

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

SR
ROS

"C"

CORRECTED
COPY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

Date: 4/17/24 Report 'C'

L.D. 2283
(Filing No. H-977)

JUDICIARY

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "B" to H.P. 1470, L.D. 2283, "An Act to Enact the Crisis Intervention Order Act to Protect the Safety of the Public"

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

Sec. 1. 15 MRSA §393, sub-§1, ¶E-3 is enacted to read:

E-3. Is currently the subject of a crisis intervention order issued pursuant to Title 25, section 2244 or 2245, except that the prohibition applies to possession and control, not ownership. Violation of this paragraph is a Class D crime;

Sec. 2. 15 MRSA §1023, sub-§4, ¶B-2 is enacted to read:

B-2. Set preconviction bail for a defendant alleged to have committed a violation of section 393, subsection 1, paragraph E-3;

Sec. 3. 17-A MRSA §15, sub-§1, ¶A, as amended by PL 2023, c. 465, §1, is further amended by amending subparagraph (24) to read:

(24) A Class D or Class E crime committed while released on preconviction or post-conviction bail; or

Sec. 4. 17-A MRSA §15, sub-§1, ¶A, as amended by PL 2023, c. 465, §1, is further amended by amending subparagraph (25) to read:

(25) A violation of a condition of release from a community confinement monitoring program pursuant to Title 30-A, section 1659-A; and or

Sec. 5. 17-A MRSA §15, sub-§1, ¶A, as amended by PL 2023, c. 465, §1, is further amended by enacting a new subparagraph (26) to read:

(26) A violation of a crisis intervention order issued pursuant to Title 25, section 2244, subsection 3; and

Sec. 6. 25 MRSA c. 261 is enacted to read:

COMMITTEE AMENDMENT

ROS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38

CHAPTER 261

CRISIS INTERVENTION ORDER ACT

§2241. Short title

This chapter may be known and cited as "the Crisis Intervention Order Act."

§2242. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Court. "Court" means a District Court in this State.

2. Crisis intervention order. "Crisis intervention order" means a written order issued pursuant to this chapter that prohibits and enjoins an individual from purchasing, possessing or receiving a dangerous weapon or having or attempting to have custody or control of a dangerous weapon.

3. Dangerous weapon. "Dangerous weapon" has the same meaning as in Title 17-A, section 2, subsection 9, paragraph C, including a firearm as defined in Title 17-A, section 2, subsection 12-A.

4. Family or household member. "Family or household member" means a spouse or domestic partner of the respondent, a former spouse or former domestic partner of the respondent, an individual presently or formerly living with the respondent as a spouse of the respondent, a parent of a child of the respondent, an adult sibling of the respondent, an adult child of the respondent or an adult presently or formerly living with the respondent.

5. Federally licensed firearm dealer. "Federally licensed firearm dealer" means a federally licensed firearm importer, federally licensed firearm manufacturer or federally licensed firearm dealer required to conduct a national instant criminal background check under 18 United States Code, Section 922(t).

6. Law enforcement agency. "Law enforcement agency" means a state, county, tribal, municipal or University of Maine System law enforcement agency. "Law enforcement agency" does not include a federal law enforcement agency.

7. Law enforcement officer. "Law enforcement officer" means an individual who by virtue of public employment is vested by law with the power to make arrests for crimes or serve criminal process, whether that power extends to all crimes or is limited to specific crimes, and who possesses a current and valid certificate issued by the Board of Trustees of the Maine Criminal Justice Academy pursuant to section 2803-A. "Law enforcement officer" does not include a federal law enforcement officer.

8. Petition. "Petition" means a petition for a crisis intervention order filed pursuant to this chapter.

9. Petitioner. "Petitioner" means a family or household member, a law enforcement agency or a law enforcement officer who files a petition for a crisis intervention order pursuant to this chapter.

1 10. Respondent. "Respondent" means an individual named in a petition for a crisis
2 intervention order filed pursuant to this chapter whose purchase, possession, receipt,
3 custody or control of a dangerous weapon the petitioner seeks to restrain.

4 §2243. Jurisdiction and venue

5 1. Jurisdiction. The court has jurisdiction over proceedings under this chapter.

6 2. Venue. A proceeding under this chapter must be commenced in the judicial division
7 where the respondent resides. If a District Court Judge is not available in the division in
8 which a motion requesting an emergency crisis intervention order is to be filed, the petition
9 and motion may be presented to any other District Court Judge or to any Superior Court
10 Justice who has the same authority as a District Court Judge to grant or deny the emergency
11 crisis intervention order.

