

MAINE STATE LEGISLATURE

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Date: 6/13/19

REPORT A

(Filing No. S- 385)

JUDICIARY

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**STATE OF MAINE
SENATE
129TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 408, L.D. 1312, Bill, "An Act Regarding Access to Firearms by Extremely Dangerous and Suicidal Individuals"

Amend the bill in section 1 in §412 by inserting after subsection 2 the following:

'3. Factors. In determining whether grounds for an extreme risk protection order exist, the court may consider any or all of the following, without limitation:

A. A recent act or threat of violence by the respondent against self or others, regardless of whether the act or threat of violence involves a firearm;

B. A pattern of acts or threats of violence by the respondent within the past 12 months, including, but not limited to, acts or threats of violence against self or others, regardless of whether the acts or threats of violence involve a firearm;

C. The respondent's mental health history;

D. Evidence of the respondent's abuse of controlled substances or alcohol;

E. Previous violations by the respondent of any court order, including, but not limited to, protection orders issued under:

(1) Title 5, chapter 337-A;

(2) Chapter 12-A; and

(3) Title 19-A, chapter 101;

F. Previous extreme risk protection orders issued against the respondent;

G. The unlawful, threatening or reckless use or brandishing of a firearm by the respondent, including, but not limited to, such acts taken or displayed through social media;

H. The respondent's ownership of, access to or intent to possess firearms;

I. The respondent's criminal history, including, but not limited to, arrests and convictions for murder, Class A crimes, Class B crimes, Class C crimes, domestic

COMMITTEE AMENDMENT

1 violence assault, domestic violence criminal threatening, domestic violence
2 terrorizing, domestic violence stalking or domestic violence reckless conduct;

3 J. The history, use, attempted use or threatened use of physical violence by the
4 respondent against another person, the respondent's history of stalking another person
5 or evidence of cruelty to animals by the respondent, including, but not limited to,
6 evidence of violations or convictions pursuant to the provisions of Title 17, chapter
7 42; and

8 K. Evidence of recent acquisition or attempts at acquisition of firearms by the
9 respondent.'

10 Amend the bill in section 1 in §412 by renumbering the subsections to read
11 consecutively.

12 Amend the bill in section 1 in §413 in subsection 3 in the first line (page 3, line 32 in
13 L.D.) by striking out the following: "The time" and inserting the following: 'Of the time'

14 Amend the bill in section 1 in §413 in subsection 4 in the first line (page 3, line 34 in
15 L.D.) by striking out the following: "The restrained" and inserting the following: 'Of the
16 restrained'

17 Amend the bill in section 1 in §413 by striking out all of subsections 5 and 6 (page 3,
18 lines 36 to 38 in L.D.) and inserting the following:

19 '5. Right to review petition and findings. Of the restrained individual's right to
20 access and review the petition and findings of fact;

21 6. Duration. Of the duration of the temporary extreme risk protection order; and

22 7. Treatment resources. Of treatment resources that the restrained individual may
23 access.'

24 Amend the bill in section 1 in §414 by striking out all of subsection 2 (page 4, lines 8
25 to 12 in L.D.) and inserting the following:

26 '2. Search warrant. Following the issuance of an extreme risk protection order, the
27 court may issue a search warrant authorizing a law enforcement officer to search for and
28 seize any firearms in the restrained individual's possession or control. If the court finds
29 that probable cause to believe the restrained individual owns, possesses or controls any
30 firearms exists, the court shall issue a warrant describing the firearms in the restrained
31 individual's possession or control and authorizing a search of the location where the
32 described firearms are reasonably believed to be found and the seizure of any firearms in
33 the restrained individual's possession or control discovered pursuant to the search. This
34 subsection does not authorize a law enforcement officer to perform a warrantless search
35 or seizure if a warrant would otherwise be required.'

