

UNIT TITLE: Extreme Risk Protective Orders

UNIT NUMBER: 1.1.1

INSTRUCTOR:



Maine Criminal Justice Academy

15 Oak Grove Road
Vassalboro, ME 04989

Prepared By: Michael Sauschuck, Commissioner, Maine Department of Public Safety; Brian MacMaster, Chief Law Enforcement Consultant, Dirigo Safety; Don Finnegan, Training Coordinator, Maine Criminal Justice Academy

Date: July 12, 2024

Instructional Goal

Following this unit of instruction, the student will understand Maine's laws relating to extreme risk protective orders, including steps required of law enforcement.

Performance Objectives

- 1.1.1. Describe the law of Extreme Risk Protection Orders, as outlined in this lesson.
- 1.1.2 Describe what an officer may do if unable to take someone into protective custody immediately
- 1.1.3 Describe two methods law enforcement may use to secure weapons from a person.
- 1.1.4 Identify how weapons may be stored while a person is prohibited from possessing them.
- 1.1.5 Describe the role of the officer in facilitating the assessment process.

Administrative Information

Estimated Time Range: 90 minutes

Presentation Methods / Media

Methods

Lecture

Media

<https://www.wmtw.com/article/man-in-custody-guns-seized-after-threat-to-rockland-schools/20959343>

34-B MRS § 3862-A (Handout 1)

34-B MRS § 3801.4-A (Handout 2)

Copy of form for Extreme Risk Protective Order

Copy of Officer's probable cause statement

Copy of ERPO warrant affidavit

Material & Equipment

Laptop

Projector or television

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Outline of instructional Unit	Objectives & Notes
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<p>I. Introduction (10 min)</p> <p>A. Instructor background/credentials</p> <p>B. Objectives</p> <p>1.1.1. Describe the Extreme Risk Protection Order, as outlined in this lesson</p> <p>1.1.2 Describe what an officer may do if unable to immediately take someone into protective custody</p> <p>1.1.3 Describe two methods law enforcement may use to secure weapons from a person</p> <p>1.1.4 Identify how weapons may be stored while a person is prohibited from possessing them</p> <p>1.1.5 Describe the role of the officer in facilitating the assessment process.</p> <p>C. Attention grabber</p> <p>1. The man described in the video, who heard voices telling him to shoot up a school, was charged with terrorizing following his release from the hospital. Ultimately, that charge was dismissed in an agreed disposition following successful mental health treatment.</p> <p>2. However, in other cases where there was no evidence of a crime having been committed, keeping dangerous weapons from the person involved proved problematic.</p> <p>3. In 2019, the 129th Legislature enacted “An Act to Enhance Personal and Public Safety by Requiring Evaluations of and Judicial Hearings for Persons in Protective Custody Regarding Risk of Harm and Restricting Access to Dangerous Weapons” taking effect on July 1, 2020.</p>	<p>Review objectives of the training</p> <p>Show video https://www.wmtw.com/article/man-in-custody-guns-seized-after-threat-to-rockland-schools/20959343</p> <p>Advise students that handouts of the current law will be available</p>
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<p>4. The 131st Legislature enacted “An Act to Strengthen Public Safety by Improving Maine’s Firearm Laws and Mental Health System”, which goes into effect August 9, 2024.</p> <p><u>II. The law’s intent (5 minutes)</u></p> <p>A. The act, also called Restricting Access to Dangerous Weapons, is found in 34-B MRS § 3862-A, “Extreme Risk Protection Orders”.</p> <p>B. The law is designed to restrict access to dangerous weapons by persons who:</p> <ol style="list-style-type: none"> 1. have been assessed by a medical practitioner and found to present a likelihood of foreseeable harm. “Dangerous weapon” means a firearm or any device designed as a weapon and capable of producing death or serious bodily injury. Title 17-A, section 2, subsection 9C. <p><u>III. When protective custody has occurred: (50 minutes)</u></p> <p>A. Taken into Protective Custody: If a law enforcement officer has probable cause to believe that a person may be mentally ill and that due to that condition the person presents likelihood of serious harm to that person or to other persons, the officer may take the person into protective custody.</p> <p>The Maine Supreme Judicial Court in <i>State v. Parkinson</i>, 389 A.2d 1, 8 (Me. 1978) held that probable cause to arrest exists where “facts and circumstances within the knowledge of the officers and of which they have reasonably trustworthy information would warrant a prudent and cautious person to believe that the arrestee did commit or is committing the (crime).”</p> <p>Applying this definition of probable cause to taking a person in to protective custody, probable cause exists when facts and circumstances within the knowledge of the officers and of which they have reasonably trustworthy information would warrant a prudent and cautious person to believe that:</p>	<p style="text-align: center;">1.1.1</p> <p>Provide handouts of § 3801, subsection 4-A, paragraph A, B & C. Review the definitions with the class.</p>

