

**121<sup>st</sup> Maine Legislature**

**LD 2224 – An Act to Strengthen Public Safety by Improving Maine’s Firearm Laws and  
Mental Health System**

**Before the Committee on the Judiciary**

**March 7, 2024**

Testimony of Peter L. Murray

Senator Carney, Representative Moonan, Members of the Committee on the Judiciary:

My name is Peter Murray. I have lived and practiced law in Portland since 1967. This testimony is submitted in support of **LD 2224, An Act to Strengthen Public safety by Imprving  
Maine’s Firearm Laws and Mental Health System.**

Thank you for allowing me to submit this testimony in writing. The need to care for my spouse following a serious foot operation on Tuesday requires me to stay at home with her.

This testimony is submitted in support of the above bill, but with a sense of disappointment that this proposed legislation does not go as far as seems warranted in order to protect the people of Maine from all forms of gun misuse and violence ranging from suicides and domestic accidents to mass slaughters of the kind that occurred in Lewiston last December.

There is no doubt that expanding background check requirements to cover all advertised gun sales and empowering law enforcement officers to obtain a judicial order authorizing detention of a potentially dangerous person pending a “yellow flag” evaluation are incremental steps toward reducing the danger to Maine people from firearm misuse. Yes, these measures should be enacted.

At the same time, it must be acknowledged that even with these measures, Maine will remain one of the most permissive of the American states with respect to gun acquisition, ownership, carrying and use. This permissive legal climate is likely one reason why Maine has the highest per capita rate of death by firearms in New England.

Maine's long-established tradition of recreational hunting out of doors is cited as a reason why we should not enact more stringent gun safety measures. Hunting is done with rifles and shotguns, generally not with handguns or high-capacity semi-automatic weapons. These latter are designed and manufactured for one principal purpose, to kill human beings, not animals. It may well be a reasonable nod to the needs and practices of hunters to exempt private, non-advertised sales and transfers of shotguns and rifles from the background check requirement. However, there is no parallel justification for omitting background checks on private sales or transfers of those classes of firearms that are purely weapons to be used on people. Would it not make a great deal of sense to make all sales of handguns and semiautomatic weapons subject to background checks, while leaving private sales of rifles and shotguns exempt?

The same reasoning can be applied to LD 2238, also being heard this afternoon. Most suicides by firearm involve handguns. It has been convincingly shown that requiring a three-day waiting period on most purchases of handguns and semi-automatic weapons would save an appreciable number of lives from suicide and might also prevent a certain number of mass shootings. Again, the interest of the hunter could be protected by restricting the 3-day waiting period to handguns and semi-automatic weapons. A hunter could pick up a new rifle or shotgun on the way up-country without having to wait.

So while LD 2224 has my support as it stands, it is my earnest request that the Committee consider making it just a bit more effective by differentiating between handguns and semiautomatic weapons on the one hand, and hunting rifles and shotguns on the other. The kind of firearms which are designed to be shot at people are the most dangerous to us and should be carefully regulated. Guns designed to be shot at animals and birds for sport may not need the same level of attention.

My last comments address the additional features added to Maine's "yellow flag law." The problem with the yellow flag law is that it requires that the subject be in some kind of custody and then be evaluated by a mental health professional before the subject's guns can be secured.

Red flag laws in force in many states do not require the time-consuming step of getting the subject in custody, seeking out a mental health professional to conduct an evaluation before securing the weapons. It is enough if any person presents evidence to a judge that convinces her that the subject may pose an unreasonable danger if left in possession of firearms. Concern about overinclusiveness is mitigated by a quick procedure to review the red flag order. Nor have we heard any large number of complaints about the operation of these red flag laws. They seem to be helping. The many steps required by the yellow flag law, even under the proposed amendments, makes it a less effective measure. At this point, maybe the added certainty provided by a required mental health evaluation, is not worth the added time consumption and delay involved in the Maine procedure. In my view we should simply lay aside our yellow flag law and adopt a red flag law as in effect in many other states.

Thank you for your consideration of this testimony. The stakes have never been greater. Please report LD 2224 "Ought to pass" with the amendments just recommended.

Thank you.