# Administrative Office of the Courts

**P.O. Box 4820, Portland, Maine 04112-4820**
**Tel: (207) 822-0792 FAX: (207) 822-0781 TTY: (207) 822-0701**

Julia Finn, Esq. Tel: (207) 822-0767
Legislative Analyst
julia.finn@courts.maine.gov


## Judicial Branch testimony neither for nor against LD 2224, An Act to Strengthen Public Safety by Improving Maine's Firearm Laws and Mental Health System:

Senator Carney, Representative Moonen, and members of the Joint Standing Committee on Judiciary, my name is Julie Finn and I represent the Judicial Branch. I would like to provide some comments regarding this bill.

While the Judicial Branch does not take a position on this bill, we do have some questions and comments which are listed below.

- *Section 5 and section 7* amending 25 MRS § 2804-C(2-E) and 34-B MRS § 3862-A. The term "extreme risk protection orders" is used in these two sections. The term "weapons restriction orders" may be preferable because it is more descriptive of what the orders actually are, and for two additional reasons. First, we are concerned that using the words "protection order" sounds too much like protection from abuse orders and confusion may arise. Also, if a member of the public were searching the statutes to find this law, including the word "weapon" may make it easier to find.

Some history regarding the terminology may be useful here. When the original "yellow flag" bill was enacted in 2019, (see PL 2019, ch. 411), the proposed legislation used the term "extreme risk protection order." That term was later removed, and the working group charged with implementing the new law coined the term "weapons restriction order." This term was subsequently included on the Attorney General's forms, the court's forms, training materials, and the like.

- *Section 12* amending 34-B MRS § 3862-A, new subsec. 2-A. The first paragraph of this subsection makes reference to "protective custody warrants," while the last paragraph of this subsection refers to them as "arrest warrants." "Arrest warrants" implies that the pending

proceeding is criminal and that the Maine Rules of Criminal Procedure would apply when this process is otherwise considered to be a civil one. Perhaps the term "protective custody warrants" was intended to be included in the last paragraph of the subsection as well.

- *Section 13* amending 34-B MRS § 3862-A(3) and new subsec. 2-A. Both of these subsections remove probate judges and justices of the peace from the list of those authorized to endorse the medical practitioner's assessment and law enforcement's declarations that the person was taken into protective custody. It is our understanding that probate judges rarely, if ever, are asked for endorsements but that justices of the peace are frequently asked, particularly after hours. We are concerned that removal of the justices of the peace may result in a significant increase in volume for District and Superior Court judges.

- *Section 14* amending 34-B MRS § 3862-A(4)(B). The Judicial Branch prefers the retention of the 24-hour window after the judicial endorsement. The "unless" qualifier in the same sentence does not preclude a deadline. A 24-hour deadline is helpful for the court to track the 14 and 30-day periods in the statute, because a presumption that a restricted person was notified on the day of the order is reasonable if the person must be notified within 24 hours.

- *Section 15 and section 16* amending 34-B MRS § 3862-A(6)(A) and (B). Both paragraphs end with the sentence: "Upon a showing of good cause, the court may extend the time to hold the hearing." Subsection 6 paragraph A already contains this language; in paragraph B, it is new language. It would be helpful to clarify whether this sentence allows the court to entertain a motion to continue that is filed <u>before the hearing</u>, or whether it is intended to only allow the court the extend the hearing date for good cause <u>during the hearing.</u>

Thank you for your consideration. A representative of the Judicial Branch plans to attend your work session on this bill to assist with answering any questions.