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<p>1. The person may be mentally ill and that, due to that condition, the person poses a likelihood of serious harm as defined in section 3801, subsection 4-A, paragraph A, B or C. or,</p> <p>2. The person has an advance health care directive authorizing mental health treatment and the person lacks capacity.</p> <p>When formulating probable cause, the law enforcement officer may rely upon information provided by a third party informant if the officer confirms that the informant has reason to believe, based upon the informant's recent personal observations of or conversations with a person, that the person may be mentally ill and that due to that condition the person poses a likelihood of serious harm as defined in § 3801, subsection 4-A, paragraph A, B or C.</p> <p>A. "mentally ill person" means a person having a psychiatric or other disease that substantially impairs that person's mental health or creates a substantial risk of suicide. "Mentally ill person" includes persons suffering effects from the use of drugs, narcotics, hallucinogens, or intoxicants, including alcohol.</p> <p>B. For an assessment by a medical practitioner to occur, the person MUST be in protective custody AND the law enforcement officer must have probable cause to believe that the person possesses, controls or may acquire a dangerous weapon, except that the assessment may be performed within 24 hours after the person is released from protective custody if an examination for involuntary hospitalization ("blue paper") has occurred.</p> <p>C. Once both conditions have been met, an assessment of the person in protective custody is conducted by an authorized medical practitioner, i.e., a licensed physician, registered physician assistant, certified clinical nurse specialist, certified nurse practitioner, or licensed clinical psychologist. The officer shall provide to the medical practitioner the information that led to the protective custody, including, but not limited to, the information that gave rise to the probable cause determination for protective custody, the person's pertinent criminal history record information including conviction and non-conviction data, and other known history and recent or recurring actions and behaviors including intelligence and investigative record information.</p>	<p>Ask the class how an officer may determine if a person possesses, controls or may acquire a dangerous weapon. Bring the discussion to effective questioning by the officer, of both the person and others who have knowledge of the situation.</p>

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<p>D. The medical practitioner shall assess whether the person presents a likelihood of foreseeable harm. The medical practitioner may consult with other medical professionals as the medical practitioner determines advisable. If the medical practitioner finds that the person can benefit from treatment and services, the medical practitioner shall refer the person to treatment and services.</p> <p>1. An assessment may be performed at a health care facility, If the assessment is provided at a health care facility, law enforcement shall, upon request of the facility, absent compelling circumstances, assist the facility with the security of the person awaiting the assessment.</p> <p>Usually, officers bring the person in protective custody to a hospital’s emergency department for care, which may include involuntary hospitalization, commonly referred to as a blue paper. Officers should familiarize themselves with their hospital’s emergency department admission process, which may include steps such as:</p> <ul style="list-style-type: none"> • Registration • Triage • Room assignment • Initial medical assessment <p>2. Not all health care facilities are able or willing to conduct an assessment for restricting access to weapons. Law enforcement agencies are encouraged to contact their local health care facilities to determine their willingness and/or ability to conduct these assessments in advance of utilizing this process.</p> <p>When available and as appropriate, an assessment may be performed at an alternative location, or via telehealth. The State of Maine has contracted with Spurwink to conduct telehealth assessments. The officer will arrange for a telehealth assessment of the person by calling Spurwink at 207-535-2009, complete, sign, and return the following documentation prior to the assessment:</p>	<p>As an example, MaineHealth has a program for these instances. Pass out DPS, MaineHealth and legislatively approved MaineHealth program material.</p> <p>During the hours of 9am-5pm Monday-Friday, the phone will be answered by a staff at the Living Room Crisis Center who will help coordinate law enforcement connecting with a mental health professional. After hours and on weekends, this number is routed directly to the on-call provider assigned to complete the weapons restriction assessments.</p>

