

# MAINE STATE LEGISLATURE

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MAJORITY

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STATE OF MAINE

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SENATE

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131ST LEGISLATURE

8

SECOND REGULAR SESSION

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COMMITTEE AMENDMENT " " to S.P. 953, L.D. 2224, "An Act to Strengthen Public Safety by Improving Maine's Firearm Laws and Mental Health System"

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Amend the bill in section 1 in paragraph E-1 in the 2nd line (page 1, line 5 in L.D.) by striking out the following: "2" and inserting the following: '2 4'

12

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Amend the bill by striking out all of section 2 and inserting the following:

14

'Sec. 2. 15 MRSA §394, sub-§1, ¶B-1 is enacted to read:

15

B-1. "Intentionally" has the same meaning as in Title 17-A, section 35, subsection 1.

16

Sec. 3. 15 MRSA §394, sub-§1, ¶B-2 is enacted to read:

17

B-2. "Knowingly" has the same meaning as in Title 17-A, section 35, subsection 2.

18

Sec. 4. 15 MRSA §394, sub-§1, ¶B-3 is enacted to read:

19

B-3. "Recklessly" has the same meaning as in Title 17-A, section 35, subsection 3.

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Sec. 5. 15 MRSA §394, sub-§2, as enacted by PL 2023, c. 305, §1, is amended to read:

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2. Sale or transfer prohibited. A person may not knowingly or intentionally, knowingly or recklessly sell or transfer a firearm to a person who is prohibited from owning, possessing or having under that person's control a firearm pursuant to section 393 and who does not have a permit issued under section 393. This subsection does not apply to the sale or transfer of an antique firearm.

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Violation of this subsection is a Class D C crime.'

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Amend the bill in section 3 in §395 by striking out all of subsection 1 (page 1, lines 19 to 37 in L.D.) and inserting the following:

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'1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

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COMMITTEE AMENDMENT

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A. "Advertisement" means the presentation of a message regarding a firearm for sale by a seller that is:

- (1) Broadcast on television or radio;
- (2) Broadly disseminated over the Internet;
- (3) Printed in magazines or newspapers; or
- (4) Displayed on a handbill, poster, sign or placard.

B. "Buy" means to acquire ownership for monetary or other consideration.

C. "Buyer" means a person who buys from a seller.

D. "Family member" means a spouse, domestic partner, parent, stepparent, foster parent, child, stepchild, foster child or person related by consanguinity within the 2nd degree.

E. "Federally licensed firearms dealer" or "dealer" means a person who is licensed or is required to be licensed as a dealer under 18 United States Code, Section 923(a)(3).

F. "Firearm" has the same meaning as in Title 17-A, section 2, subsection 12-A.

G. "Gun show" means any gathering or exhibition at which any firearm is displayed that is:

- (1) Open to the public;
- (2) Not occurring on the permanent premises of a federally licensed firearms dealer; and
- (3) Conducted principally for the purposes of transactions.

H. "Sell" means to transfer ownership for monetary or other consideration.

I. "Seller" means a person who sells to a buyer.

J. "Transaction" means the transfer of ownership of a firearm from a seller to a buyer.'

Amend the bill in section 3 in §395 in subsection 2 by striking out all of paragraph B (page 2, lines 2 and 3 in L.D.) and inserting the following:

'B. A seller sells to a buyer as a result of an advertisement.'

Amend the bill in section 11 in paragraph C-1 in subparagraph (1) in the 2nd line (page 4, line 27 in L.D.) by striking out the following: "was mentally ill and presented" and inserting the following: 'may be mentally ill and presents'

Amend the bill in section 11 in paragraph C-1 by striking out all of subparagraph (2) (page 4, line 30 in L.D.) and inserting the following:

'(2) An examination under section 3863 has occurred.'

Amend the bill by striking out all of sections 12 and 13 and inserting the following:

**'Sec. 12. 34-B MRSA §3862-A, sub-§2-A is enacted to read:**

**2-A. Protective custody warrant for purposes of conducting an assessment. If a law enforcement officer is unable to take a person into protective custody to conduct an assessment under this section, the law enforcement officer may apply for a protective custody warrant. The officer must submit an affidavit of probable cause for a protective**

# COMMITTEE AMENDMENT

ROS

1 custody warrant to a Justice of the Superior Court, a Judge of the District Court or a justice  
2 of the peace.

