

Testimony in Opposition to LD 411: An Act to Amend the Law Governing the Disposition of Forfeited Firearms

To the Honorable Members of the Maine Legislature,

I am writing to express my strong opposition to LD 411, "An Act to Amend the Law Governing the Disposition of Forfeited Firearms," introduced in the 132nd Maine Legislature. While the bill aims to modify the disposition of forfeited firearms under the Maine Criminal Code and Juvenile Code, its provisions undermine property rights, impose overly punitive measures, and fail to balance public safety with fairness to law-abiding citizens. Below, I outline the key reasons for opposing this legislation.

1. **Erosion of Property Rights for Innocent Third Parties**

LD 411 eliminates critical protections for innocent third-party owners of firearms by removing the exception in 17-A MRSA §1504, subsection 2, paragraph A, which currently prevents forfeiture if another person proves they had a right to possess the firearm to the exclusion of the convicted person in non-homicide cases. By narrowing the exception to only apply to stolen firearms in all cases (subsection 2, paragraph B), the bill unjustly penalizes individuals who lawfully own firearms but may have lent them to someone who later committed a crime. For example, a family member or friend who legally owns a firearm could lose it to forfeiture simply because it was misused by another, even if they were not involved in the crime. This provision disregards fundamental property rights and punishes innocent parties without due justification.

2. **Mandated Destruction of All Forfeited Firearms is Overly Broad**

The bill extends the requirement to destroy forfeited firearms—previously limited to those used in murder or unlawful homicide crimes—to all firearms forfeited under the general sentencing provisions of the Maine Criminal Code. This blanket mandate fails to distinguish between the severity of offenses or the context of the firearm's use. For instance, a firearm forfeited due to a non-violent offense, such as a technical violation of section 393 (possession by a prohibited person), would be destroyed rather than redistributed to state, county, or municipal agencies for lawful use, as allowed under current law. This approach wastes valuable resources, increases costs for taxpayers, and deprives law enforcement of tools that could be repurposed for public safety.

3. **Disproportionate Impact on Juvenile Offenders**

LD 411 amends 15 MRSA §3314, subsection 6, to align the Juvenile Code with the stricter forfeiture rules of the Criminal Code, including the narrowed third-party exception and mandatory destruction of firearms. Juveniles often face adjudication for less severe offenses than adults, and their cases warrant greater consideration for rehabilitation over punishment. By subjecting firearms in juvenile cases to the same harsh forfeiture and destruction requirements, the bill risks disproportionately harming young offenders and their families, particularly when the firearm belongs to an innocent third party, such as a parent. This approach prioritizes punitive measures over restorative justice, which is contrary to the principles of the Juvenile Code.

4. **Lack of Evidence Justifying the Changes**

The bill's summary provides no data or evidence demonstrating that the current forfeiture laws are inadequate or that mandating the destruction of all forfeited firearms will

enhance public safety. Without clear justification, LD 411 appears to be a solution in search of a problem. Existing rules under 17-A MRSA §1504, subsection 4, already allow the Attorney General to govern the disposition of forfeited firearms, including redistribution to law enforcement or destruction in specific cases. Expanding mandatory destruction to all cases, regardless of context, is an arbitrary escalation that lacks empirical support and could strain state resources.

5. **Unnecessary Bureaucratic Burden**

By directing the Attorney General to update rules governing the disposition of forfeited firearms, LD 411 imposes additional administrative burdens without addressing a demonstrated need. The current framework already provides flexibility for the Attorney General to manage forfeitures appropriately, balancing public safety with practical considerations. Requiring new rules to enforce a blanket destruction policy diverts resources from more pressing priorities, such as improving mental health services or addressing the root causes of crime.

In conclusion, LD 411 undermines property rights, imposes overly punitive measures, and lacks evidence to justify its sweeping changes to the disposition of forfeited firearms. The bill unfairly penalizes innocent third parties, wastes resources through mandatory destruction, and disproportionately impacts juvenile offenders. Instead of advancing public safety, it creates unnecessary burdens and erodes fairness in the justice system. I respectfully urge the Committee on Judiciary to recommend against the passage of LD 411 and to preserve the current, more balanced approach to firearm forfeiture.

Thank you for considering this testimony.

Sincerely,
Dana Hunnewell
Concerned Citizen of Maine