12 §2244. Crisis intervention orders

13 1. Petition. A family or household member, a law enforcement agency or a law
14 enforcement officer may file a petition requesting that the court issue a crisis intervention
15 order in accordance with this subsection.

16 A. A petition filed pursuant to this subsection must allege that the respondent poses a
17 significant danger of causing severe harm to the respondent or another person by
18 purchasing, possessing or receiving a dangerous weapon or by having or attempting to
19 have custody or control of a dangerous weapon. If the petitioner is a family or
20 household member, a petition filed pursuant to this section must also allege that the
21 family or household member has served as a 3rd-party informant under Title 34-B,
22 section 3862 requesting that a law enforcement officer take the respondent into
23 protective custody and that the law enforcement officer was unable or unwilling to
24 make a determination of whether to take the respondent into protective custody.

25 B. A significant danger of causing severe harm to another person may be shown by
26 establishing that:

27 (1) The respondent has inflicted or attempted to inflict bodily harm on another
28 person;

29 (2) By the respondent's threats or actions, the respondent has placed another person
30 in reasonable fear of physical harm; or

31 (3) By the respondent's actions or inactions, the respondent has presented a danger
32 to another person in the respondent's care.

33 C. A significant danger of causing severe harm to the respondent may be shown by
34 establishing that the respondent has threatened or attempted suicide or has threatened
35 or attempted serious bodily harm.

36 D. The petition must be supported by an affidavit or affidavits that:

37 (1) States the specific facts establishing that the requirements in paragraph B or C
38 have been met;

39 (2) Identifies any dangerous weapon the petitioner believes to be in the
40 respondent's possession, custody or control;

41 (3) States whether the petitioner knows of an existing order issued with respect to
42 the respondent under Title 5, section 4655 or Title 19-A, chapter 103, or a similar

ROS

1 order issued by a court of competent jurisdiction in the United States or another
2 state, territory, commonwealth or federally recognized Indian tribe; and

3 (4) Includes the following statement in bold type: "MAKING A MATERIAL
4 FALSE STATEMENT IN THIS AFFIDAVIT MAY SUBJECT YOU TO
5 PROSECUTION FOR A CLASS C CRIME UNDER THE MAINE REVISED
6 STATUTES, TITLE 25, SECTION 2249."

7 E. A court shall provide forms to a petitioner filing a petition, an affidavit and any
8 other necessary documents. A court may not provide assistance in filling out a form
9 provided pursuant to this paragraph, in drafting legal documents or by providing legal
10 advice to a petitioner. The forms provided by the court under this paragraph must be
11 uniform throughout the State and must include a summons and an affidavit for a crisis
12 intervention order. The summons must include a section on which the petitioner may
13 list the places where the respondent may be located or may be available to be served.

14 F. A filing fee may not be required for a petition filed pursuant to this subsection.

15 **2. Hearing.** Except as provided in section 2245 with respect to an emergency crisis
16 intervention order, the court may grant relief only after notice to the respondent and an
17 opportunity for a hearing. The petitioner has the burden of proving by clear and convincing
18 evidence that the respondent poses a significant danger of causing severe harm to the
19 respondent or another person by purchasing, possessing or receiving a dangerous weapon
20 or by having or attempting to have custody or control of a dangerous weapon.

21 A. The court shall hold a hearing within 14 days after a petition is filed pursuant to this
22 section. Notice of the hearing must be served pursuant to section 2247 concurrently
23 with the petition and any ex parte order issued pursuant to section 2245. This section
24 does not limit the court's discretion to continue the hearing upon the court's own motion
25 or upon motion of either party.

26 B. Upon the filing of a petition, the respondent has the right to be represented by
27 counsel at a hearing, and the court may appoint counsel for an indigent party. The court
28 shall include the name of the appointed counsel in the notice of the hearing under
29 paragraph A. The respondent may replace the appointed counsel with an attorney of
30 the respondent's own selection at any time at the respondent's own expense. The State
31 is responsible for the cost of appointed counsel.

32 **3. Orders.** The court shall grant a petition and issue a crisis intervention order if the
33 court finds by clear and convincing evidence that the respondent poses a significant danger
34 of causing severe harm to the respondent or to another person by purchasing, possessing or
35 receiving a dangerous weapon or by having or attempting to have custody or control of a
36 dangerous weapon.

