



MAINE CHIEFS OF POLICE ASSOCIATION

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Statement in Support of L.D. 1884, An Act To Create a Community Protection Order To Allow Courts To Prevent High-risk Individuals from Possessing Firearms Submitted by Chief Douglas Bracy, April 3, 2018

Gun violence in America has no single cause, and it manifests itself in many ways, including gang warfare, suicide, domestic abuse, and mass shootings in public places. No one law or action can put an end to all gun violence. But the fact that we cannot find a perfect solution does not justify inaction. There are situations where the bill before you today could make the difference between life and death.

There have been 26 mass shootings in America in which 10 or more persons were killed since 1949. But only three of those occurred before 1980, and exactly half of the 26 occurred within just the last decade. Clearly, the rate of mass shootings has increased dramatically in recent years. Perhaps the most shocking of all mass shootings are those that occur at schools where children are supposed to be safe and be educated.

Following the mass killings at Columbine High School in 1999, the National Threat Assessment Center of the United States Secret Service conducted a study¹ of 37 school shootings involving 41 shooters. Among their findings were these:

- *Incidents of targeted violence at school were rarely sudden, impulsive acts.*
- *Prior to most incidents, other people knew about the attacker's idea and/or plan to attack.*
- *Most attackers engaged in some behavior prior to the incident that caused others concern or indicated a need for help.*
- *Most attackers had access to and had used weapons prior to the attack.*

Some of the deadliest school shootings occurred after the Secret Service study was conducted and follow this same pattern, including Sandy Hook Elementary School in Newtown, CT, and Stoneman Douglas High School in Parkland, FL.

The bill before you today could make a difference by heading off mass shootings of this nature. L.D. 1884 could also prevent some suicides by gun, because suicidal persons may exhibit the same signs as those listed in the Secret Service's report on school shootings.

L.D. 1884 contains the following key provisions that prevent abuse of the issuance of community protection orders:

- **Due process** – A court must examine documented evidence before issuing a community protection order. The petitioner, not the subject of the petition, bears the burden of proof. It is highly unlikely that such orders will be issued for baseless charges by a vengeful relative or domestic partner.
- **Firearms retention** – Firearms may be retained only temporarily and shall be returned to their rightful owner.

Maine Chiefs of Police Association urges that this committee give L.D. 1884 its unanimous support.

¹ *USSS Safe School Initiative: An Interim Report on the Prevention of Targeted Violence in Schools (Washington, DC: U.S. Secret Service, National Threat Assessment Center, 2000).*

1st Amendment

Freedom of religion, speech, press, assembly, and petition

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

2nd Amendment

Right to bear arms, form and maintain a militia

"A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

Prior to the Supreme Court's 2008 decision in *District of Columbia v. Heller*,¹ the courts had yet to definitively state what right the Second Amendment protected. The opposing theories, perhaps oversimplified, were (1) an "individual rights" approach, whereby the Amendment protected individuals' rights to firearm ownership, possession, and transportation; and (2) a "states' rights" approach, under which the Amendment only protected the right to keep and bear arms in connection with organized state militia units.² Moreover, it was generally believed that the Amendment was only a bar to federal action, not to state or municipal restraints.³

However, the Supreme Court has now definitively held that the Second Amendment protects an individual's right to possess a firearm unconnected with service in a militia, and to use that weapon for traditionally lawful purposes, such as self-defense within the home. Moreover, this right applies not just to the federal government, but to states and municipalities as well.

4th Amendment

Right to avoid searches and seizures without a proper warrant

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

5th Amendment

Right to due process of the law, no person may be held to answer for crime (imprisoned) without a Grand Jury's opinion before trial, right to not testify against yourself, right to eminent domain (keep property from gov. without compensation)

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

6th Amendment

Right to speedy and public trial, with impartial jury in the state or district of committed crime, knowing what trial is about, having a lawyer, defense gets to know evidence used by prosecution

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence."