1	L.D. 1884
2	Date: (Filing No. S- )
3	JUDICIARY
4	Reproduced and distributed under the direction of the Secretary of the Senate.
5	STATE OF MAINE
6	SENATE
7	128TH LEGISLATURE
8	SECOND REGULAR SESSION
9 10 11	COMMITTEE AMENDMENT " " 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"
12	Amend the bill by striking out the title and substituting the following:
13 14	'An Act To Specify the Procedures Regarding the Court-ordered Surrender of Dangerous Weapons'
15 16	Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:
17 18	'Sec. 1. 15 MRSA §393, sub-§1, $\P$ E, as amended by PL 2015, c. 470, §1, is further amended to read:
19	E. Has been:
20 21 22 23	(1) Committed involuntarily to a hospital pursuant to an order of the District Court under Title 34-B, section 3864 because the person was found to present a likelihood of serious harm, as defined under Title 34-B, section 3801, subsection 4-A, paragraphs A to C;
24 25	(2) Found not criminally responsible by reason of insanity with respect to a criminal charge; or
26	(3) Found not competent to stand trial with respect to a criminal charge-; or
27 28 29	(4) Ordered to participate in a progressive treatment program pursuant to Title 34-B, section 3873-A and, as part of that order, directed not to possess firearms pursuant to Title 34-B, section 3873-A, subsection 7-A.
30	Violation of this paragraph is a Class D crime;
31	Sec. 2. 15 MRSA §393, sub-§1-C is enacted to read:
32 33	1-C. Dissolution or modification of court order prohibiting firearms. If a court of this State enters an order dissolving, terminating or vacating an order or any portion of

- an order that constitutes grounds to prohibit a person from possessing a firearm pursuant to subsection 1, 1-A or 1-B, the court shall promptly transmit that information to the Department of Public Safety, Bureau of State Police, State Bureau of Identification. The State Bureau of Identification shall promptly notify the Federal Bureau of Investigation and request that the Federal Bureau of Investigation promptly update the National Instant Criminal Background Check System so that it no longer reflects the dissolved, terminated or vacated order as a ground for prohibiting the subject of the order from possessing a firearm.
  - Sec. 3. 34-B MRSA §3873-A, sub-§5, ¶A-1 is enacted to read:
  - A-1. Prior to the commencement of the hearing, the court shall inform the patient that if an order is entered pursuant to subsection 7-A, that patient is a prohibited person and may not own, possess or have under that person's control a firearm pursuant to Title 15, section 393, subsection 1.
    - Sec. 4. 34-B MRSA §3873-A, sub-§§7-A and 7-B are enacted to read:
    - 7-A. Firearms. If the court directs a patient to follow an individualized treatment plan pursuant to subsection 6, the court may also prohibit the patient from possessing a firearm, muzzle-loading firearm, bow, crossbow or other dangerous weapon for the duration of the treatment plan. If the court prohibits the patient from possessing a dangerous weapon other than a firearm, muzzle-loading firearm, bow or crossbow, the court shall specify the type of weapon the patient is prohibited from possessing.
    - If the court prohibits the patient from possessing a firearm, muzzle-loading firearm, bow, crossbow or other dangerous weapon, the court shall notify the patient that possession of a firearm by the person is prohibited pursuant to Title 15, section 393. The court also shall direct the patient to relinquish, within 24 hours after service of the order on the patient or such earlier time as the court specifies in the order, all firearms, muzzle-loading firearms, bows, crossbows and specified dangerous weapons in the possession of the patient to a law enforcement officer or other individual for the duration of the order. If the weapons are relinquished to an individual other than a law enforcement officer, the patient must file, within 24 hours after such relinquishment, with the court or local law enforcement agency designated in the order a written statement that contains the name and address of the individual holding the weapons and a description of all weapons held by that individual.
    - The duties and liability of a law enforcement agency with respect to firearms surrendered pursuant to this subsection are governed by Title 25, section 2804-C, subsection 2-C.
  - 7-B. Transmission of abstract of court ruling to the State Bureau of Identification. Notwithstanding any other provision of this section or section 1207, a court shall transmit to the Department of Public Safety, Bureau of State Police, State Bureau of Identification an abstract of any order issued by the court pursuant to this section that includes a prohibition on the possession of a firearm pursuant to subsection 7-A. The abstract must include:
    - A. The name, date of birth and gender of the person who is the subject of the order;
- B. The court's order pursuant to subsection 7-A and the expiration date of that order; and

C.	A nota	tion	that	the	person	has	been	notified	by	the	court	in	accordance	with
subsection 5, paragraph A-1 and subsection 7-A.														

The abstract required by this subsection is confidential and is not a public record as defined in Title 1, chapter 13; however, a copy of the abstract may be provided by the State Bureau of Identification to a criminal justice agency for legitimate law enforcement purposes, to the Federal Bureau of Investigation, National Instant Criminal Background Check System or to an issuing authority for the purpose of processing concealed firearm permit applications. The State Bureau of Identification shall request that the Federal Bureau of Investigation ensure that, immediately after an order issued pursuant to subsection 7-A expires, the National Instant Criminal Background Check System no longer reflects that expired order as a ground for prohibiting the subject of the order from possessing a firearm.

For the purposes of this subsection, "criminal justice agency" means a federal, state, tribal, district, county or local government agency or any subunit of those entities that performs the administration of criminal justice under a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice. Courts and the Department of the Attorney General are considered criminal justice agencies. "Criminal justice agency" also includes any equivalent criminal justice agency at any level of Canadian government.'

20 SUMMARY

This amendment, which is the minority report of the committee, strikes and replaces the bill. The amendment authorizes a court to order a person admitted to a progressive treatment program not to possess firearms, muzzle-loading firearms, bows, crossbows or other specified dangerous weapons for the duration of the patient's court-ordered participation in the program. Possession of a firearm by a patient in violation of such an order is a Class D crime. A law enforcement officer to whom a patient surrenders a firearm must exercise reasonable care to avoid loss, damage or reduction in value of the surrendered firearm.

The amendment also directs a court of this State that enters an order dissolving, terminating or vacating an order or any portion of an order that constitutes grounds to prohibit a person from possessing a firearm pursuant to the Maine Revised Statutes, Title 15, section 393 to promptly notify the Department of Public Safety, Bureau of State Police, State Bureau of Identification of this information. The State Bureau of Identification is required to then promptly notify the Federal Bureau of Investigation and request that the National Instant Criminal Background Check System be promptly updated to reflect the dissolution, termination, vacation or modification of the underlying order.

## FISCAL NOTE REQUIRED

39 (See attached)