37 A. The court shall issue an order under this subsection prohibiting the respondent from
38 purchasing, possessing or receiving a dangerous weapon or having or attempting to
39 have custody or control of a dangerous weapon for a period of up to one year. The
40 order must be signed in writing and include the following:

- 41 (1) A statement of the grounds for the issuance of the order;
42 (2) The name and address of the court where any filings must be made, the names
43 of the parties, the date of the petition, the date and time of the order and the date
44 and time the order expires;

COMMITTEE AMENDMENT

ROS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

- (3) A description of how to appeal the order pursuant to section 2251;
- (4) A description of the requirements for relinquishment and return of a dangerous weapon under section 2250;
- (5) A description of how to request termination of the order under section 2246, including a form for a motion to terminate the order; and
- (6) A statement in substantially the following form:
"To the subject of this crisis intervention order: This order is in effect until the date and time stated above. If you have not done so already, you are required to surrender all dangerous weapons and firearms in your custody, control or possession as directed in this order. While this order is in effect, you are not allowed to purchase, possess or receive a dangerous weapon or firearm; attempt to purchase, possess or receive a dangerous weapon or firearm; or have or attempt to have custody or control of a dangerous weapon or firearm. You have the right to request one hearing to terminate this order during the period that this order is in effect, starting from the date of this order. You may seek the advice of an attorney regarding any matter connected with this order."

B. When findings are required under this subsection, the court shall make either written findings of fact or oral findings of fact on the record.

C. An order issued pursuant to this section must include the following statement: "VIOLATION OF THIS ORDER IS A CRIME AS PROVIDED BY THE MAINE REVISED STATUTES, TITLE 15, SECTION 393, AND MAY ALSO RESULT IN SANCTIONS FOR CONTEMPT PURSUANT TO THE MAINE RULES OF CIVIL PROCEDURE, RULE 66."

If a court denies a petition filed pursuant to this subsection, the court shall state the reason for the denial.

4. Other remedies unaffected. The decision of a court to grant or to deny a petition brought under this section does not preclude a law enforcement officer from taking the respondent into protective custody in accordance with Title 34-B, section 3862, subsection 1.

§2245. Emergency crisis intervention orders

1. Petition. In filing a petition under this chapter, a petitioner may request that the court issue an emergency crisis intervention order. An emergency crisis intervention order may be issued ex parte, without prior notice to the respondent.

A. A petitioner seeking an emergency ex parte order shall indicate in the petition and affidavit or affidavits that emergency relief is requested because the respondent poses an imminent and significant danger of causing severe harm to the respondent or to another person by purchasing, possessing or receiving a dangerous weapon or by having or attempting to have custody or control of a dangerous weapon. An affidavit must include the specific facts supporting the imminent danger posed by the respondent. If the petitioner is a family or household member, a petition filed pursuant to this section must also allege that the family or household member has served as a 3rd-party informant under Title 34-B, section 3862 requesting that a law enforcement officer take the respondent into protective custody and that the law enforcement officer

COMMITTEE AMENDMENT

- 1 was unable or unwilling to make a determination of whether to take the respondent into
- 2 protective custody.
- 3 B. An imminent and significant danger of causing severe harm to another person may
- 4 be shown by establishing that:
- 5 (1) The respondent has inflicted or attempted to inflict bodily harm on another
- 6 person;
- 7 (2) By the respondent's threats or actions, the respondent has placed another person
- 8 in reasonable fear of physical harm; or
- 9 (3) By the respondent's actions or inactions, the respondent has presented a danger
- 10 to another person in the respondent's care.
- 11 C. An imminent and significant danger of causing severe harm to the respondent may
- 12 be shown by establishing that the respondent has threatened or attempted suicide or has
- 13 threatened or attempted serious bodily harm.
- 14 D. The court may issue an emergency crisis intervention order if the petition and
- 15 affidavit or affidavits present clear and convincing evidence that the respondent poses
- 16 an imminent and significant danger of causing severe harm to the respondent or to
- 17 another person 'by purchasing, possessing or receiving a dangerous weapon or by
- 18 having or attempting to have custody or control of a dangerous weapon.
- 19 E. The court shall decide whether to grant or deny the petition and issue the order on
- 20 the basis of the contents of the petition and the affidavit or affidavits provided. If the
- 21 petition is granted, the court shall immediately sign the original order, enter on its face
- 22 the exact date and time it is issued and transmit a copy to the petitioner by reliable
- 23 electronic means, such as e-mail. Upon issuance of an order, a copy must be served on
- 24 the respondent pursuant to section 2247.
- 25 F. The court may issue an emergency crisis intervention order by reliable electronic
- 26 means pursuant to this subsection if requested by the petitioner.
- 27 2. Order. An order issued pursuant to this section may prohibit for a period of up to
- 28 14 days the respondent from purchasing, possessing or receiving a dangerous weapon or
- 29 having or attempting to have custody or control of a dangerous weapon. This section does
- 30 not limit the court's discretion to continue the final hearing and extend the order upon the
- 31 court's own motion or upon the motion of either party.
- 32 A. The order must be in writing and include the following:
- 33 (1) A statement of the grounds for the issuance of the order;
- 34 (2) The name and address of the court where any filings must be made, the names
- 35 of the parties, the date of the petition, the date and time of the order and the date
- 36 and time the order expires;
- 37 (3) The date and time of the hearing under subsection 3, paragraph A when the
- 38 respondent may appear to contest the order before the court. This opportunity to
- 39 contest must be scheduled as soon as reasonably possible, but may not be more
- 40 than 14 days after the date of the issuance of the order unless extended upon the
- 41 court's own motion or upon the motion of either party;