3 The justice, judge or justice of the peace shall issue a protective custody warrant and  
4 promptly transmit that warrant to the officer for execution upon finding the affidavit under  
5 this subsection is sufficient to establish:

6 A. Probable cause to believe that the person may be mentally ill and due to that  
7 condition presents a likelihood of serious harm;

8 B. Probable cause to believe that the person possesses, controls or may acquire a  
9 dangerous weapon; and

10 C. That the officer has made reasonable attempts to take the person into custody  
11 without a warrant.

12 A warrant transmitted by facsimile machine or an electronic warrant transmitted by secure  
13 electronic means has the same legal effect and validity as an original endorsement signed  
14 by the justice, judge or justice of the peace. The electronic protective custody warrant or  
15 paper protective custody warrant may be executed by a law enforcement officer authorized  
16 to take the person into protective custody as provided in section 3862, subsection 1,  
17 paragraph B.

18 **Sec. 13. 34-B MRSA §3862-A, sub-§3**, as enacted by PL 2019, c. 411, Pt. A, §1  
19 and affected by Pt. D, §3, is amended to read:

20 **3. Notification by medical practitioner and judicial endorsement.** A medical  
21 practitioner shall notify in writing the law enforcement officer or law enforcement agency  
22 that took the person into protective custody under section 3862, subsection 1, paragraph B  
23 that, based on the assessment under ~~subsection 2, paragraph B,~~ the person is found to  
24 present a likelihood of foreseeable harm. If so notified, the law enforcement officer or law  
25 enforcement agency shall as soon as practicable seek endorsement by a ~~Superior Court~~  
26 ~~Justice, District Court Judge, judge of probate or~~ Justice of the Superior Court, a Judge of  
27 ~~the District Court or a~~ justice of the peace of the medical practitioner's assessment and law  
28 enforcement's declarations that the person was taken into protective custody and that the  
29 law enforcement officer has probable cause to believe that the person possesses, controls  
30 or may acquire a dangerous weapon. The ~~judge justice or justice judge~~ shall promptly  
31 transmit to the law enforcement officer or agency the decision to endorse or not endorse.  
32 A decision transmitted electronically has the same legal effect and validity as a signed  
33 original. An endorsement must authorize law enforcement to execute the authority in  
34 subsection 4. This section may not be construed to prevent law enforcement from accepting  
35 a voluntary surrender of dangerous weapons.'

36 Amend the bill in section 15 in paragraph A in the 6th line (page 6, line 32 in L.D.) by  
37 inserting after the following: "~~hearing~~" the following: 'and the district attorney'

38 Amend the bill by striking out all of section 16 and inserting the following:

39 '**Sec. 16. 34-B MRSA §3862-A, sub-§6, ¶B**, as enacted by PL 2019, c. 411, Pt. A,  
40 §1 and affected by Pt. D, §3, is amended to read:

41 B. Within 14 30 days of the notice given under subsection 4, the court shall hold a  
42 hearing to determine whether to dissolve or extend the initial restrictions. Upon a  
43 showing of good cause, the court may extend the time to hold the hearing. In the

# COMMITTEE AMENDMENT

ROS

1 hearing determining whether to dissolve or extend the initial restrictions, the district  
2 attorney has the burden to prove by clear and convincing evidence that the restricted  
3 person presents a likelihood of foreseeable harm.'

4 Amend the bill by striking out all of section 19 and inserting the following:

5 'Sec. 19. Appropriations and allocations. The following appropriations and  
6 allocations are made.

7 **HEALTH AND HUMAN SERVICES, DEPARTMENT OF**  
8 **Injury and Violence Prevention Program Z397**

9 Initiative: Provides one-time funding for a new injury and violence prevention program.

10	<b>GENERAL FUND</b>	<b>2023-24</b>	<b>2024-25</b>
11	All Other	\$0	\$1,032,000
12			
13	<b>GENERAL FUND TOTAL</b>	<u>\$0</u>	<u>\$1,032,000</u>

14 **Maine Center for Disease Control and Prevention 0143**

15 Initiative: Establishes one limited-period Health Program Manager position and one  
16 limited-period Public Health Education III position through June 12, 2027 and provides  
17 funding for related All Other costs.

