

MAINE STATE LEGISLATURE

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STATE OF MAINE
129TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

JOINT STANDING COMMITTEE ON JUDICIARY

August 2019

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STATE OF MAINE

129TH LEGISLATURE
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LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 129th Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. An appendix provides a summary of relevant session statistics.

Final action on each LD is noted to the right of the LD title. The following describes the various final actions.

CARRIED OVER..... carried over to a subsequent session of the Legislature
CON RES XXX..... chapter # of constitutional resolution passed by both houses
CONF CMTE UNABLE TO AGREE..... Committee of Conference unable to agree; legislation died
DIED BETWEEN HOUSES..... House & Senate disagreed; legislation died
DIED IN CONCURRENCE..... defeated in each house, but on different motions; legislation died
DIED ON ADJOURNMENT..... action incomplete when session ended; legislation died
EMERGENCY..... enacted law takes effect sooner than 90 days after session adjournment
FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE..... emergency failed to receive required 2/3 vote
FAILED, ENACTMENT or FINAL PASSAGE..... failed to receive final majority vote
FAILED, MANDATE ENACTMENT..... legislation proposing local mandate failed required 2/3 vote
HELD BY GOVERNOR..... Governor has not signed; final disposition to be determined at subsequent session
LEAVE TO WITHDRAW..... sponsor's request to withdraw legislation granted
NOT PROPERLY BEFORE THE BODY..... ruled out of order by the presiding officer; legislation died
INDEF PP..... indefinitely postponed; legislation died
ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X... ought-not-to-pass report accepted; legislation died
P&S XXX..... chapter # of enacted private & special law
PUBLIC XXX..... chapter # of enacted public law
RESOLVE XXX..... chapter # of finally passed resolve
VETO SUSTAINED..... Legislature failed to override Governor's veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 129th Legislature is Thursday, September 19, 2019. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

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restitution and orders to modify restitution. The new section:

1. Requires that restitution be considered by the court and, when the court does not order restitution, that the court state on the record or in writing the reasons for not imposing restitution;
2. Establishes criteria that must be considered in determining whether restitution is appropriate and the amount of restitution to be paid. The amendment specifically prohibits an order of restitution in enumerated circumstances;
3. Clarifies to whom restitution may be paid;
4. Establishes who has the burden of proof with regard to the capacity to pay restitution. If the juvenile is under 16 years of age, there is a rebuttable presumption that the juvenile does not have the capacity to pay restitution; the State may rebut the presumption by a preponderance of evidence. If the juvenile is 16 years of age or older, the juvenile has the burden of proving the incapacity to pay restitution by a preponderance of the evidence. On appeal, the juvenile has the burden of demonstrating that the court abused its discretion in ordering an amount of restitution;
5. Provides for the modification of orders of juvenile restitution; and
6. Provides that, in enforcing an order to pay restitution, the court may not enter an order for confinement as a remedial or contempt sanction unless the juvenile is at least 14 years of age. The court may also order the juvenile to complete community service.

LD 1312

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

Accepted Report B (ONTP)

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLETT R GIDEON S	OTP-AM ONTP OTP-AM	

This bill creates an extreme risk protection order to authorize a court to order a person to surrender that person's firearms temporarily for 14 days or on an extended basis for 365 days when it has been proved that the person poses a danger of causing personal injury to that person or another person. The bill provides the following:

1. A law enforcement officer, a law enforcement agency or a family or household member may file a petition for a temporary extreme risk protection order, which may be granted if the court finds probable cause exists to issue the order. The temporary extreme risk protection order expires in 14 days or when a hearing to determine whether to issue an extended extreme risk protection order is held, whichever occurs sooner. A temporary extreme risk protection order may be issued on an ex parte basis.
2. Whether or not the court issues a temporary extreme risk protection order, the court is required to hold a hearing within 14 days to determine whether the person poses a danger of causing personal injury to that person or another person. If the court, based on clear and convincing evidence, finds that an extended extreme risk protection order should be issued, the extended extreme risk protection order must be issued, and it expires 365 days after the issuance of the order unless extended after another hearing.
3. Following the issuance of a temporary or extended extreme risk protection order, the court is required to order law enforcement to serve the order and is required to issue a search warrant if the court finds probable cause that the person who is the subject of the order is in possession of a firearm.
4. A person who is the subject of a temporary or extended extreme risk protection order is required to surrender all

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firearms in the person's possession to a law enforcement officer or law enforcement agency. The firearms must be returned to the person at the expiration of the extreme risk protection order unless an extended extreme risk protection order is issued.

5. A person against whom an extended extreme risk protection order is issued may request that the order be dissolved and be granted a hearing once during the term of the extended extreme risk protection order.

6. A person who possesses firearms in violation of an extreme risk protection order commits a Class D crime.

Committee Amendment "A" (S-285)

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

This amendment revises the search warrant procedures in the bill to clarify that the court has discretion to issue a search warrant after an extreme risk protection order has been issued. If the court finds there is probable cause to believe the restrained individual owns, possesses or controls any firearms, the court is required to issue a warrant that describes the firearms and authorizes a search of the location where the described firearms are reasonably believed to be found and the seizure of any firearms in the possession or control of the restrained individual that are discovered pursuant to the search. The search warrant process for extreme risk protection orders described in this legislation is not intended to alter or supersede existing provisions governing search warrants, including exceptions for when a search warrant is not required.

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

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

This amendment adds an appropriations and allocations section.

This amendment was not adopted.

Committee Amendment "B" (S-286)

This amendment, which is one of two minority reports of the committee, replaces the bill with a resolve that directs the Commissioner of Education and the Commissioner of Public Safety to jointly convene a working group to examine the use of extreme risk protection orders regarding individuals who pose a serious threat to themselves or others, as well as other proposals to improve school safety, and to present the findings and recommendations of the working group to the Joint Standing Committee on Judiciary by January 1, 2020. The amendment authorizes the committee to submit legislation relating to the recommendations of the working group to the Second Regular Session of the 129th Legislature.

This amendment was not adopted.

LD 1327 An Act To Require Residential Mortgage Loan Servicers To Act in Good Faith in Dealings with Homeowners

PUBLIC 363

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CLAXTON N	OTP-AM	S-258