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Honorable Members of the Judiciary Committee,

I respectfully submit this testimony to express my opposition to I.B. 2, the Extreme Risk Protection Order Act. While the intent to enhance public safety is commendable, this legislation raises significant concerns regarding due process, Second Amendment rights, and the potential for misuse, which outweigh its proposed benefits.

Violation of Due Process: I.B. 2 allows for emergency extreme risk protection orders to be issued ex parte, without prior notice or an opportunity for the respondent to be heard. Under Section 2245, a court may issue such an order based solely on a petition and affidavit, potentially stripping an individual of their constitutional rights for up to 14 days without a hearing. This process undermines fundamental principles of due process, as it denies respondents the immediate ability to defend themselves against allegations that may be unsubstantiated or malicious.

Infringement on Second Amendment Rights: The bill prohibits individuals subject to an extreme risk protection order from purchasing, possessing, or controlling dangerous weapons, including firearms, for up to one year (Section 2244). While the legislation targets those deemed a "significant danger," the criteria for this determination—such as "reasonable fear of physical injury" or "actions or inactions" presenting danger—are vague and subjective. This ambiguity risks unjustly depriving law-abiding citizens of their Second Amendment rights without clear evidence of a credible threat.

Potential for Misuse and False Allegations: Section 2244 permits petitions from family or household members, law enforcement officers, or agencies, supported by affidavits. Although Section 2249 imposes penalties for submitting materially false information, the low evidentiary standard ("preponderance of the evidence") and lack of immediate recourse for respondents create a system ripe for abuse. Disgruntled family members or others with personal grievances could exploit this process to harass or disarm individuals without sufficient oversight, as the court may rely on unverified affidavits.

Burden on Law Enforcement and Courts: The bill mandates that law enforcement agencies serve orders, seize weapons, and store them (Sections 2247, 2250). It also requires courts to process petitions, hold hearings within 14 days, and manage appeals (Sections 2244, 2251). These requirements place significant administrative and financial burdens on already strained systems, particularly in rural areas, without guaranteed federal funding, as noted in Section 7. This could divert resources from other critical public safety priorities.

Insufficient Safeguards for Respondents: While respondents may request termination of an order (Section 2246), they face a high burden of proving by "clear and convincing evidence" that they no longer pose a danger—a standard more stringent than the initial issuance of the order. Additionally, the provision for appointed counsel is discretionary (Section 2244, subsection 2), leaving indigent respondents potentially without legal representation to navigate complex proceedings.

In conclusion, I.B. 2, despite its aim to protect communities, fails to balance public safety with the protection of individual rights. Its vague criteria, lack of robust due process, and potential for misuse threaten to undermine constitutional protections and overburden public resources. I urge the Judiciary Committee to reject this bill and explore alternative measures that address public safety while respecting the rights of Maine citizens.

Thank you for considering this testimony.

Sincerely,
Dana Hunnewell