1 (4) A description of the requirements for relinquishment and return of dangerous
2 weapons under section 2250; and

3 (5) A statement in substantially the following form:

4 "To the subject of this emergency crisis intervention order: This order is in effect
5 until the date and time stated above. If you have not done so already, you are
6 required to surrender all dangerous weapons and firearms in your custody, control
7 or possession as directed in this order. While this order is in effect, you are not
8 allowed to purchase, possess or receive a dangerous weapon or firearm; attempt to
9 purchase, possess or receive a dangerous weapon or firearm; or have or attempt to
10 have custody or control of a dangerous weapon or firearm. A hearing will be held
11 on the date and time noted above to determine if a crisis intervention order should
12 be issued. Failure to appear at that hearing may result in a court making an order
13 against you that is valid for up to one year. You may request an extension of the
14 hearing date. You may seek the advice of an attorney regarding any matter
15 connected with this order. An attorney may be appointed at the discretion of the
16 judge to represent you if you cannot afford one."

17 B. An order issued pursuant to this section must include the following statement:
18 "VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF
19 IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY THE MAINE
20 REVISED STATUTES, TITLE 15, SECTION 393, AND MAY ALSO RESULT IN
21 SANCTIONS FOR CONTEMPT PURSUANT TO THE MAINE RULES OF CIVIL
22 PROCEDURE, RULE 66."

23 If a court denies a petition filed pursuant to this subsection, the court shall state the reason
24 for the denial.

25 **3. Duration.** The duration of an emergency crisis intervention order issued pursuant
26 to this section is as follows.

27 A. Unless the petition is voluntarily dismissed pursuant to paragraph B, the court shall
28 hold a hearing within 14 days after the issuance of an emergency crisis intervention
29 order to determine if a crisis intervention order should be issued. If not voluntarily
30 dismissed, the emergency crisis intervention order expires when the court grants or
31 denies a motion for a crisis intervention order in accordance with section 2244,
32 subsection 3.

33 B. The petitioner may voluntarily dismiss a petition filed pursuant to this section at
34 any time prior to the hearing required under paragraph A if the petitioner determines
35 the respondent no longer poses an imminent and significant danger of causing severe
36 harm to the respondent or to another person by purchasing, possessing or receiving a
37 dangerous weapon or by having or attempting to have custody or control of a dangerous
38 weapon. If the petitioner voluntarily dismisses the petition pursuant to this paragraph,
39 the court shall vacate the emergency crisis intervention order and direct a law
40 enforcement agency in possession of a dangerous weapon belonging to the respondent
41 to return it to the respondent consistent with section 2250.

42 **4. Other remedies unaffected.** The decision of a court to grant or to deny a petition
43 brought under this section does not preclude a law enforcement officer from taking the

ROS

1 respondent into protective custody in accordance with Title 34-B, section 3862, subsection
2 1.

3 **§2246. Termination and renewal motions**

4 **1. Motions to terminate.** A motion to terminate a crisis intervention order issued
5 pursuant to section 2244 is subject to the provisions of this subsection.

6 A. The respondent may file a motion to terminate a crisis intervention order issued
7 pursuant to section 2244 or an order renewed under subsection 2. A motion to
8 terminate may not be filed more than once during the effective period of the order.