18	<b>FEDERAL EXPENDITURES FUND</b>	<b>2023-24</b>	<b>2024-25</b>
19	Personal Services	\$0	\$206,156
20	All Other	\$0	\$17,962
21			
22	<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<u>\$0</u>	<u>\$224,118</u>

24	<b>FEDERAL BLOCK GRANT FUND</b>	<b>2023-24</b>	<b>2024-25</b>
25	Personal Services	\$0	\$105,397
26	All Other	\$0	\$9,538
27			
28	<b>FEDERAL BLOCK GRANT FUND TOTAL</b>	<u>\$0</u>	<u>\$114,935</u>

30	<b>HEALTH AND HUMAN SERVICES,</b>		
31	<b>DEPARTMENT OF</b>		
32	<b>DEPARTMENT TOTALS</b>	<b>2023-24</b>	<b>2024-25</b>
33			
34	<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$1,032,000</b>
35	<b>FEDERAL EXPENDITURES FUND</b>	<b>\$0</b>	<b>\$224,118</b>
36	<b>FEDERAL BLOCK GRANT FUND</b>	<b>\$0</b>	<b>\$114,935</b>
37			
38	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<u><b>\$0</b></u>	<u><b>\$1,371,053</b></u>

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

# COMMITTEE AMENDMENT

**SUMMARY**

This amendment changes the bill in the following ways.

1. It corrects cross-references and makes technical changes for consistency with current law.

2. It defines the culpable mental states for the prohibition on certain sales or transfers of a firearm.

3. It defines "advertisement" for the purposes of transactions requiring background checks.

4. It requires a justice of the peace, in addition to a Justice of the Superior Court or a Judge of the District Court, to issue a protective custody warrant when a law enforcement officer submits an affidavit of probable cause.

5. It removes language regarding actions that must be taken when a judge is not available when a law enforcement agency seeks endorsement of a medical practitioner's assessment.

6. It requires the court to notify the district attorney of a hearing regarding a restricted person.

7. It removes the provision in the bill that changes the classification of the crime of possession of a dangerous weapon by a restricted person.

**FISCAL NOTE REQUIRED**

(See attached)



# 131st MAINE LEGISLATURE

LD 2224

LR 3066(02)

## An Act to Strengthen Public Safety by Improving Maine's Firearm Laws and Mental Health System

Fiscal Note for Bill as Amended by Committee Amendment "*A(5-687)*  
Committee: Judiciary  
Fiscal Note Required: Yes

### Fiscal Note

	FY 2023-24	FY 2024-25	Projections FY 2025-26	Projections FY 2026-27
<b>Net Cost (Savings)</b>				
General Fund	\$0	\$1,032,000	\$1,032,000	\$1,032,000
<b>Appropriations/Allocations</b>				
General Fund	\$0	\$1,032,000	\$1,032,000	\$1,032,000
Federal Expenditures Fund	\$0	\$224,118	\$230,302	\$236,672
Federal Block Grant Fund	\$0	\$114,935	\$118,096	\$121,353
<b>Revenue</b>				
Federal Expenditures Fund	\$0	\$224,118	\$235,277	\$245,925
Federal Block Grant Fund	\$0	\$114,935	\$119,913	\$125,120

### Correctional and Judicial Impact Statements

Elevates from Class D to Class C the crime of intentionally, knowingly or recklessly selling or transferring a firearm to a person who is prohibited from owning, possessing or having under that person's control a firearm. Establishes a Class C crime for a seller who is not a federally licensed firearms dealer to complete a transaction unless the seller facilitates the transaction through a federally licensed firearms dealer and the dealer performs a background check of the seller by using the Federal Bureau of Investigation, National Instant Criminal Background Check System.

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 does not require additional funding at this time.

The collection of additional fines and filing fees will increase General Fund or other dedicated revenue by minor amounts.

### Fiscal Detail and Notes

The bill includes General Fund appropriations to the Department of Health and Human Services of \$1,032,000 in fiscal year 2024-25 to create the new Injury and Violence Prevention Program. The bill also includes one-time Federal Expenditures Fund and Federal Block Grant Fund allocations to establish one limited-period Health Program Manager position and one limited-period Public Health Education III position through June 12, 2027 and provides funding for related All Other costs.

Any additional costs to the Department of Public Safety associated with this legislation are expected to be minor and can be absorbed within existing budgeted resources.