36 Amend the bill in section 1 in §422 by striking out all of subsections 4 and 5 (page 5,
37 lines 28 to 32 in L.D.) and inserting the following:

38 '4. Right to motion for dissolution. That the restrained individual has the right to
39 file one motion for dissolution during the duration of the extended extreme risk protection
40 order;

1 5. Right to counsel. That the restrained individual has the right to counsel,
 2 including the right, if indigent, to be appointed counsel; and

3 6. Treatment resources. Of treatment resources that the restrained individual may
 4 access.'

5 Amend the bill in section 1 in §432 in subsection 1 in the last line (page 7, line 28 in
 6 L.D.) by inserting at the end the following: 'The law enforcement agency that initially
 7 seizes or receives firearms as the result of an extreme risk protection order may make
 8 arrangements for transfer and storage of those firearms with another law enforcement
 9 agency or federally licensed firearms dealer.'

10 Amend the bill by inserting after section 2 the following:

11 **'Sec. 3. Appropriations and allocations.** The following appropriations and
 12 allocations are made.

13 **PUBLIC SAFETY, DEPARTMENT OF**
 14 **State Police 0291**

15 Initiative: Provides one-time funding for computer programming to update the protection
 16 order database.

17	GENERAL FUND	2019-20	2020-21
18	All Other	\$39,000	\$0
19			
20	GENERAL FUND TOTAL	<u>\$39,000</u>	<u>\$0</u>

21	HIGHWAY FUND	2019-20	2020-21
22	All Other	\$21,372	\$0
23			
24	HIGHWAY FUND TOTAL	<u>\$21,372</u>	<u>\$0</u>

26 **SUMMARY**

27 This amendment lists factors that a court may consider when determining whether the
 28 grounds for an extreme risk protection order exist. The list of factors is based on current
 29 Rhode Island statute. The court is not precluded from considering other criteria.

30 This amendment revises the search warrant procedures in the bill to clarify that the
 31 court has discretion to issue a search warrant after an extreme risk protection order has
 32 been issued. If the court finds there is probable cause to believe the restrained individual
 33 owns, possesses or controls any firearms, the court is required to issue a warrant that
 34 describes the firearms and authorizes a search of the location where the described
 35 firearms are reasonably believed to be found and the seizure of any firearms in the
 36 possession or control of the restrained individual that are discovered pursuant to the
 37 search. The search warrant process for extreme risk protection orders described in this

1 legislation is not intended to alter or supersede existing provisions governing search
2 warrants, including exceptions for when a search warrant is not required.

3 This amendment requires the court, when issuing either a temporary extreme risk
4 protection order or an extended extreme risk protection order, to inform the individual
5 subject to the order of treatment resources that the individual may access.

6 This amendment authorizes the law enforcement agency that initially seized or
7 received firearms as the result of an extreme risk protection order to make arrangements
8 for transfer and storage of those firearms with another law enforcement agency or with a
9 federally licensed firearms dealer.

10 This amendment adds an appropriations and allocations section.

11 **FISCAL NOTE REQUIRED**

12 **(See attached)**



129th MAINE LEGISLATURE

LD 1312

LR 147(02)

An Act Regarding Access to Firearms by Extremely Dangerous and Suicidal Individuals

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-285)

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

	FY 2019-20	FY 2020-21	Projections FY 2021-22	Projections FY 2022-23
Net Cost (Savings)				
General Fund	\$39,000	\$0	\$0	\$0
Highway Fund	\$21,372	\$0	\$0	\$0
Appropriations/Allocations				
General Fund	\$39,000	\$0	\$0	\$0
Highway Fund	\$21,372	\$0	\$0	\$0

Correctional and Judicial Impact Statements

This bill may increase the number of civil suits filed in the court system.

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 filing fees may increase General Fund and other dedicated revenue by minor amounts.

Fiscal Detail and Notes

The bill creates an extreme risk protection order process and includes a one-time General Fund appropriation of \$39,000 and a one-time Highway Fund allocation of \$21,372 in fiscal year 2019-20 to the Department of Public Safety for computer programming to update the protection order database.