9 B. The motion to terminate and notice of a hearing on the motion must be served on
10 the petitioner pursuant to section 2247.

11 C. The court shall grant a motion to terminate a crisis intervention order if it finds by
12 clear and convincing evidence that the respondent no longer poses a significant danger
13 of causing severe harm to the respondent or to another person by purchasing,
14 possessing or receiving a dangerous weapon or by having or attempting to have custody
15 or control of a dangerous weapon.

16 D. An order on a motion to terminate must state the reason for the denial or granting
17 of the motion.

18 E. The court shall provide forms to a party filing a motion to terminate a crisis
19 intervention order. The form provided by the court must be uniform throughout the
20 State.

21 **2. Motions to renew.** A motion to renew a crisis intervention order issued pursuant
22 to section 2244 is subject to the provisions of this subsection.

23 A. A petitioner may file a motion requesting that the court renew a crisis intervention
24 order issued pursuant to section 2244 or renewed pursuant to this subsection for an
25 additional period of up to one year. The motion must be accompanied by an affidavit
26 and must be filed not more than 30 days and not less than 14 days before the expiration
27 date of the order. The motion and affidavit must comply with the requirements of
28 section 2244, subsection 1.

29 B. The court shall hold a hearing within 14 days after a motion to renew under
30 paragraph A is filed. Notice of the hearing must be served pursuant to section 2247.
31 The court may extend a crisis intervention order at the time of expiration, upon motion
32 of the petitioner, for additional time as the court determines necessary to hold a hearing
33 on a motion to renew.

34 C. The court may grant relief only after notice to the respondent and an opportunity
35 for a hearing. The court may grant the motion and renew a crisis intervention order for
36 an additional period of up to one year if it finds by clear and convincing evidence that
37 the respondent continues to pose a significant danger of causing severe harm to the
38 respondent or to another person by purchasing, possessing or receiving a dangerous
39 weapon or by having or attempting to have custody or control of a dangerous weapon.
40 An order on a motion to renew must comply with the requirements of section 2244,
41 subsection 3.

42 D. The court shall provide forms to a party filing a motion to renew a crisis intervention
43 order. The form provided by the court must be uniform throughout the State.

ROS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

§2247. Service

1. Form of service; transmittal. A petition, emergency crisis intervention order, crisis intervention order or notice of a hearing issued pursuant to this chapter must be served by a law enforcement officer in accordance with the Maine Rules of Civil Procedure. A court that issues an order under this chapter shall promptly transmit the order electronically or by other means to a law enforcement agency for service and shall deliver a copy to the appropriate law enforcement agency.

2. Service on respondent. A respondent who attends a hearing held under section 2244, 2245 or 2246 at which an emergency crisis intervention order or crisis intervention order is issued and who receives notice from the court at the hearing that the order has been issued is deemed to have been served. Regardless of whether the court has previously notified the respondent of the order, the court shall transmit the order for service on the respondent by a law enforcement agency.

3. Performance of service. A petition, emergency crisis intervention order, crisis intervention order or notice of a hearing issued pursuant to this chapter must be served in a manner calculated to ensure the safety of the parties. Law enforcement agencies must have a written policy that prioritizes methods of service that do not involve advance notification of a request for an emergency crisis intervention order to the respondent. The law enforcement agency shall make a good faith effort to serve process expeditiously. The law enforcement officer making service shall file a return of service with the court stating the date, time and place at which the order was delivered personally to the respondent.

4. Service of termination and renewal. A motion to terminate or renew a crisis intervention order must be served by a law enforcement officer in accordance with the Maine Rules of Civil Procedure. A notice of hearing may be provided in accordance with the Maine Rules of Civil Procedure.

§2248. Procedure

1. Fees. A fee may not be charged for forms or for filing a petition, motion or other request for relief under this chapter.

2. Rules; other actions not barred. Proceedings commenced under this chapter must be in accordance with the Maine Rules of Civil Procedure. A proceeding under this chapter is in addition to any other available civil or criminal remedies. This chapter may not be construed to be applicable to actions under Title 19-A, chapter 103.

3. Assistance by law enforcement. Law enforcement agencies shall assist in carrying out the intent of this subsection.

§2249. Enforcement and entering of orders

1. Law enforcement officers and agencies. Law enforcement officers are authorized to enforce orders issued pursuant to this chapter. Law enforcement agencies shall adopt a written policy on the enforcement of this chapter and the handling of crisis intervention orders.

