

Testimony to the Judiciary Committee on LD 2238 and LD 2224, March 7, 2024

David Jolly, Penobscot, dhjolly49@gmail.com, (919)451-0908

I'd like to thank Senator Carney, Representative Moonen, and the honorable members of the Judiciary Committee for this opportunity. My name is David Jolly and I live in the town of Penobscot. I am here today to provide testimony in support of LD 2238 and LD 2224.

I worked in the field of public health for 35 years and it is from that perspective that I would like to speak to you. In public health, we follow the science. We look for evidence that a strategy will work, that it will ameliorate a public health problem. And so, I'd like to draw your attention to evidence that the approaches to reducing gun violence that these bills put forward will decrease gun injuries and deaths.

I'd like to begin by noting there is considerable evidence that gun safety policies overall have their intended effects. Year after year the Giffords Law Center finds that states where guns are more regulated tend to have lower gun death rates. (1) In one epidemiologic study the authors estimated "that restrictive state gun policies passed in 40 states from 1991 to 2016 averted 4297 gun deaths in 2016 alone, or roughly 11% of the total gun deaths that year."(2)

As for the specific strategies being considered today, LD 2238 would create a 72-hour waiting period between gun purchase and acquisition, which would help to prevent impulsive acts of gun violence, both homicides and suicides. One study concluded that waiting periods for hand gun purchases could reduce gun homicides 17% and gun suicides by 7-11%. (3) The brief cooling off period that a 72 -our wait would allow will save lives, and this short wait will not undermine anyone's second amendment rights.

LD 2224 would strengthen the background check law by requiring a check for all private firearms sales online and at gun shows. Why is this important? A recent large-scale survey estimated that 22% of US gun owners acquired their most recent firearm without a background check. (4) That same survey found that 45% of gun owners who acquired a gun online in the past two years did so without any background check. Around 80% of all firearms acquired for criminal purposes are obtained through transfers from unlicensed sellers who are not required to perform background checks. (5) And why would strengthening this law not be an intrusion on second amendment rights? Because the FBI reports that 92% of background checks are completed in just a few minutes (6), and because they are accurate more than 99% of the time. (7)

LD 2224 would also add some improvements to Maine's yellow flag law. Unfortunately, they do not go nearly far enough, and I would urge the committee to amend the language of 2224 to create a strong Emergency Risk Protective Order (an ERPO or true red flag law). The major problem with the yellow flag law proposed here is that it does not allow family members or friends (or even police, for that matter) to go before a judge to request weapons confiscation without a mental health evaluation. This is problematic because mental health evaluations can be difficult and time-consuming to get and because only 3-5% of violent acts can be attributed to individuals with a serious mental illness. (8) Most acts of violence are, however, preceded by warning signs observable to others. Up to 80% of people considering suicide give some sign of their intentions (9), and an FBI study of active shooters found that on average they displayed four to five observable and concerning behaviors prior to their attacks. (10) Family and friends are the people most likely to witness these warning signs. Furthermore, ERPOs do not undermine second amendment rights. There is no evidence that the ERPO process is abused or leads to

false petitions. A study of Colorado cases found just four with unqualified petitioners over a four-year period, and none of those petitions resulted in an ERPO or firearm confiscation. (11) Although the yellow flag component of LD2224 takes a small step in the right direction, Maine needs a robust red flag law. It would save lives without compromising the rights of responsible gun owners.

I'd like to close with a different public health perspective, that of communitarianism. Later today you're going to hear from people who feel the passage of these bills will undermine their second amendment rights. It won't. Both these bills respect the rights of responsible gun owners and the longstanding hunting culture of Maine. Having said that, no individual rights are absolute. They always have to be balanced against concerns for the rights and well-being of other individuals and the community as a whole. We have the right to drive but not recklessly or at 100 miles an hour. We have the right to smoke but not in enclosed public spaces where our second-hand smoke can compromise the health of others in that space. Accepting the need to strike a balance and the willingness to accept some limits on our personal freedoms for the sake of others and our community as a whole is the spirit of communitarianism, and I hope that this spirit will inform the legislature's discussion of and decisions on these bills.

I reaffirm my support for these bills, and I urge to the committee to vote "Ought to Pass" on both, but I strongly advocate amending the language of LD 2224 to create a true red flag law in Maine. Thank you.

1. Giffords Law Center. <https://giffords.org/lawcenter/resources/scorecard/>. Retrieved 3/5/24.
2. Sharkey, Patrick and Kang, Megan. The Era of Progress on Gun Mortality: State Gun Regulations and Gun Deaths from 1991 to 2016. *Epidemiology* 34(6):p 786-792, November 2023. | DOI: 10.1097/EDE.0000000000001662
3. Luca, Michael; Malhotra, Deepak; and Poliquin, Christopher. "Handgun Waiting Periods Reduce Gun Deaths," *Proceedings of the National Academy of Sciences* 114, no. 46 (2017): 12162–12165.
4. Matthew Miller, Lisa Hepburn & Deborah Azrael, "Firearm Acquisition Without Background Checks: Results of a National Survey," *Annals of Internal Medicine* 166, no. 4 (2017): 233–239.
5. Katherine A. Vittes, Jon S. Vernick, and Daniel W. Webster, "Legal Status and Source of Offenders' Firearms in States with the Least Stringent Criteria for Gun Ownership," *Injury Prevention* 19, no. 1 (2013): 26-31.
6. <http://graphics.wsj.com/gun-check-explainer/>
7. Office of the Inspector General, "Audit of the Handling of Firearms Purchase Denials Through the National Instant Criminal Background Check System," US Department of Justice, September 2016, <https://oig.justice.gov/reports/2016/a1632.pdf>.
8. Substance Abuse and Mental Health Services Administration, Department of Health and Human Services <https://www.samhsa.gov/mental-health/myths-and-facts#:~:text=Myth%3A%20People%20with%20mental%20health,with%20a%20serious%20mental%20illness>
9. Golden, Robert; Peterson, Fred; Weiland, Carla. *The truth about illness and disease*. Infobase Publishing 2009.
10. Silver, James; Simons, Andre; Craun, Sarah. "A Study of the Pre-Attack Behaviors of Active Shooters in the United States," Federal Bureau of Investigation, June 2018, <https://www.fbi.gov/file-repository/pre-attack-behaviors-of-active-shooters-in-us-2000-2013.pdf/view>
11. <https://injejournal.biomedcentral.com/articles/10.1186/s40621-021-00353-7>