

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

Date: (Filing No. S-)

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE
SENATE
128TH LEGISLATURE
SECOND SPECIAL SESSION**

SENATE AMENDMENT “ ” to COMMITTEE AMENDMENT “A” to S.P. 719, L.D. 1884, Bill, “An Act To Create a Community Protection Order To Allow Courts To Prevent High-risk Individuals from Possessing Firearms”

Amend the amendment in Part A by inserting before section 1 the following:

'Sec. A-1. 4 MRSA §1801, as enacted by PL 2009, c. 419, §2, is amended to read:

§1801. Maine Commission on Indigent Legal Services; established

The Maine Commission on Indigent Legal Services, established by Title 5, section 12004-G, subsection 25-A, is an independent commission whose purpose is to provide efficient, high-quality representation to indigent criminal defendants, juvenile defendants, restrained individuals under Title 15, chapter 16 and children and parents in child protective cases, consistent with federal and state constitutional and statutory obligations. The commission shall work to ensure the delivery of indigent legal services by qualified and competent counsel in a manner that is fair and consistent throughout the State and to ensure adequate funding of a statewide system of indigent legal services, which must be provided and managed in a fiscally responsible manner, free from undue political interference and conflicts of interest.'

Amend the amendment in Part A in section 1 by inserting after §416 the following:

§417. Dissolution of temporary community protection order on motion of restrained individual

Notwithstanding any statutory provision to the contrary, upon 2 days' notice to the petitioner or upon such shorter notice as the court may order, a restrained individual may appear and move the dissolution of the temporary community protection order and, in that event, the court shall proceed to hear and determine the motion as expeditiously as the ends of justice require. At that hearing, the petitioner has the burden of justifying a finding in the temporary community protection order that the restrained individual has challenged by affidavit. This section may not be construed to abolish or limit any means, otherwise available by law, for obtaining dissolution, modification or discharge of an order.'

SENATE AMENDMENT

1 Amend the amendment in Part A in section 1 in §421 by inserting at the end the
2 following:

3 **'5. Representation of restrained individual.** A restrained individual is entitled to
4 legal counsel at a hearing conducted pursuant to this section. The restrained individual
5 may request the court to appoint legal counsel for the restrained individual. The court, if
6 it finds the restrained individual indigent, shall appoint legal counsel for the restrained
7 individual at public expense.'

8 Amend the amendment in Part A in §424 in subsection 1 in the first line (page 6, line
9 16 in amendment) by striking out the following: "**after hearing**" and inserting the
10 following: **'by court'**

11 Amend the amendment in Part A in §424 in subsection 2 in the first line (page 6, line
12 24 in amendment) by striking out the following: "**after hearing**" and inserting the
13 following: **'on motion of restrained individual'**

14 Amend the amendment in Part C by inserting after section C-1 and before the
15 summary the following:

16 **'Sec. C-2. Appropriations and allocations.** The following appropriations and
17 allocations are made.

18 **INDIGENT LEGAL SERVICES, MAINE COMMISSION ON**

19 **Reserve for Indigent Legal Services N262**

20 Initiative: Allocates additional funds for the costs of indigent legal services.

21	OTHER SPECIAL REVENUE FUNDS	2017-18	2018-19
22	All Other	\$0	\$3,000
23			
24	OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$3,000
25			

26 Amend the amendment by relettering or renumbering any nonconsecutive Part letter
27 or section number to read consecutively.

28 **SUMMARY**

29 This amendment provides that a restrained individual is entitled to legal counsel and
30 authorizes restrained individuals to request the court to appoint legal counsel. Upon a
31 finding of indigency, the court must appoint legal counsel at public expense. It adds
32 representation of restrained individuals to the purposes of the Maine Commission on

1 Indigent Legal Services. It authorizes a restrained individual to move for dissolution of a
2 temporary community protection order. It clarifies subsection headnotes. It adds an
3 appropriations and allocations section.

4

FISCAL NOTE REQUIRED

5

(See attached)

6

SPONSORED BY: _____

7

(Senator CARPENTER)

8

COUNTY: Aroostook