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<ul style="list-style-type: none"> • Section 1 of the State of Maine Application for Weapons Restriction Order • Officer’s Statement of Probable Cause. <p>Law enforcement agencies will be responsible for providing access to a/v equipment to conduct the telehealth assessment. This equipment could include a laptop or even a cellular phone.</p> <p>The medical practitioner will:</p> <ul style="list-style-type: none"> • Review Officer’s Statement of Probable Cause • Assess the individual in person or via telehealth or, if necessary, based on third-party information. • Reach out to pertinent collateral contacts as necessary • Use the above information to a determination as to whether the person is mentally ill and due to that mental illness presents a likelihood of foreseeable harm to self or others. <p>The Medical Practitioner entity will document the assessment and determination on Section 2. Assessment by Medical Practitioner of the Application for Extreme Risk Protection Order form. The Medical Practitioner will provide the law enforcement agency with a signed copy of the form that the LEA can provide to the Superior Court Justice, District Court Judge, Judge of Probate, or Justice of the Peace.</p> <p>3. A juvenile who is subject to this section may be accompanied at the assessment by a parent, guardian, grandparent, aunt or uncle or a sibling who has attained the age of 18, whose company is requested by the juvenile, who is timely available and whose accompaniment is practicable.</p> <p>4. A medical practitioner and any other medical or mental health professional consulted by the medical practitioner are not liable in a civil action brought by any person for any act performed in good faith in execution of the obligations imposed on medical practitioners by law, including any</p>	<p>Pass out Extreme Risk Protective Order form</p> <p>Pass out officer’s statement of probable cause</p>

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<p>decision regarding the affirmative or negative assessment of the likelihood of foreseeable harm. The immunity also applies to a principal if the medical practitioner or professional is acting as an agent or employee of the principal.</p> <p>E. A medical practitioner shall notify in writing the law enforcement officer or law enforcement agency that, based on the assessment, the person is found to present a likelihood of foreseeable harm.</p> <p>F. If so notified, the law enforcement officer or law enforcement agency shall, as soon as practicable, seek endorsement by a Superior Court Justice, a District Court Judge, or a justice of the peace of the medical practitioner's assessment and law enforcement's declaration that the person was taken into protective custody and that the law enforcement officer has probable cause that the person possesses, controls, or may acquire a dangerous weapon. The judge or justice shall promptly transmit to the law enforcement officer or agency the decision to endorse or not endorse. A decision transmitted electronically has the same legal effect and validity as a signed original.</p> <p>G. A person whose assessment is endorsed by a judicial officer becomes, at the time of notice by a law enforcement officer, a restricted person subject to initial restrictions and subject to the prohibitions in Title 15, section 393 as follows:</p> <ol style="list-style-type: none">1. The restricted person is prohibited from possessing, controlling, acquiring, or attempting to possess, control or acquire a dangerous weapon pending the outcome of a judicial hearing;2. The restricted person shall immediately and temporarily surrender any weapons possessed, controlled or acquired by the restricted person to a law enforcement officer who has authority in the jurisdiction in which the weapons are located pending the outcome of a judicial hearing; and3. The restricted person has a right to a judicial hearing. <p>H. A law enforcement officer shall, as soon as practicable, or is the subject has been medically incapacitated, within 48 hours after</p>	

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<p>the officer is notified that the person is no longer medically incapacitated, notify:</p> <ol style="list-style-type: none"> 1. The restricted person that the restricted person: <ol style="list-style-type: none"> a. Is prohibited from possessing, controlling, acquiring or attempting to possess, control or acquire a dangerous weapon pending the outcome of a judicial hearing; b. Is required to immediately and temporarily surrender any weapons possessed, controlled or acquired by the restricted person to a law enforcement officer who has authority in the jurisdiction in which the weapons are located pending the outcome of a judicial hearing; and c. Has a right to a judicial hearing within 30 days of the notice. 2. Notify the contact person, if any, disclosed by the restricted person to the medical practitioner, as well as the district attorney in the district of the restricted person's residence of the person's restricted status; and 3. Report the person's restricted status to the Department of Public Safety. <ol style="list-style-type: none"> I. A restricted person who makes all practical, immediate efforts to voluntarily comply with a surrender notice is not subject to arrest or prosecution as a prohibited person. If a law enforcement agency has probable cause to believe the restricted person possesses or controls but has not surrendered a weapon, law enforcement may, prior to or as part of a judicial hearing, search for and seize such a weapon when authorized by a judicially issued warrant or other circumstances approved by law, such as when exigent circumstances or another exception to the search warrant rule exist. Possession of a dangerous weapon by a restricted person is a Class D crime pursuant to Title 15, section 393(E-1). J. A law enforcement agency may store or arrange with another law enforcement agency or federally licensed firearms dealer to 	

