



Maine Medical Association

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TESTIMONY OF THE MAINE MEDICAL ASSOCIATION
IN SUPPORT OF L.D 1312,
AN ACT REGARDING ACCESS TO FIREARMS BY EXTREMELY DANGEROUS
AND SUICIDAL INDIVIDUALS

Joint Standing Committee on Judiciary
Room 209, Cross State Office Building
Monday, April 22, 2019

Good morning Senator Carpenter, Representative Bailey, and Members of the Joint Standing Committee on Judiciary. I am Dr. James Maier, a retired psychiatrist living in Falmouth with over 40 years of practice experience. I am testifying in strong support of this potentially life-saving bill. For the record, I am a lifelong hunter and gun owner and also a Quaker. I also speak on behalf of the Maine Medical Association and the Maine Association of Psychiatric Physicians.

The MMA is a professional association representing more than 4,300 physicians, residents, and medical students in Maine whose mission is to support Maine physicians, advance the quality of medicine in Maine, and promote the health of all Maine citizens. We represent physicians from all medical specialties, as well as psychiatry, public health, and primary care. The Maine Association of Psychiatric Physicians is the Maine District Branch of the American Psychiatric Association and the only professional organization of psychiatry and psychiatrists dedicated to the State of Maine.

I would refer you to the attached copies of a "Maine Voices" column which appeared recently in the Portland Press Herald. In it, I have summarized several of the compelling reasons to enact this bill. At present, over a dozen other states have passed life-saving "Red Flag" legislation similar to LD 1312.

As a psychiatrist and the father of a grown son who took his own life almost exactly 10 years ago during a psychotic level relapse of his Bipolar Disorder, I am heartened by studies in two states demonstrating that there have been significant reductions in firearm-related suicides subsequent to the passage of legislation similar to the bill before you. It is highly probable that similar reductions in homicides and gun related injuries have occurred when firearms are removed from individuals appropriately judged at imminent high risk of violence toward themselves or others.

It is important to note here that mental health professionals recognize that removing access to firearms as a common and readily available means for an individual to act on an acute suicidal impulse does not lead to "just finding another way." Two important examples refute this myth: When Great Britain switched from one form of domestic cooking gas (lethal when inhaled by putting one's head in the oven) to a non-lethal substitute, there was a corresponding decrease in the national suicide rate which has continued to the present day. Closer to home, the placement of a protective fence on the nearby high bridge spanning the Kennebec River immediately dropped to zero the average rate over previous decades of 1 suicide per year by jumping from the

bridge. More recently, a wise decision was made to replace the rusting fence despite some sentiment that it could impair the scenic views of motorists on the bridge.

There are appropriate safeguards in LD1312 against anyone petitioning to have firearms removed from a family member for trivial or spiteful reasons. Significant criminal penalties for “crying wolf” would result if a hearing finds there was not a strong likelihood of imminent risk which led to the temporary confiscation. On the other hand, the review process spelled out in the bill could result in continued restrictive safekeeping of firearms by law enforcement if there is truly an ongoing lethal risk, based on continuing credible dangerous threats and actions by an individual from whom firearms have been removed.

When the Supreme Court in a 2008 landmark decision (*Heller v. District of Columbia*) supported the right of citizens to keep firearms in their homes, the majority opinion written by Justice Anton Scalia cautioned that the Second Amendment should prevent certain individuals from enjoying this privilege. Just as the First Amendment guarantee of free speech doesn’t extend to shouting “fire” in a theater where none exists, Scalia supported the longstanding limits referenced in many earlier Second Amendment decisions restricting the rights of felons and the mentally ill to possess firearms. It is not a stretch to apply his reasoning to give law enforcement and courts the right to at least temporarily remove firearms from someone about to become a felon by injuring or killing another person or whose mental illness has worsened to the point of imminent risk of suicide. Incidentally, it should be noted that the great majority of mentally ill people are far more likely to be victims rather than perpetrators of lethal violence. This bill is *not* suggesting that simply having *any* mental illness should prevent ownership of a firearm unless deterioration of such illness creates the imminent danger spelled out in LD 1312.

