

LD 2083

April 5, 2024

Senator Carney, Representative Moonan and Honorable Members of the Committee on the Judiciary:

My name is Polly Haight Frawley and I live in Cumberland, Maine.

First, thank you for the hours and hours you have spent on the Safer Maine gun safety proposals. The testimony has been emotional and your work has been exhaustive.

I submit this testimony in support of LD 2283.

I am a retired attorney and focused much of my work on processes, that is to say systems to be used to effectuate the intended result. The processes set forth in the amended yellow flag law are fraught with incorrect assumptions and ambiguities. LD 2283 corrects these pitfalls and provides a better means to the end we are all seeking, a route to temporarily disarm a person who is at risk to themselves or others.

I see at least 4 flaws in the yellow flag bill as amended that LD 2283 corrects. The yellow flag law requires the process be initiated by the wrong person, it provides for use of the wrong standard, it calls for the standard to be applied by the wrong entity, and it provides the wrong remedy.

First, LD 2283 corrects who may initiate the process to remove firearms from a person in crises by providing family members with a timely remedy. Requiring a concerned family member to go through law enforcement *who may or may not act*, as we saw in Lewiston, deprives the family member of a potential solution and introduces additional steps, departments, individuals, complexities and unknowns that are not necessary or even helpful. The current law incorrectly assigns who has permission to move the process forward.

Second, LD 2283 corrects the standard to be applied. The term "mental illness", as used in the yellow flag legislation, is inapt. As you have heard from others, mental illness is not an indicator of violence. A person who is in crisis and at risk to themselves or others may not be mentally ill. In addition, that incorrect standard provides that law enforcement shall determine if a person *may* have a mental illness before proceeding, a standard which is inherently fraught with ambiguity.

Third, LD 2283 correctly identifies the decision maker by using the judiciary instead of law enforcement. Law enforcement is not trained to make the determination of whether an individual is mentally ill, even on a hypothetical basis. Judges however, are faced with making determinations about potential acts of violence all the time, e.g., protection from abuse orders, bail hearings, and temporary retraining orders. If a judge is the last resort in this process under either alternative, the law should just start with the judicial system instead of creating potential roadblocks to safety.

Finally, LD 2283 is responsive to the remedy needed, taking firearms into custody instead of a person. Making a call to request a person be taken into custody is far more laden with complications than requesting assistance to remove firearms from someone's presence. The yellow flag law provides the wrong remedy because it is more traumatizing for the person making the call as well as the person taken into custody and because the situation has not necessarily changed once the person in crisis is released.

LD 2283 provides the correct method to implement the process, uses the correct standard, calls upon the correct decision maker, and results in the correct means to achieve the desired end.

Thank you for your consideration.

Polly Haight Frawley
Cumberland