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<p>store, any weapon surrendered to or seized by law enforcement under this section for as long as the threat-based restrictions are in effect. The duties and liability of a law enforcement agency with respect to handling and storage of a weapon surrendered or seized are governed by Title 25, section 2804-C, subsection 2-C. A weapon surrendered to or seized by a law enforcement agency must be returned to the restricted person when the threat-based restrictions expire. If a seized or surrendered weapon remains unclaimed for six months after the expiration or dissolution of threat-based restrictions, the law enforcement agency may dispose of the weapon consistent with Title 25, section 3503-A.</p> <p>K. Law enforcement’s role in the restricting access process is, substantially, facilitating the assessment with the mental health professional. As always, the safety of the officer, medical personnel and of the person in protective custody is the priority; facilitating the assessment is our secondary role.</p>	<p>1.1.3</p> <p>1.1.4</p>
<p><u>IV. When protective custody has not occurred (10 minutes)</u></p> <p>A. If a law enforcement officer is unable to take a person into protective custody to conduct an assessment under this section, the law enforcement officer may apply for a protective custody warrant. The officer must submit an affidavit of probable cause for a protective custody warrant to a Justice of the Superior Court, a Judge of the District Court, or a justice of the peace.</p> <p>B. The justice or judge shall issue a protective custody warrant and promptly transmit that warrant to the officer for execution upon finding the affidavit under this subsection is sufficient to establish:</p> <ol style="list-style-type: none"> 1. Probable cause to believe that the person is mentally ill and due to that condition presents a likelihood of serious harm; 2. Probable cause to believe that the person possesses, controls or may acquire a dangerous weapon; and 	<p>1.1.5</p> <p>1.1.2</p> <p>Pass out Protective Custody Arrest Warrant affidavit form</p>

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<p>3. That the officer has made reasonable attempts to take the person into custody without a warrant.</p> <p>C. A warrant transmitted by facsimile machine or an electronic warrant transmitted by secure electronic means has the same legal effect and validity as an original endorsement signed by the justice or judge. The electronic arrest warrant or paper arrest warrant may be executed by a law enforcement officer authorized to take the person into protective custody.</p> <p>D. While the protective custody arrest warrant allows the officer to take the person into custody, a search warrant may still be necessary to search for and seize dangerous weapons if the person taken into protective custody is determined to present a likelihood of foreseeable harm to self or others. Once the person is in protective custody, the process outlined above is followed.</p> <p>E. As always, safety of the officers involved in executing the arrest/search warrants, as well as the safety of the subject, is of great concern. Consideration of how best to execute the warrants should include risk mitigation.</p>	
<u>V. Additional law changes within the act (10 minutes)</u>	
<p>A. It provides that a person may not own, possess or have under that person's control a firearm if that person is a restricted person under an order issued by another jurisdiction that is similar to an extreme risk protection order in this State.</p> <p>B. Established background checks and waiting periods for certain firearms transfers.</p> <p>C. It provides that a person may not recklessly sell or transfer a firearm to a person who is prohibited from owning, possessing or having under that person's control a firearm.</p> <p>D. It changes the classification of the crime of recklessly, knowingly or intentionally selling or transferring a firearm to a person who is prohibited from owning, possessing or having</p>	

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<p>under that person's control a firearm from a Class D to a Class C crime.</p> <p>VIII. Conclusion (5 minutes)</p> <p>A. While some of the updates to the law are new, the restrictions work in a similar fashion to restrictions on possessing or accessing dangerous weapons by defendants in standard protection orders.</p> <p>B. Questions?</p>	

Criterion Test

- 1.1.1. Describe the law of Extreme Risk Protection Orders as outlined in this lesson.
- 1.1.2 Describe what an officer can do if unable to immediately take someone into protective custody.
- 1.1.3 Describe two methods law enforcement may use to secure weapons from a person.
- 1.1.4 Identify how weapons may be stored while a person is prohibited from possessing them.
- 1.1.5 Define law enforcement's role in the restricting access process.

Criterion Test Answer Key

1.1.1. Describe the law of Extreme Risk Protection Orders as outlined in this lesson.

The law is designed to restrict access to dangerous weapons by persons who have been assessed by a medical practitioner and found to present a likelihood of foreseeable harm.

1.1.2 Describe what an officer can do if unable to immediately take someone into protective custody.

After reasonable attempts to take the subject into protective custody are unsuccessful, officers may apply for a protective custody warrant.

1.1.3 Describe two methods law enforcement may use to secure weapons from a person.

Consent or search warrant.

1.1.4 Identify how weapons may be stored while a person is prohibited from possessing them.

At the law enforcement agency or arranged to be stored at another law enforcement agency or federally-licensed firearms dealer.

1.1.5 Define law enforcement's role in the restricting access process.

Safety of all involved is the first priority; facilitating the assessment is our secondary function.

