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LD 2283

My name is Richard Shapiro, and I live in Brunswick.

I am writing in opposition to LD 2283.

Before I go further, I want to make clear that I am a stalking victim along with my ex-wife, and my stalker was known to be armed.

And, yes, in light of that fact, I oppose this legislation. Why? Among other reasons, because our stalker lied about us by telling people that we threatened him. With the magic of a simple lie, he had everything he needed to have us violently, and without due process, stripped of our constitutional rights under this bill. All he had to do was tell a law enforcement officer, and presto! Our Second, Fourth and Fourteenth Amendment rights would have disappeared like a wisp of kleenex in yesterday's nor-easter.

We had an order of personal protection against him. Did that keep him from sitting across the street and watching us? No. Because he used a borrowed car and left before the police could arrive. Did it keep him from trampling the snow under our bedroom window? No.

What kept him out of our home? My ex's gun.

This bill is unnecessary.

As numerous people have pointed out, our "Yellow Flag" law has been a remarkable success, as it has been employed numerous times with excellent results. It was more than adequate to stop Robert Card from committing murder, had the police not dropped the ball.

The "Yellow Flag" law upholds the constitutional rights of law-abiding firearm owners. And, that's why those who, despite decades of evidence that strict gun laws don't work, want to disarm our citizens want it replaced. They have become so obsessed by their fear of firearms, and have become so overcome by their conviction that the government can and will protect everybody, if only nobody has the means to defend themselves, that they propose legislation such as this. And, whatever they will propose next. And the time after that.

Had a "Red Flag" law been in place, it would have made no difference. The police failed to act properly that time. It will happen again – not through maliciousness, but simply because humans are fallible. What will the people who proposed this bill propose the next time the government fails to apply existing law and people die? Whatever is it, it won't work either.

But, I assure you, in the mean time, if the "Red Flag" law is in place, there will be more opportunities for innocent people to be abused, or murdered, because they have been stripped of their rights. And for nothing real or reasonable.

This bill is designed to fail our citizens.

It not only offers an easy opportunity to abuse our citizens by stripping them of their constitutional rights without any effective due process, but it also stacks the deck in such a way to guarantee such abuse. The opportunities are rife for abusers, hostile family members, and even by that thankfully small minority of law enforcement officials who are willing to abuse their oaths of office for the sake of their own convenience. This law removes the checks and balances that prevent such occurrences.

First, issuance of an "emergency" order under this bill is far too easy. Simply declare an emergency and, just like magic, Constitutional rights vanish! The burden of proof is the lowest possible – "preponderance of evidence". That standard of proof is simply inappropriate, when the consequences are so incredibly severe. The victim of a mis-issued "emergency" order will be treated as a dangerous felon and will likely be subject to an incredibly dangerous and often inappropriate middle of the night

armed invasion.

Civilians and officers die in those middle of the night raids. They are utterly and completely inappropriate except when dealing with dangerous felons, and yet this law makes them inevitable.

Second, what happens to the victim of such an “emergency” order’s Fourth Amendment right against unreasonable search and seizure? It disappears in a puff of smoke. If the victim doesn’t point out each and every firearm known to be in their possession, the police will ransack the residence, business and vehicle of the victim. Have you seen the chaos and carnage that such searches often leave? And, if they actually DO mean harm, and have a firearm not known to the complainant? Oh well. Too bad.

And, for the icing on this truly poisonous cake, what is there to discourage the disarming of abuse victims? One little lie such as “she told me she was going to kill me or herself tonight” and she’s unarmed and subject to whatever terrorization the spouse seeks to inflict. MY stalker was that malicious. Had this law existed, he would have used it.

What is to discourage this “swatting” of innocent gun owners? What is there to discourage an armed raid that might kill them and might kill innocent law enforcement officers?

What is there to discourage a hostile family member from obtaining one of these preposterously easy to obtain “emergency” orders simply to hurt someone? Far too many of those in the middle of a hotly contested divorce, especially with children involved, would do so in a heartbeat. With a smile.

What is there to discourage the lazy law enforcement officer who doesn’t want to jump through hoops? What is there to discourage that (rare – but they DO exist) law enforcement officer with a grudge from obtaining such an order?

In the real world ... NOTHING.

Just listen to a few contested divorce cases. Listen to the shocking allegations thrown around like confetti. Or, look at what happens when one of those small minority of police officers I mentioned above oversteps their bounds. Unless it’s repeated numerous times, or is egregious and results in a fatal injury, the answer, almost exclusively, is ... nothing.

People lie in court with impunity every single day. The overwhelming majority of them never suffer any penalty for doing so. One convincing lie as to belief or intention, and the liar is home free. Pains and penalties of perjury do exist. How many times in our court system are people actually charged with and convicted of perjury? Rarely. Far too rarely.

And, to make this legislation even more heinous, almost no court will refuse to grant an “emergency” order in the face of the risk of another Robert Card, no matter how flimsy the application for the emergency order.

Besides, it’s just so much more convenient to apply for an “emergency” order rather than going through all that horrible due process to make sure that the gun owner actually presents a real world threat.

It’s just too tempting. It’ll save our law enforcement officials just so much time. Who cares that it trashes the rights of gun owners, based on essentially nothing.

Under this law, a gun owner is a second class citizen. The mere possession by a Maine citizen of the means to defend herself from an abusive spouse would mean that her constitutional rights are literally tissue paper, to be wiped away on a whim.

Again, this travesty of a law is neither necessary nor does it adhere to any rational standard for the constitutional protection of our citizens.

Thank you.