

Peggy L. McGehee
Falmouth, Maine

Testimony in SUPPORT of L.D. 1378, the ERPO/ Red Flag Bill

Dear Senate Chair Carney, House Chair Kuhn, and Distinguished Members of the Judiciary Committee:

I am Peggy McGehee, of Falmouth. For many years I was an attorney at a Portland law firm, and today am an adjunct professor at the University of Maine School of Law. I submit this testimony in support of the ERPO bill.

The bill protects gun owners' rights to due process. It requires any court gun removal order to be served at the "*earliest possible time and take precedence over other summonses and orders*," and guarantees a court hearing within 14 days, with an appointed attorney. This process is consistent with the notice and 14-day hearing guarantees, with counsel, in Maine's Yellow Flag law, which the Maine Supreme Court specifically found to provide constitutional due process. <https://www.courts.maine.gov/courts/sjc/lawcourt/2022/22me034.pdf> (*In re Weapons Restriction of J*, 2022 ME 34). Moreover, among the red flag laws in 19 other states, I have found none that have been invalidated for being unconstitutional.

The bill directly addresses the observation by the Commission that investigated the Lewiston mass shooting, <https://www.maine.gov/icl/sites/maine.gov/icl/files/2024-03/Commission%20Interim%20Report%203-15-24.pdf> indicating that the yellow flag law is insufficient, noting that, when the police made "the decision to turn over the responsibility for removing Mr. Card's firearms to Mr. Card's family" and "closed the case" (after failing to find and detain Mr. Card themselves), the family, as "civilians," had "neither the legal authority to begin the yellow flag process nor any legal authority to seize weapons." It addresses as well the Commission's further reference to testimony about how burdensome the yellow flag process is for law enforcement. The proposed bill will reduce the burden on law enforcement, and give families the right to go to court directly that the Card family did not have.

Last summer, the PPH/Sun Journal reported on the plight of a Farmington mother and father who have a "*violent*" and "*paranoid*" son about to turn 18, and how they are not able to prevent him from acquiring a gun. <https://www.pressherald.com/2024/06/22/violent-unstable-and-wanting-a-gun-farmington-family-struggles-to-help-their-teenage-son-and-protect-others/> The article states: "*As a minor, he cannot legally obtain a gun, but when he turns 18 at the end of June, his family fears there will be no way to prevent him from getting one*" and they "*worry that he will commit a serious crime in a delusional state.*" His mother is quoted as saying that: "*If he's delusional or paranoid and thinks you want to hurt him...he's coming after you.*" She had "*tried calling the police for help, but they have responded that unless he commits a crime, law enforcement cannot hold him.*" This bill will help this Farmington family.

Thank you for your consideration of this testimony, and please vote that the bill ought to pass, whether by the legislature or by citizen referendum.