

Richard Shapiro  
Brunswick  
LD 2224

This bill has numerous issues, and ought not to pass. The bill has 4 parts, which I will discuss separately:

1) Increasing breadth and penalties: Sections 2 and 19.

First, Sec. 2 adds “recklessly” to “knowingly or intentionally” transfer a firearm to a prohibited person, while also making the offense a felony. Given the vagueness of the term “reckless”, which is subject to second guessing by the justice system, the elevation of the offense to one that remove the person’s right to keep and bear arms for the rest of their life is draconian.

Second, Sec. 19 changes the possession of a dangerous weapon by a restricted person a felony. This change continues a disturbing trend of making an ever increasing variety of crimes, that may be once in a life-time or even comparatively minor incidents, into felonies that strip the right to keep and bear arms for life. Again, this is disproportionate. I suggest that the legislature look to enforcing existing laws on criminals before creating yet another felony.

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2) Background Checks (Sec.3):

The “Universal Background Check” portion of this bill is ineffective, unenforceable, and places an unreasonable burden on the law abiding. UBC is a proposal that the voters of this state have soundly rejected several times, including by popular vote, despite a massive expenditure of out of state cash on behalf of the proposal. The excellent reasons for that rejection have not changed.

While today’s proposal purports only to apply to gun shows (where background checks are ALREADY required) or if the sale is advertised, it remains utterly unenforceable, the more so as it applies to only a small fraction of the private firearm sales that take place in this state. And – as always with this type of ineffective bill, it’s yet another felony! At the risk of repeating myself, this is an utterly disproportionate penalty.

In the real world, this is a “destroy the classified section” bill. In other words, it’s a restriction on free speech, with zero real world effectiveness. If a person advertises a gun, let’s say in a weekly paper, but the gun does not sell. A couple of weeks or months later, long after the advertisement is gone, the gun is sold to someone who didn’t know that the advertisement ever existed, is the seller an instant felon? Especially given the penalty and the small number of people it would apply to, this law is ludicrous.

It is simply another way make life difficult for law abiding gun owners, who are forced to dance to a pointless tune where the price of missing a step is to lose your constitutional rights for life.

Lastly, forcing rural Maine citizens to travel for up to an hour or two to conduct a transfer is an unreasonable burden, and indeed, most gun shops now charge \$50 to do those background checks. That’s a heck of a regressive tax to place on poor Maine folks who seek to use their constitutional rights!

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3) Additional government services (Sec. 4)

My only note on this section is that the unhealthy and illogical demonization of firearms while ignoring both existing laws and failures of enforcement, as exemplified by the rest of this bill, has rendered the state far less safe and directly resulted in far too many deaths. If such services can reasonably be provided, and data collection is not blinkered into looking only at disarming the law abiding, this provision would not be unreasonable.

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4) “Red Flag Law” (Sec. 5-18)

A: Overly extending the time before a person is able to obtain a hearing: Sec. 8, 11, 14: By changing period of “Initial Restrictions” – in other words the period of time that the person upon whom such actions are levied has their rights stripped away without the full protection of due process or the 4th Amendment prohibition on unreasonable search and seizure – from 14 to 30 days, this bill simply prolongs any injustice committed against Maine citizens who have not been convicted of a crime if the law is triggered either in mistaken belief or purposely to harm someone (as often happens in divorce proceedings).

To make the situation even worse, under this bill, courts are allowed to extend this time beyond the 30 days upon “good cause” – a very low standard given the grievous nature of the possible injustice.

And, given that under Sec. 11, the person must now be placed in protective custody and can only be released IF certain conditions are fulfilled including the ability to have the assessment done within 24 hours after release, this extension of the time before they can have the assessment is utterly unacceptable and unjust.

B: Allowing unreliable accusations: Sec. 9: allows medical professionals to rely on information provided by 3rd parties to trigger such an order. This is an open invitation to abuse.

The testimony of such a medical professional as to such information in court would be INADMISSIBLE as hearsay. Medical professionals are not trained interrogators or courts and have no experience determining the truthfulness of 3rd parties or the accuracy of their observations. There is a good reason why this section does not currently allow any third party who may have seen or spoken to this person to testify – reliability of third parties in this case would be, at best, suspect, and at worst practically zero.

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Summary: this bill has numerous flaws, and ought not to pass.