2. Failure to comply with order. A person who knowingly violates a crisis intervention order issued pursuant to section 2244 or 2245 or renewed pursuant to section 2246 is subject to sanctions for contempt pursuant to the Maine Rules of Civil Procedure.

ROS

1 Rule 66 and prosecution pursuant to state law, including, but not limited to, Title 15, section
2 393.

3 **3. Notice to State Bureau of Identification; national background check.** The court
4 clerk shall forward a copy of a crisis intervention order or emergency crisis intervention
5 order issued pursuant to this chapter the same day the order is issued to the Department of
6 Public Safety, Bureau of State Police, State Bureau of Identification. Upon receipt of the
7 copy of the order, the Department of Public Safety, Bureau of State Police, State Bureau of
8 Identification shall enter the order into the Federal Bureau of Investigation, National Instant
9 Criminal Background Check System, any other federal or state computer-based systems
10 used by law enforcement agencies or others to identify prohibited purchasers of dangerous
11 weapons and any computer-based criminal intelligence information system available in the
12 State used by law enforcement agencies. The order must remain in each system for the
13 duration of time it is in effect, and the law enforcement agency shall promptly remove
14 expired or terminated orders.

15 **4. Penalty for submitting false information.** A person who submits materially false
16 information in support of or in opposition to a petition for a crisis intervention order under
17 this chapter, knowing that material information in the petition or the affidavit is false or
18 that the petition or affidavit is submitted with the intent to harass, is guilty of a Class C
19 crime.

20 **5. Warrantless arrest.** Notwithstanding any provision of law to the contrary, an arrest
21 for criminal violation of an order issued pursuant to this chapter may be without warrant
22 upon probable cause whether or not the violation is committed in the presence of a law
23 enforcement officer. The law enforcement officer may verify, if necessary, the existence
24 of the order, including by telephone or radio communication with a law enforcement
25 agency with knowledge of the order.

26 **§2250. Relinquishment of dangerous weapon**

27 **1. Relinquishment by respondent.** A respondent who is required to relinquish a
28 dangerous weapon in the respondent's possession, custody or control under a crisis
29 intervention order issued pursuant to this chapter, upon service of the order, shall
30 immediately relinquish the dangerous weapon to the law enforcement officer serving the
31 order. A respondent notified by the court at a hearing is required to immediately comply
32 with the provisions of the order.

33 **2. Search warrant authorizing seizure.** A court may issue a search warrant
34 authorizing a law enforcement agency to seize any dangerous weapons at any location if a
35 law enforcement agency demonstrates that there is probable cause to believe that any
36 dangerous weapons have not been relinquished by the respondent.

37 **3. Treatment of seized dangerous weapon.** A law enforcement agency that takes
38 possession of a dangerous weapon may store the dangerous weapon at the agency's facility,
39 or a tribal, regional or state public safety facility.

40 **4. Lawful sale of dangerous weapons not affected.** This section may not be
41 construed to prohibit the lawful sale of a dangerous weapon by the lawful owner.

42 **5. Release of dangerous weapon within 3 days.** A law enforcement agency may
43 release to the respondent a dangerous weapon relinquished pursuant to a crisis intervention
44 order issued pursuant to this chapter upon expiration of the crisis intervention order in effect

ROS

1 at the time of the request by the respondent and completion of a background check using
2 the Federal Bureau of Investigation, National Instant Criminal Background Check System
3 in a manner consistent with federal law. The dangerous weapon must be returned within 3
4 business days of the request.

5 6. When return prohibited. Notwithstanding any provision of this chapter to the
6 contrary:

7 A. A dangerous weapon may not be returned to the respondent if the respondent's
8 possession of the dangerous weapon is prohibited by state or federal law; and

9 B. A dangerous weapon may not be returned pursuant to this section if the dangerous
10 weapon is evidence in a pending criminal matter.

11 **§2251. Appeals**

12 A crisis intervention order issued pursuant to this chapter is a final order for the
13 purposes of appeal.

14 **§2252. Data and reporting**

15 1. Annual report; submission to Legislature. The State Court Administrator, acting
16 at the direction of the Chief Justice of the Supreme Judicial Court, shall prepare an annual
17 report on and relating to the application of this chapter by the courts. By October 1, 2025
18 and annually thereafter, the State Court Administrator shall prepare and submit the report
19 to the joint standing committee of the Legislature having jurisdiction over civil rights
20 matters.

