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**An Act To Bring Maine into Compliance with Federal
Law Regarding Purchases of Firearms by Persons
Found To Be a Danger to Themselves or Others**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 15 MRSA §393, sub-§1, ¶C, as amended by PL 2001, c. 549, §2, is further amended to read:

C. Has been adjudicated in this State or under the laws of the United States or any other state to have engaged in conduct as a juvenile that, if committed by an adult, would have been a disqualifying conviction:

(1) Under paragraph A-1, subparagraphs (1) to (4) and bodily injury to another person was threatened or resulted; or

(3) Under paragraph A-1, subparagraph (5); or

Sec. 2. 15 MRSA §393, sub-§1, ¶D, as enacted by PL 1997, c. 334, §2, is further amended to read:

D. Is subject to an order of a court of the United States or a state, territory, commonwealth or tribe that restrains that person from harassing, stalking or threatening an intimate partner, as defined in 18 United States Code, Section 921(a), of that person or a child of the intimate partner of that person, or from engaging in other conduct that would place the intimate partner in reasonable fear of bodily injury to the intimate partner or the child, except that this paragraph applies only to a court order that was issued after a hearing for which that person received actual notice and at which that person had the opportunity to participate and that:

(1) Includes a finding that the person represents a credible threat to the physical safety of an intimate partner or a child; or

(2) By its terms, explicitly prohibits the use, attempted use or threatened use of physical force against an intimate partner or a child that would reasonably be expected to cause bodily injury; or

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

E. Has been adjudged by a court or determined by a licensed psychiatrist or licensed psychologist to be a danger to self or to others or has been involuntarily hospitalized pursuant to Title 34-B, section 3864.

Sec. 4. 15 MRSA §393, sub-§2, as amended by PL 2005, c. 419, §9 and affected by §12, is further amended to read:

2. Application after 5 years. A person subject to the provisions of subsection 1, except for subsection 1, paragraph E, may, after the expiration of 5 years from the date that the person is finally discharged from the sentences imposed as a result of the conviction or adjudication, apply to the Commissioner of Public Safety for a permit to carry a firearm or crossbow. That person may not be issued a permit to carry a concealed firearm pursuant to Title 25, chapter 252. A person subject to the provisions of subsection 1, paragraph E is subject to the requirements of subsection 2-A.

Sec. 5. 15 MRSA §393, sub-§2-A is enacted to read:

2-A. Restoration of right of firearm possession by formerly dangerous person. A person who has been prohibited from possessing a firearm because that person was adjudged by a court or determined by a licensed psychiatrist or licensed psychologist to be a danger to self or to others or who has been involuntarily hospitalized pursuant to Title 34-B, section 3864 may apply to the Commissioner of Public Safety for restoration of the right to possess a firearm. That person may not be issued a permit to carry a concealed firearm pursuant to Title 25, chapter 252.

In addition to the application content requirements of subsection 3, the person shall provide a certified order of a court or a notarized statement from a licensed psychiatrist or licensed psychologist attesting that the person is no longer a danger to self or others.

Sec. 6. 15 MRSA §393, sub-§8, as amended by PL 2005, c. 527, §5, is further amended to read:

8. Penalty. A violation of subsection 1, paragraph A-1 ~~or~~ C or E is a Class C crime. A violation of subsection 1, paragraph D is a Class D crime. A violation of subsection 1-A by a person at least 18 years of age is a Class C crime.

Sec. 7. 25 MRSA §1541, sub-§3, ¶C is enacted to read:

C. The commanding officer shall provide to the Federal Bureau of Investigation any report from a court pursuant to Title 34-B, section 3864, subsection 12 or from a licensed psychiatrist or licensed psychologist pursuant to Title 34-B, section 1207, subsection 6.

Sec. 8. 25 MRSA §2013 is enacted to read:

§ 2013. Application for purchase of firearms

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

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

B. "Firearm dealer" means a person who is licensed as a dealer under 18 United States Code, Section 923, or who is required to be licensed as a dealer under that section.

2. Application; background check. Prior to selling a firearm, a firearm dealer shall obtain from the purchaser a completed application, as developed pursuant to subsection 3, submit that application to the State Bureau of Identification and the Federal Bureau of Investigation for the completion of a background check and verify that the purchaser is eligible to purchase a firearm.

3. Rules; form. The State Bureau of Identification shall adopt routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A, to implement the provisions of this section. The bureau shall develop an application and provide the application to firearm dealers. In developing the application, the bureau shall use the requirements of the application developed pursuant to Title 15, section 393, subsection 3.

Sec. 9. 34-B MRSA §1207, sub-§6, as enacted by PL 1997, c. 422, §2, is amended to read:

6. Duty to provide information. Any person conducting an evaluation of a mental health client in a professional capacity, who has a clear and substantial reason to believe that the mental health client poses an imminent danger of inflicting serious physical harm on the evaluator or others, shall provide information regarding such danger or harm to any other person to whom that client's care or custody is being transferred. For purposes of this subsection, the term "evaluation" includes professionally recognized methods and procedures for the purpose of assessing and treating mental illness and includes, but is not limited to, interviews, observation, testing and assessment techniques conducted by a person licensed as a physician, psychologist, nurse, clinical social worker or clinical professional counselor. If the evaluation is performed by a person licensed as a psychiatrist or psychologist and the person has a clear and substantial reason to believe that the mental health client poses an imminent danger of inflicting serious physical harm on the person, the client or others, the person shall provide information regarding such danger or harm to the State Bureau of Identification.

Sec. 10. 34-B MRSA §3864, sub-§12 is enacted to read:

12. Firearms possession prohibition notification; reporting. A court that orders a person to be committed involuntarily pursuant to this section shall inform the person that possession, ownership or control of a firearm by that person is prohibited pursuant to Title 15, section 393, subsection 1. At the conclusion of the proceeding ordering involuntary commitment, the court shall transmit to the State Bureau of Identification a duly authorized abstract of the proceeding on forms provided by the bureau. As used in this subsection, "firearm" has the same meaning as in Title 17-A, section 2, subsection 12-A.

The bureau shall adopt routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A, to implement the requirement of this subsection.

SUMMARY

This bill establishes a procedure to prevent a person who has been found to be a danger to self or others from possessing a firearm.

HP1336, LD 1902, item 1, 123rd Maine State Legislature
An Act To Bring Maine into Compliance with Federal Law Regarding Purchases
of Firearms by Persons Found To Be a Danger to Themselves or Others

This bill requires a court that commits a person involuntarily to a state mental health facility or a licensed psychologist or psychiatrist who determines a person to be a danger to self or others to report this commitment or determination to the Department of Public Safety, State Bureau of Identification. The bureau is required to forward the information to the Federal Bureau of Investigation, which operates the National Instant Criminal Background Check System.

This bill requires a person purchasing a firearm from a firearms dealer to complete an application. The dealer is required to submit the application to the Federal Bureau of Investigation for a background check. Maine law currently only requires a federally licensed firearm dealer to provide a basic firearm safety brochure and other information to the purchaser of a firearm.

A person who has been involuntarily committed to a state mental health facility or determined to be a danger to self or others may obtain a firearm only upon application to the Commissioner of Public Safety and must include with the application a certified court order or notarized statement of a licensed psychologist or psychiatrist that the person is no longer a danger to self or others.