Bibliography

34-B MRSA §3862, §3862-A & § 3801, subsection 4-A, paragraph A, B & C

Brian MacMaster, Chief Law Enforcement Consultant, Dirigo Safety

Michael Sauschuck, Commissioner, Department of Public Safety

An Act to Strengthen Public Safety by Improving Maine's Firearm Laws and Mental Health System

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-FOUR

S.P. 953 - L.D. 2224

An Act to Strengthen Public Safety by Improving Maine's Firearm Laws and Mental Health System

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

Sec. 1. 15 MRSA §393, sub-§1, ¶E-1, as enacted by PL 2019, c. 411, Pt. C, §2 and affected by Pt. D, §3, is amended to read:

E-1. Is currently a restricted person ~~under~~ pursuant to Title 34-B, section 3862-A, subsection 2 4 or Title 34-B, section 3862-A, subsection 6, paragraph D or a similar order issued by another jurisdiction, except that the prohibition applies to possession and control, and not ownership. A permit issued pursuant to subsection 2 is not a defense to a violation of this paragraph. Violation of this paragraph is a Class D crime;

Sec. 2. 15 MRSA §394, sub-§1, ¶B-1 is enacted to read:

B-1. "Intentionally" has the same meaning as in Title 17-A, section 35, subsection 1.

Sec. 3. 15 MRSA §394, sub-§1, ¶B-2 is enacted to read:

B-2. "Knowingly" has the same meaning as in Title 17-A, section 35, subsection 2.

Sec. 4. 15 MRSA §394, sub-§1, ¶B-3 is enacted to read:

B-3. "Recklessly" has the same meaning as in Title 17-A, section 35, subsection 3.

Sec. 5. 15 MRSA §394, sub-§2, as enacted by PL 2023, c. 305, §1, is amended to read:

2. Sale or transfer prohibited. A person may not ~~knowingly or intentionally~~, knowingly or recklessly sell or transfer a firearm to a person who is prohibited from owning, possessing or having under that person's control a firearm pursuant to section 393 and who does not have a permit issued under section 393. This subsection does not apply to the sale or transfer of an antique firearm.

Violation of this subsection is a Class ~~D~~ C crime.

Sec. 6. 15 MRSA §395 is enacted to read:

§395. Background checks of firearms buyers

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

A. "Advertisement" means the presentation of a message regarding a firearm for sale by a seller that is:

- (1) Broadcast on television or radio;
- (2) Broadly disseminated over the Internet;
- (3) Printed in magazines or newspapers; or
- (4) Displayed on a handbill, poster, sign or placard.

B. "Buy" means to acquire ownership for monetary or other consideration.

C. "Buyer" means a person who buys from a seller.

D. "Family member" means a spouse, domestic partner, parent, stepparent, foster parent, child, stepchild, foster child or person related by consanguinity within the 2nd degree.

E. "Federally licensed firearms dealer" or "dealer" means a person who is licensed or is required to be licensed as a dealer under 18 United States Code, Section 923(a)(3).

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

G. "Gun show" means any gathering or exhibition at which any firearm is displayed that is:

- (1) Open to the public;
- (2) Not occurring on the permanent premises of a federally licensed firearms dealer; and
- (3) Conducted principally for the purposes of transactions.

H. "Sell" means to transfer ownership for monetary or other consideration.

I. "Seller" means a person who sells to a buyer.

J. "Transaction" means the transfer of ownership of a firearm from a seller to a buyer.

2. Transactions covered by this section. This section applies only to transactions in which:

- A. A seller sells to a buyer at a gun show; or
- B. A seller sells to a buyer as a result of an advertisement.

3. Transactions not covered by this section. This section does not apply to transactions in which:

- A. The buyer and seller are family members; or
- B. The transaction is for a firearm that is:

- (1) A curio or relic, as defined in 27 Code of Federal Regulations, Section 478.11, as in effect on November 19, 2019, and the sale, transfer or exchange is between collectors as defined in 18 United States Code, Section 921(a)(13), as in effect on June 25, 2022, who each have in their possession a valid collector of curios and relics license issued by the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives; or
- (2) An antique firearm, as defined in 18 United States Code, Section 921(a)(16), as in effect on June 25, 2022.

4. Requirement for transactions covered by this section. A seller who is not a federally licensed firearms dealer may not complete a transaction to which this section applies unless the seller facilitates the transaction through a federally licensed firearms dealer. The dealer shall perform a background check of the putative buyer by using the Federal Bureau of Investigation, National Instant Criminal Background Check System in the same manner as if the dealer were the seller of the firearm that is the subject of the transaction. If the background check reveals that the putative buyer is prohibited from purchasing a firearm, the dealer shall notify the seller of that fact and of the fact that the transaction may not proceed. The dealer may charge a reasonable fee for serving as the facilitator.