21 2. Report requirements. The report required by this section must contain all of the
22 following:

23 A. The number of petitions filed for a crisis intervention order;

24 B. The number of petitions filed that included a request for an emergency crisis
25 intervention order;

26 C. The number of crisis intervention orders issued and the number denied;

27 D. The number of emergency crisis intervention orders issued without notice and the
28 number denied;

29 E. The number of crisis intervention orders that are voluntarily dismissed by the
30 petitioner;

31 F. The number of emergency crisis intervention orders entered without notice that are
32 voluntarily dismissed by the petitioner;

33 G. The number of motions filed to renew a crisis intervention order;

34 H. The number of crisis intervention orders that are renewed;

35 I. The number of motions filed to terminate a crisis intervention order;

36 J. The number of motions filed to terminate a crisis intervention order that resulted in
37 termination of an order prior to the original expiration date; and

38 K. To the extent ascertainable from available state court data, the number of
39 respondents subject to a crisis intervention order who, within 30 days after entry of the
40 order, have been charged with a criminal offense, including the nature of the criminal

1 offense, whether the offense was a violation of the crisis intervention order and the
2 disposition or status of the offense.

3 **Sec. 7. 34-B MRSA §3862, sub-§1**, as amended by PL 2021, c. 377, §1, is further
4 amended by enacting at the end a new last blocked paragraph to read:

5 Every law enforcement agency shall adopt a written policy governing probable cause
6 determinations under this section. The policy must require that law enforcement officers
7 prioritize probable cause determinations and that, if a 3rd-party informant requests that a
8 law enforcement officer take a person into protective custody under this section, the law
9 enforcement officer must decide whether to take the person into protective custody within
10 a reasonable amount of time.

11 **Sec. 8. 34-B MRSA §3862, sub-§1-B** is enacted to read:

12 **1-B. Show cause order.** If the 3rd-party informant who provides information to a law
13 enforcement officer seeking a probable cause determination under subsection 1 is a family
14 or household member of the person and the law enforcement officer does not make a
15 determination of whether to take the person into custody within a reasonable amount of
16 time, that family or household member may petition the District Court for an order directing
17 the law enforcement officer to make a determination of whether to take the person into
18 protective custody. Upon the filing of the petition, the District Court shall issue an order
19 directing the law enforcement officer to appear in District Court on the day fixed in the
20 order and show cause why the petition should not be granted.

21 **Sec. 9. Department of Public Safety to obtain federal funding; report.** By
22 December 15, 2024, the Department of Public Safety shall report to the joint standing
23 committee of the Legislature having jurisdiction over civil rights matters the status of the
24 state-level process currently underway to obtain federal funding for storing dangerous
25 weapons in the custody of state, county and municipal law enforcement agencies. The joint
26 standing committee may report out legislation in response to this report to the 132nd
27 Legislature in 2025.

28 **Sec. 10. Appropriations and allocations.** The following appropriations and
29 allocations are made.

30 **JUDICIAL DEPARTMENT**

31 **Courts - Supreme, Superior and District 0063**

32 Initiative: Establishes one Judge position, one Marshal position and one Assistant Clerk
33 position in fiscal year 2024-25 and provides funding for related All Other costs.

34 GENERAL FUND	2023-24	2024-25
35 POSITIONS - LEGISLATIVE COUNT	0.000	3.000
36 Personal Services	\$0	\$534,865
37 All Other	\$0	\$28,176
38		
39 GENERAL FUND TOTAL	\$0	\$563,041

40 **Courts - Supreme, Superior and District 0063**

41 Initiative: Provides funding for contracted temporary staffing to handle increased
42 paperwork during the programming of multiple systems.

ROS

COMMITTEE AMENDMENT "B" to H.P. 1470, L.D. 2283

1	GENERAL FUND	2023-24	2024-25
2	All Other	\$0	\$56,000
3			
4	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$56,000</u>
5	Courts - Supreme, Superior and District 0063		
6	Initiative: Provides one-time funding for costs associated with programming multiple		
7	systems.		
8	GENERAL FUND	2023-24	2024-25
9	All Other	\$0	\$20,000
10			
11	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$20,000</u>
12			
13	JUDICIAL DEPARTMENT		
14	DEPARTMENT TOTALS	2023-24	2024-25
15			
16	GENERAL FUND	\$0	\$639,041
17			
18	DEPARTMENT TOTAL - ALL FUNDS	<u>\$0</u>	<u>\$639,041</u>
19			

