



GUN OWNERS OF MAINE

DEFENDING GUN RIGHTS

Regarding LD 2283, An Act to Enact the Crisis Intervention Order Act to Protect the Safety of the Public

Gun Owners of Maine is a non-profit, all volunteer organization representing thousands of Maine Gun Owners. We urge you to vote Ought Not to Pass.

LD 2283 seeks to remove Maine's current "Yellow Flag" law and replace it with Red Flag "Extreme Risk Protection Order" ("ERPO") laws.

Maine's current **Yellow Flag law would have worked in the case of Robert Card IF the law had been used properly!**¹

It is doubtful Red Flag Laws reduce crime or save lives. There is no doubt, however, that they are devoid of due process and hurt the law-abiding.

Two states have considerable experience with ERPO's: Connecticut, since 1999, and Indiana since 2005. The experience in both Connecticut and Indiana is that **red flag laws have had no significant effect on either homicide or suicide. It is also found that ERPO laws have had no significant effect on deaths or injuries from mass public shootings.**²

Red flag laws had no significant effect on murder, suicide, the number of people killed in mass public shootings, robbery, aggravated assault, or burglary. There is some evidence that rape rates rise. These laws apparently do not save lives.³

Police Departments are not equipped or are under-equipped to deal with ERPO, and prevents police from dealing with more pressing matters:

In New York, the number of extreme risk protection orders increased from 95 in 2021 to 584 in 2022, according to data released from the New York State Police. The 283 in the first three months this year sets a pace for about 1,100 – a 1,057% increase.⁴

¹ Governor Mill's Official Report on Lewiston Shooting

² Lott, John R. and Moody, Carlisle E., Do Red Flag Laws Save Lives? (November 12, 2019). Available at SSRN: <https://ssrn.com/abstract=3492120> or <http://dx.doi.org/10.2139/ssrn.3492120>

³ Lott, John R. and Moody, Carlisle E., Do Red Flag Laws Save Lives or Reduce Crime? (December 28, 2018). Available at SSRN: <https://ssrn.com/abstract=3316573> or <http://dx.doi.org/10.2139/ssrn.3316573>

⁴ https://www.thecentersquare.com/new_york/article_ceb257a2-e9c9-11ed-8761-77d7fc1f640d.html

“the number of firearms being seized by police from individuals found to be “likely” at risk of harm to themselves or others has soared so much in the past year that evidence rooms in some State Police barracks have had to be reconfigured or expanded to store the weapons” . . . “The spike in ERPOs has created an unmanageable workload that will undoubtedly cause other criminal investigations to suffer,” Dymond said in a statement Thursday. “. . . We are also realistic in noticing when our people are overwhelmed. ERPOs are important but so are murder, rape, and robbery investigations. We still need to be able to investigate local burglary rings. We still need to track down child predators and drug dealers.”⁵

These laws strip citizens of their Second Amendment rights without due process based on weak and nebulous standards.

New York Justices have already ruled the NY law unconstitutional:

In December 2022, state Supreme Court Judge Thomas Moran ruled that the extreme risk protection order was unconstitutional. He said the order didn’t provide the “same constitutional protections” as the state’s mental hygiene law.⁶

Last month, state Supreme Court Judge Craig Brown ruled the temporary extreme risk protection order was unconstitutional. The ruling noted that there wasn’t a “requirement of any input from a medical or mental health expert” in the extreme risk protection order, while the mental hygiene law did require a physician’s opinion. . . . the two cases where state Supreme Court judges ruled the orders as unconstitutional would not have a binding effect until they were challenged in the appellate court and affirmed. . . .⁷

If passed, Maine’s Red Flag law could strip Mainers of their Constitutional rights without a hearing, based on hearsay, for up to 30 days, including women or men at risk for spousal abuse. This is, at a minimum, a

Violation of the Second Amendment;
Violation of Fourth Amendment;
Violation of the Fifth Amendment; and the
Sixth Amendment.

It does not include enough penalties for erroneous accusations, allowing for an open season against gun owners in Maine, for example:

“A married Pennsylvania state trooper was arrested after allegedly falsely committing his ex-girlfriend to a mental health facility and assaulting the woman, prosecutors announced.⁸” Prosecutors agreed, alleging Davis intentionally misrepresented the texts Perfanov had sent him to exert control over her. . . .⁹

⁵ <https://www.timesunion.com/state/article/state-police-union-says-investigators-18093968.php>

⁶ G.W. v C.N. 2022 NY Slip Op 22392 Decided on December 22, 2022 Supreme Court, Monroe County Moran, J. Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431

⁷ R.M. v C.M. 2023 NY Slip Op 23088 Decided on April 4, 2023 Supreme Court, Orange County Brown, J. Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431

⁸ Emma Colton, “State trooper abused power after forcing ex-girlfriend into mental hospital: DA,” Fox News, September 26, 2023

⁹ Reuven Fenton and Alex Oliveira, “Ex-mistress of cop seen violently ‘detaining’ her over mental health says video ‘speaks for itself’,” New York Post, September 27, 2023.

As to using red-flag laws to prevent suicides, [about half of suicides do indeed involve guns](#)¹⁰, but there are lots of other lethal methods (e.g., hanging, cyanide, walking in front of a train or bus, jumping from a lethal height). When all firearms are banned, the [suicide rates remain statistically unchanged as people simply switch to other ways of killing themselves](#)¹¹.

When guns are not available for mass murders, the murderers merely shift to another method such as bombs (Boston Marathon, Oklahoma City Murrah Building), cars or the like. The Washington Post reported that [between May and June 2020](#), there were at least 18 cases of vehicles being deliberately rammed into people. In November 2022, Florida police [narrowly averted](#) a “mass casualty” event at a 5K Thanksgiving Day run by stopping a woman before she could drive her Range Rover through the crowd at 60 mph. The truck attack in [Nice, France, on July 14, 2016, claimed 86](#) people — two dozen more than the worst mass public shooting in American history. Only the 2015 shooting at a theater in Paris has claimed more lives ¹².

This shift in methodology underlines the blatant use of the law to remove only firearms from potentially dangerous individuals.

It does nothing to remove other instruments of harm.

Does nothing to protect the public from a potentially harmful individual once firearms are removed.

Does nothing to protect any potential victims.

All this law does is check a box for the gun-control lobby and violate the rights of Mainers. If you aren't concerned about the Second Amendment, perhaps the blatant disregard for the fourth, fifth, and sixth will cause you alarm.

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¹⁰ <https://afsp.org/suicide-statistics/>

¹¹ *More Guns Less Crime: Understanding Crime and Gun Control Laws* Paperback – November 18, 2019 by John R. Lott Jr. (Author)

¹² <https://crimeresearch.org/2023/04/at-the-detroit-news-red-flag-laws-dont-necessarily-prevent-harm/>