5. Violations. A person who sells a firearm in violation of this section commits a Class C crime.

Sec. 7. 22-A MRSA §203, sub-§2, as enacted by PL 2003, c. 689, Pt. A, §1, is amended to read:

2. Additional programs and services for children and families. The department shall provide children and families with additional programs and services to assist them in meeting their needs, including, but not limited to:

- A. Child welfare services;
- B. Head Start and child care services;
- C. Maternal and child health services, including home visiting programs;
- D. Paternity establishment and child support enforcement services; ~~and~~
- E. Residential and long-term care services for children with disabilities; ~~and~~
- F. Injury and violence prevention programs, including data collection, synthesis and evaluation.

Sec. 8. 25 MRSA §2804-C, sub-§2-E, as enacted by PL 2019, c. 411, Pt. C, §4 and affected by Pt. D, §3, is amended to read:

2-E. Receipt of certain dangerous weapons; training; procedure; liability. Beginning in 2020, the Maine Criminal Justice Academy Board of Trustees shall require training as part of its mandated training schedule for municipal, county and state law enforcement officers regarding the process for ~~protection from substantial threats by a restricted person~~ extreme risk protection orders and the proper handling, storage, safekeeping and return of dangerous weapons received pursuant to an endorsement or court order under Title 34-B, section 3862-A or 3873-A. The training must include education concerning the prohibitions on the purchase, control or possession of dangerous weapons. A law enforcement officer who receives custody of a dangerous weapon pursuant to Title 34-B, section 3862-A or 3873-A shall exercise reasonable care to avoid loss, damage or reduction in value of the weapon and may not permanently mark or fire the weapon unless there is reasonable suspicion that the weapon has been used in the commission of a crime. Any liability for damage or reduction in value to such a weapon is governed by Title 14, chapter 741.

Sec. 9. 34-B MRSA §3613 is enacted to read:

§3613. Crisis receiving centers

1. Definition. As used in this section, unless the context otherwise indicates, "crisis receiving center" means a center that provides immediate and short-term walk-in access to an array of both clinical and nonclinical mental health and substance use disorder crisis stabilization services to all individuals seeking care regardless of severity or insurance coverage and within bounds of licensing.

2. Department to develop plan and serve as coordinator. The department shall develop a plan for a network of community-based crisis receiving centers across the State to support both clinical and nonclinical

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mental health and substance use disorder crisis stabilization services. The department shall also coordinate meetings, technical assistance and training and provide other assistance to help create, maintain and, as necessary, expand the network.

3. Guidelines. In carrying out its duties under subsection 2, the department shall:

A. Consult with law enforcement agencies, municipalities, public health experts, behavioral health care providers, other states and others as appropriate;

B. Assess geographical locations for maximization of community impact;

C. Provide technical assistance to persons and entities across the State and providers interested in joining the network;

D. Coordinate regular meetings with crisis receiving centers and provide technical assistance to crisis receiving centers; and

E. Engage in continual process improvement and planning updates.

Sec. 10. 34-B MRSA §3862-A, as enacted by PL 2019, c. 411, Pt. A, §1 and affected by Pt. D, §3, is amended by amending the section headnote to read:

§3862-A. ~~Protection from substantial threats~~ Extreme risk protection orders

Sec. 11. 34-B MRSA §3862-A, sub-§1, ¶C, as enacted by PL 2019, c. 411, Pt. A, §1 and affected by Pt. D, §3, is amended to read:

C. "Initial restrictions" means the immediate and temporary ~~44-day~~ 30-day threat-based restrictions pursuant to subsection 4.

Sec. 12. 34-B MRSA §3862-A, sub-§2, ¶B, as enacted by PL 2019, c. 411, Pt. A, §1 and affected by Pt. D, §3, is amended to read:

B. The medical practitioner under ~~paragraph A~~ this subsection shall assess whether the person presents a likelihood of foreseeable harm. In assessing the person, a medical practitioner may consult with other medical professionals as the medical practitioner determines advisable. If the medical practitioner finds that the person can benefit from treatment and services, the medical practitioner shall refer the person to treatment and services. The medical practitioner may rely on information provided by a 3rd party if it reasonably appears that the 3rd party has had recent personal observations of or conversations with the person being assessed.

