fiscal Note for Bill as Amended by Committee Amendment "B" (S-489)

Committee: Judiciary

Fiscal Note Required: Yes

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## Fiscal Note

Minor cost increase - General Fund  
Minor revenue increase - General Fund  
Minor cost increase - Highway Fund

### Correctional and Judicial Impact Statements

Increases caseload of civil suits and Class D crimes.

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time.

The collection of additional fines may increase General Fund or other dedicated revenue by minor amounts.

### Fiscal Detail and Notes

Any additional costs to the Departments of Health and Human Services and Public Safety from the provisions of this bill are expected to be minor and can be absorbed within existing budgeted resources.