I agree with the proposed changes in wording proposed by NAMI and understand the fears of some gun owners who argue that the language of the bill “goes too far.” I know this bill can save lives in Maine as similar bills have in other states, and I strongly hope compromises can be hammered out to insure its passage.

We respectfully ask you to vote LD 1312 “Ought to Pass.” I would be happy to respond to any questions you may have.

Other states have learned that 'red-flag' laws can save lives

Maine should have a process to temporarily take guns away from someone in a mental health crisis.

FALMOUTH — I was taught during my medical training that “it is always better to put a guard-rail at the top of a cliff than to park ambulances underneath it.” Prevention or early intervention to avoid a bad or even fatal medical or surgical outcome whenever possible is unquestionably a wise choice. And so is preventive action that could forestall a firearm-related injury or death.

The well-researched recent Associated Press story regarding the increasing number of states that have passed so-called “red-flag” laws (“States pass seizure laws to solve gun problem,” Feb. 10, Page A4) describes a common-sense but long-overdue approach to the national epidemic of gun-related homicides and

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suicides. The piece lists over a dozen states that have passed legislation allowing law enforcement personnel and/or courts to remove weapons from individuals who have threatened suicide and now seem at high risk of death by suicide; who have threatened to shoot others, or who have stalked someone. Police themselves or family or concerned friends may initiate such a removal. Simply having a mental illness, unless there is recent evidence of deterioration posing an imminent threat to oneself or others, would not be sufficient grounds for permanently or even temporarily confiscating a weapon.

“Red-flag” laws typically specify the time period of the confiscation, and prescribe a

careful review process by which the gun owner may petition the court to have their weapon(s) safely returned. An evaluation by a psychiatrist or other competent mental health professional trained in risk assessment should routinely precede any return of a weapon to its owner.

Researchers cited in the AP article examined outcomes of one of the longest standing “red-flag” laws (in effect since 1999 in Connecticut). That study has documented a reduction in the state’s gun-suicide rate of over 10 percent. Indiana, which has a similar law, has seen a 7.5 percent drop in the rate of gun suicides. It is harder to estimate the frightening numbers of gun injuries and fatalities that may have been prevented at schools or other venues when the weapons of threatening would-be shooters have been temporarily taken from them.

It is likely that most or all of those who loudly protest about

any or all supposed violations of their Second Amendment rights have not actually read the Supreme Court’s ruling in a 2008 landmark case, *Heller v. District of Columbia*. At issue was whether the right to bear arms refers to citizens and not only to militias. The majority opinion was written by Antonin Scalia, arguably the most conservative justice on the court at the time. Although the language of this Second Amendment decision was interpreted to mean that firearms could be kept in citizens’ homes, nevertheless, Scalia cautioned that some reasonable gun control measures were appropriate.

Justice Scalia may have been looking to the original language of the framers of the Constitution at a time when muskets fired just one (often inaccurate) shot, and took some time to reload. What further language about reasonable controls might Scalia have added to his opinion if he lived to hear of the Las Vegas massa-

cre, involving a “bump stock”-equipped AR-15 (in essence a machine gun)? Or had he lived to hear of the slaughter of children in Parkland? Would he have thought it reasonable to allow individuals the right of concealed carry without actually registering with police?

As a lifelong hunter and gun owner and retired psychiatrist, I fervently hope it will not take a school shooting here in Maine or even another domestic violence murder-suicide to persuade our legislators to follow the example of the 14 other states which have enacted successful and reasonable laws to remove firearms from those at imminent risk of harming themselves or others. If and when a “red-flag” bill emerges this legislative session, I hope that many other thoughtful sportsmen and gun owners will join me in strongly endorsing it with written or spoken testimony.

— Special to the Press Herald