Sec. 13. 34-B MRSA §3862-A, sub-§2, ¶C, as enacted by PL 2019, c. 411, Pt. A, §1 and affected by Pt. D, §3, is amended to read:

C. Notwithstanding any provision of law to the contrary, an assessment pursuant to this section may be performed at a health care facility ~~but or~~, when available and as appropriate, ~~must~~ may be performed at an alternative location. The assessment may be facilitated using telehealth technology. If the assessment is provided at a health care facility, law enforcement shall, upon request of the facility and consistent with section 3863, subsection 2-A, absent compelling circumstances, assist the facility with the security of the person awaiting the assessment under this section.

Sec. 14. 34-B MRSA §3862-A, sub-§2, ¶C-1 is enacted to read:

C-1. The assessment required by this subsection must be performed while the person being assessed remains in protective custody, except that the assessment may be performed within 24 hours after the person is released from protective custody if:

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(1) The protective custody stemmed from a law enforcement officer's probable cause to believe the person may be mentally ill and presents a likelihood of serious harm because the person possesses, controls or may acquire a dangerous weapon; and

(2) An examination under section 3863 has occurred.

Sec. 15. 34-B MRSA §3862-A, sub-§2-A is enacted to read:

2-A. Protective custody warrant for purposes of conducting an assessment. If a law enforcement officer is unable to take a person into protective custody to conduct an assessment under this section, the law enforcement officer may apply for a protective custody warrant. The officer must submit an affidavit of probable cause for a protective custody warrant to a Justice of the Superior Court, a Judge of the District Court or a justice of the peace.

The justice, judge or justice of the peace shall issue a protective custody warrant and promptly transmit that warrant to the officer for execution upon finding the affidavit under this subsection is sufficient to establish:

A. Probable cause to believe that the person may be mentally ill and due to that condition presents a likelihood of serious harm;

B. Probable cause to believe that the person possesses, controls or may acquire a dangerous weapon; and

C. That the officer has made reasonable attempts to take the person into custody without a warrant.

A warrant transmitted by facsimile machine or an electronic warrant transmitted by secure electronic means has the same legal effect and validity as an original endorsement signed by the justice, judge or justice of the peace. The electronic protective custody warrant or paper protective custody warrant may be executed by a law enforcement officer authorized to take the person into protective custody as provided in section 3862, subsection 1, paragraph B.

Sec. 16. 34-B MRSA §3862-A, sub-§3, as enacted by PL 2019, c. 411, Pt. A, §1 and affected by Pt. D, §3, is amended to read:

3. Notification by medical practitioner and judicial endorsement. A medical practitioner shall notify in writing the law enforcement officer or law enforcement agency that took the person into protective custody under section 3862, subsection 1, paragraph B that, based on the assessment under subsection 2, paragraph B, the person is found to present a likelihood of foreseeable harm. If so notified, the law enforcement officer or law enforcement agency shall as soon as practicable seek endorsement by a ~~Superior Court Justice, District Court Judge, judge of probate or~~ Justice of the Superior Court, a Judge of the District Court or a justice of the peace of the medical practitioner's assessment and law enforcement's declarations that the person was taken into protective custody and that the law enforcement officer has probable cause to believe that the person possesses, controls or may acquire a dangerous weapon. ~~The judge justice or justice judge~~ shall promptly transmit to the law enforcement officer or agency the decision to endorse or not endorse. A decision transmitted electronically has the same legal effect and validity as a signed original. An endorsement must authorize law enforcement to execute the authority in subsection 4. This section may not be construed to prevent law enforcement from accepting a voluntary surrender of dangerous weapons.

Sec. 17. 34-B MRSA §3862-A, sub-§4, as enacted by PL 2019, c. 411, Pt. A, §1 and affected by Pt. D, §3, is amended to read:

4. Initial restrictions; notice by law enforcement. A person whose assessment is endorsed by a judicial officer under subsection 3 becomes, at the time of notice by a law enforcement officer under

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paragraph B, a restricted person subject to initial restrictions and subject to the prohibitions in Title 15, section 393, subsection 1, paragraphs E-1 and E-2 as follows:

A. The restricted person, after notice under paragraph B:

- (1) Is prohibited from possessing, controlling, acquiring or attempting to possess, control or acquire a dangerous weapon pending the outcome of a judicial hearing;
- (2) Shall immediately and temporarily surrender any weapons possessed, controlled or acquired by the restricted person to a law enforcement officer who has authority in the jurisdiction in which the weapons are located pending the outcome of a judicial hearing; and
- (3) Has a right to a judicial hearing within 44 30 days of notice under paragraph B; and

B. A law enforcement officer shall, as soon as practicable, ~~but no later than 24 hours~~ after the judicial endorsement, unless the restricted person is medically incapacitated, in which case within 48 hours after the law enforcement officer has been notified that the person is no longer medically incapacitated:

