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Testimony of Liddy Ballard, State Policy Manager, Brady Campaign to Prevent Gun Violence
Support for LD 2283 Before the Joint Standing Committee on Judiciary
April 5, 2024

Dear Chairpersons Carney and Moonen, and Distinguished Members of the Joint Standing Committee on Judiciary,

Founded in 1974, Brady works to change the law, change the industry, and change culture to free America from gun violence. Our organization today carries the name of Jim Brady, who was shot and severely injured in the assassination attempt on President Ronald Reagan. Jim and his wife, Sarah, led the fight to pass federal legislation requiring background checks for gun sales. Brady continues to uphold Jim and Sarah's legacy by uniting Americans across the country in the fight to prevent gun violence. There are evidence-based policy solutions that we know will help to prevent gun violence in Maine.

Maine is no stranger to the deadly mix of suicidality and access to lethal means: the state's firearm suicide rate is 38.8 percent higher than the national average.¹ And while the epidemic of gun violence reaches communities in Maine every day, the state experienced a dire tragedy last fall in Lewiston that has forever changed the fabric of every community. Mainers in crisis deserve better, and LD 2283 provides evidence-based solutions that will help any Mainer in crisis and protect communities across the state.

Support for LD 2283: Crisis Intervention Orders

Extreme risk laws (sometimes called 'red flag laws') are evidence-based solutions currently enacted in 21 states and Washington D.C. that give law enforcement and the courts an avenue to prevent an individual in crisis from harming themselves or others by temporarily removing guns and prohibiting the purchase of other firearms.² Called 'Crisis Intervention Orders' in LD 2283, these orders are a critical, life-saving tool that Brady has long supported and urges members of the Joint Standing Judiciary Committee to support as well. These laws effectively target various forms of gun violence we see on a daily basis in the United States, including interpersonal violence, homicides, intimate partner violence, some unintentional shootings, and importantly suicide, the most common type of gun violence. Additionally, the American public widely supports these measures. The most recent polling from Pew Research indicates that 88 percent of Americans are in favor of laws which prevent individuals experiencing mental illness from purchasing firearms.³

¹ Centers for Disease Control and Prevention (CDC), *WISQARS injury data*, <https://www.cdc.gov/injury/wisqars/index.html>.

² The states which have adopted a form of this law include: California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Hawaii, Illinois, Indiana, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, Virginia, and Washington.

³ Pew Research Center. (2023, June 28). *Gun violence widely viewed as a major — and growing — national problem*. Pew

In 2022, nearly 200 Mainers lost their lives to guns - and nearly 90 percent of those deaths were suicide.⁴ When a firearm is involved in a suicide attempt, the result is most often fatal. Suicide attempts with a firearm result in death a staggering 85 percent of the time, compared to just 3 percent for other common methods, like intentional drug misuse.⁵ For someone in a time of crisis, the presence of a gun ultimately turns their decision into an irreversibly fatal one. Providing time and space between someone and their gun in a time of crisis helps save their life. People who choose a firearm over other methods typically do not have the opportunity or ability to summon help or reconsider.

By temporarily removing firearms or making them more difficult to access for individuals in the midst of a crisis, those with suicidal ideation are more likely to survive and get a second chance at life. That second chance is critical: *the vast majority — about 90 percent — of people who make a suicide attempt and survive do not ultimately go on to die by suicide later in life.*⁶ This is why laws like extreme risk protection orders are so important.

Extreme risk laws are an important tool that can prevent tragedies because people closest to an individual in crisis are likely to see signs before the person acts. Research shows that gun violence is frequently preceded by an escalation in problematic behavior – threats (whether physical, verbal, or online), exhibiting inappropriate behavior with firearms, misuse of controlled substances or alcohol, violating prior restraining or protective orders, and/or stalking or harassing others.⁷ In many cases, family members or law enforcement are the witnesses to the troubling escalation of behaviors that typically precede an act of gun violence – whether that violence ultimately results against one’s self or another individual. This was clear in the case of the Lewiston mass shooter – with reports describing his family’s attempt to seek help as he exhibited troubling behavior as many as five months prior to the tragedy.⁸ Crisis intervention orders provide a way for the courts and law enforcement to temporarily remove guns from the situation and save lives.

These laws have proven to be effective in other states. Since extreme risk laws were enacted in Maryland and Florida in 2018, over 3,600 cases have been filed in Maryland, and over 11,000 cases have been filed in Florida.⁹ An analysis of the first 14 years of Connecticut’s extreme risk law (1999-2013) found that 99 percent of orders issued resulted in the removal of at least one gun. Researchers estimated that not only was at least one suicide prevented for every 10-20 orders issued, but that 44 percent of the orders led to the individual receiving mental and behavioral health treatment they otherwise might not have received.¹⁰

Research Center. <https://www.pewresearch.org/politics/2023/06/28/gun-violence-widely-viewed-as-a-major-and-growing-national-problem/>

⁴ Centers for Disease Control and Prevention (CDC), *WISQARS injury data*, <https://www.cdc.gov/injury/wisqars/index.html>.