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

22 **SUMMARY**

23 This amendment, which is a minority report of the committee, replaces the bill and
24 enacts the Crisis Intervention Order Act. Under the Act, a petition for a crisis intervention
25 order, which prohibits the purchase, possession or control of a dangerous weapon, may be
26 sought if a person is suspected of posing a significant danger of causing severe harm to the
27 person or to another person. A significant danger of causing severe harm to the person or
28 another person is demonstrated by establishing that the person has: inflicted or attempted
29 to inflict bodily harm on another person; placed another person in reasonable fear of
30 physical harm; by action or inaction, presented a danger to persons in the person's care; or
31 threatened or attempted suicide or has threatened or attempted serious bodily harm. The
32 petition may be filed by a family or household member of the person or by a law
33 enforcement agency or a law enforcement officer and must be supported by an affidavit
34 stating the facts to support the allegations, identifying any firearms believed to be in the
35 person's possession and stating whether the person is already the subject of an existing
36 protection from harassment or protection from abuse order. Upon receipt of the petition
37 and affidavit, the District Court is required to schedule a hearing, which must be held within
38 14 days of the filing of the petition, and provide notice of the hearing to the person who is
39 the subject of the requested crisis intervention order. Following the hearing, if the court
40 finds by clear and convincing evidence that the person poses a significant risk of causing
41 severe harm to the person or to another person, the court must issue an order prohibiting,
42 for up to one year, the person from purchasing, possessing or receiving a dangerous

COMMITTEE AMENDMENT

ROS

1 weapon, attempting to purchase, possess or receive a dangerous weapon or having custody
2 or control of a dangerous weapon.

3 The amendment allows a court to issue an emergency crisis intervention order without
4 prior notice to the person who is the subject of the requested order. A hearing must be
5 scheduled no later than 14 days after the order is issued.

6 A crisis intervention order may be terminated upon the request of the person who is the
7 subject of the order if that person shows by clear and convincing evidence that the person
8 no longer poses a significant danger of causing severe harm to the person or another person.
9 A crisis intervention order may be renewed for an additional period of up to one year.

10 A person who is the subject of a crisis intervention order immediately must surrender
11 all dangerous weapons in that person's possession, custody or control to a law enforcement
12 agency or a federally licensed firearm dealer, manufacturer or importer.

13 The amendment directs the Department of Public Safety to submit a report on the status
14 of obtaining federal funding related to storing dangerous weapons in the custody of law
15 enforcement agencies and authorizes the committee to report out legislation to the 132nd
16 Legislature.

17 Finally, the amendment requires law enforcement agencies to prioritize probable cause
18 determinations under the State's so-called yellow flag law. The amendment also allows a
19 3rd-party informant who is a family or household member to seek a show cause order if
20 the law enforcement officer is unable or unwilling to make a determination of whether to
21 take the person into protective custody. If the law enforcement officer is unable or
22 unwilling to make that determination, the family or household member may seek a crisis
23 intervention order or emergency crisis intervention order. The amendment also provides
24 that, regardless of whether a crisis intervention order or emergency crisis intervention order
25 is issued, the law enforcement officer may still take the person into protective custody.

26 The amendment also adds an appropriations and allocations section.

27 **FISCAL NOTE REQUIRED**

28 (See attached)



131st MAINE LEGISLATURE

LD 2283

LR 3177(04)

An Act to Enact the Crisis Intervention Order Act to Protect the Safety of the Public

Fiscal Note for Bill as Amended by Committee Amendment

Committee: Judiciary

Fiscal Note Required: Yes

BCH-977

Fiscal Note

	FY 2023-24	FY 2024-25	Projections FY 2025-26	Projections FY 2026-27
Net Cost (Savings)				
General Fund	\$0	\$639,041	\$566,148	\$586,097
Appropriations/Allocations				
General Fund	\$0	\$639,041	\$566,148	\$586,097

Fiscal Detail and Notes

This bill includes ongoing General Fund appropriations to the Judicial Department of \$563,041 in fiscal year 2024-25 to establish one Judge position, one Marshal position and one Assistant Clerk position effective July 1, 2024, to handle the increased workload related to the Crisis Intervention Order process. It also includes one-time General Fund appropriations of \$76,000 in fiscal year 2024-25 for contracted temporary staffing and for programming multiple systems.

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

There may be additional costs to the State to provide counsel to represent indigent individuals in crisis intervention order hearings.