- (1) Notify the restricted person that the restricted person:
 - (a) Is prohibited from possessing, controlling, acquiring or attempting to possess, control or acquire a dangerous weapon pending the outcome of a judicial hearing;
 - (b) Is required to immediately and temporarily surrender any weapons possessed, controlled or acquired by the restricted person to a law enforcement officer who has authority in the jurisdiction in which the weapons are located pending the outcome of a judicial hearing; and
 - (c) Has a right to a judicial hearing within 44 30 days of the notice under this paragraph;
- (2) Notify the contact person, if any, disclosed by the restricted person to the medical practitioner and the district attorney in the district of the restricted person's residence where the person was taken into protective custody of the person's restricted status; ~~and~~
- (3) Report the person's restricted status to the Department of Public Safety as soon as practicable; ~~and~~
- (4) Provide a copy to the court of the notification to the restricted person, including the date of notification.

Sec. 18. 34-B MRSA §3862-A, sub-§6, ¶A, as enacted by PL 2019, c. 411, Pt. A, §1 and affected by Pt. D, §3, is amended to read:

A. Within ~~5~~ 14 days of the date of the notice given to a restricted person under subsection 4, paragraph B, ~~the district attorney the court shall schedule a hearing in the district of the restricted person's residence shall file a petition for judicial review of the initial restrictions by the district court. The district attorney shall provide~~ where the person was taken into protective custody and provide notice of the hearing to the restricted person written notice of the petition and hearing and the district attorney at least 7 days prior to the hearing. The restricted person has the right to be represented by counsel at the hearing, and the court may appoint counsel for an indigent party. Upon a showing of good cause, the court may extend the time to hold the hearing.

Sec. 19. 34-B MRSA §3862-A, sub-§6, ¶B, as enacted by PL 2019, c. 411, Pt. A, §1 and affected by Pt. D, §3, is amended to read:

B. Within 44 30 days of the notice given under subsection 4, the court shall hold a hearing to determine whether to dissolve or extend the initial restrictions. Upon a showing of good cause, the court may extend

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the time to hold the hearing. In the hearing determining whether to dissolve or extend the initial restrictions, the district attorney has the burden to prove by clear and convincing evidence that the restricted person presents a likelihood of foreseeable harm.

Sec. 20. 34-B MRSA §3862-A, sub-§6, ¶C, as enacted by PL 2019, c. 411, Pt. A, §1 and affected by Pt. D, §3, is amended to read:

C. In determining whether there are grounds to extend the initial restrictions, the court shall consider all relevant evidence, including, but not limited to, recent threats or acts of violence by the restricted person directed toward other persons; recent threats or acts of violence by the restricted person directed toward the restricted person; recent acts of unlawful abuse of animals by the restricted person; the reckless use or threatening display of a dangerous weapon by the restricted person; a history of the use, attempted use or threatened use of physical force by the restricted person against other persons; a record of prior custodial events or restrictions under this section; prior involuntary confinement of the restricted person in a hospital for persons with psychiatric disabilities; prior protection from abuse and protection from harassment orders against the restricted person or violations regarding protection from abuse or protection from harassment by the restricted person; evidence of stalking behavior, severe obsession or sexual violence by the restricted person; the illegal use of controlled substances by the restricted person; and evidence of alcohol or drug abuse by the restricted person. The court may consider affidavits and other reliable hearsay in making this determination. The court shall also consider whether the restricted person is receiving treatment responsive to that person's mental health or substance use needs.

Sec. 21. 34-B MRSA §3862-A, sub-§6, ¶D, as enacted by PL 2019, c. 411, Pt. A, §1 and affected by Pt. D, §3, is amended by amending subparagraph (5) to read:

(5) A court shall electronically update or transmit to the Department of Public Safety, Bureau of State Police an abstract of the order issued by the court pursuant to this section that includes a prohibition on the possession of a dangerous weapon within 72 hours of the order's being issued. The abstract must include the name, date of birth and gender of the person who is the subject of the order; the court's order and the expiration date of that order; and a notation that the person has been notified by the court.

The abstract required by this subparagraph is confidential and is not a public record as defined in Title 1, chapter 13; however, the information contained in the abstract or a copy of the abstract may be provided by the Department of Public Safety to a criminal justice agency for 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 Department of Public Safety shall, when the pertinent database is developed, request that the Federal Bureau of Investigation ensure that, immediately after the order 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 or acquiring 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, as is any equivalent agency at any level of Canadian government.