⁵ Drexler, M. (2013). *Guns & suicide: the hidden toll*. Harvard Public Health Magazine. <https://www.hsph.harvard.edu/wp-content/uploads/2016/06/Guns-Suicide-PDF-.pdf>

⁶ Harvard T.H. Chan School of Public Health. n.d. *Means matter: attempters’ longterm survival*. Harvard T.H. Chan School of Public Health. <https://www.hsph.harvard.edu/means-matter/means-matter/survival/>

⁷ Frattaroli, S., McGinty, E. E., Barnhorst, A., et al. (2015). Gun violence restraining orders: alternative or adjunct to mental health-based restrictions on firearms?. *Behavioral Sciences & The Law*, 33(2-3), 290–307. <https://doi.org/10.1002/bsl.2173>

⁸ Sharp, D., Bukaty, R. F., Bleiberg, J., & Condon, B. (2023, October 31). *Maine shooter's family reached out months before shooting: Sheriff*. AP News. <https://apnews.com/article/lewiston-maine-mass-shooting-35e78383d4fb4fd84bfe07bcfc63760ca>

⁹ Kuznia, R., Kamp, M., Brown, P. (July 10, 2023). *Awash in gun violence, New Mexico struggles with low use of red flag law*. CNN. <https://www.cnn.com/2023/07/10/us/gun-safety-red-flag-new-mexico-invs/index.html>

¹⁰ Swanson, J. W., Norko, M. A., Hsiu-Ju, L. et al. (2017). Implementation and effectiveness of Connecticut’s risk-based gun removal law: does it prevent suicides?. *Law and Contemporary Problems*, 80, 79-208.

Furthermore, a recent study found that extreme risk laws may provide exactly the type of urgent and individualized intervention that could prevent mass shootings in the future.¹¹ Mass shooters often share their plans and exhibit warning signs, but in the absence of a crime that has already been committed, police are left without an avenue for removing firearms. LD 2283 provides a solution. With 42 percent of individuals who commit mass shootings exhibiting warning signs – just like the perpetrator in Lewiston – it is crucial that family members and law enforcement officials have a remedy to restrict access to firearms for those demonstrating warning signs of risky behavior.¹² The bottom line is that the more that extreme risk laws are studied and examined, the more it becomes clear that they are highly effective and unique tools that can prevent tragedies *before* they happen.

In addition to the efficacy of extreme risk laws, LD 2283 does not violate the Second Amendment right to keep and bear arms. The proposed bill mirrors historical laws which placed firearm restrictions on individuals who were understood to present a safety risk. Therefore, the Supreme Court’s requirement that a modern firearms regulation consist with the Second Amendment’s text and historical understanding is satisfied. The Supreme Court has also made it clear that the right to keep and bear arms is not unlimited. In 2022, Justice Kavanaugh, concurring in Bruen, wrote that “properly interpreted, the Second Amendment allows a variety of gun regulations.” In the 21 states and the District of Columbia which have extreme risk laws, no court has overturned them. Courts have consistently found that extreme risk laws, being temporary and tailored for proven risk, are permissible so long as they include sufficient process.

LD 2283 also complies with the Fifth and Fourteenth Amendment right to due process. Due process requires that the state gives notice and an opportunity to be heard before taking the property, with exceptions in cases of imminent danger. LD 2283 clearly abides by these requirements, as it requires the state to give notice and a hearing before issuing a crisis intervention order if there is no imminent danger. In the case that there is imminent danger, the Court can issue an emergency crisis intervention order first, but must quickly provide notice and set a hearing. Additionally, for a court to issue a crisis intervention order, it must be supported by a preponderance of the evidence, and anyone subject to a crisis intervention order may request to regain their firearms anytime within the year that it is in effect. Through these measures, LD 2283 provides notice, an opportunity to be heard, and abides by all requirements of due process.

The epidemic of gun violence, which includes the epidemic of gun suicide, requires a slate of solutions specifically tailored to address the intricacies and root causes of gun violence, for each and every community. Mainers are reeling from the epidemic of gun suicide and the after effects of the horrific mass shooting in Lewiston, and deserve solutions that work. **The strong and comprehensive crisis intervention order law proposed in LD 2283 must be part of the solution, as it *will* save lives in Maine, and Brady strongly urges this Committee to consider the best practices highlighted in this testimony and vote yes on this comprehensive extreme risk law today.**

Sincerely,
Liddy Ballard
State Policy Manager, Brady

<http://scholarship.law.duke.edu/lcp/vol80/iss2/8>

¹¹ Wintemute, G. J., Pear, V. A., Schleimer, J.P., et al. (November 5, 2019). Extreme risk orders intended to prevent mass shootings: a case series. *Annals of Internal Medicine*. <https://www.acpjournals.org/doi/10.7326/M19-2162>

¹² Everytown for Gun Safety. (n.d.). Mass Shootings in the United States: 2009–2016. Everytown for Gun Safety Support Fund. <https://gunviolence.issuelab.org/resources/28329/28329.pdf>