

131st Legislature
Senate of
Maine
Senate District 29

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Testimony of Senator Anne Carney introducing
LD 22, An Act to Impede the Transfer of Firearms to Prohibited Persons
Before the Joint Standing Committee on Criminal Justice and Public Safety
April 3, 2023

Senator Beebe-Center, Representative Salisbury, and esteemed members of the Criminal Justice and Public Safety Committee, I am Anne Carney, representing Senate District 29, South Portland, Cape Elizabeth, and part of Scarborough. I am grateful to be with you today to introduce LD 22, “An Act to Impede the Transfer of Firearms to Prohibited Persons.”

This legislation is a recommendation made by the Deadly Force Review Panel in its January 2022 report. I will start by giving the committee information about the Deadly Force Review Panel. Offered in the 129th Legislature by the Hon. Jeffrey Evangelos as LD 1219, “An Act To Establish an Independent Panel To Review the Use of Deadly Force by Law Enforcement Officers,” 5 MRS §200-K establishes an independent review process for deaths and use of deadly force involving law enforcement officers.

The statute requires the 15-member independent Deadly Force Review Panel to:

- examine deaths or serious injuries resulting from the use of deadly force by a law enforcement officer after the Attorney General has completed the investigation of the use of deadly force;
- identify whether there was compliance with accepted and best practices under the particular circumstances;
- identify whether the practices were sufficient for the particular circumstances or whether the practices require adjustment or improvement; and
- make recommendations for improving standards, including changes to statutes, rules, training, policies and procedures designed to ensure incorporation of best practices that demonstrate increased public safety and officer safety.

The Panel does not review the facts to determine the correctness of the Attorney General investigations, but to look for ways to improve law enforcement response to these

difficult public safety calls. The Panel reviews and issues a public report of its findings and conclusions for every officer-involved death in the State. The Panel has provided twenty-one case-specific reports. The Panel also provides an annual report to the Joint Standing Committee on the Judiciary in January of each year. Three annual reports have been issued, the most recent being January 2023. All of the case-specific and annual reports can be found at the [Deadly Force Review Panel Reports Archive](#) on the Attorney General's website.

Law enforcement agencies have found the annual reports and the recommendations of the Panel helpful in a number of ways. When asking for feedback from involved law enforcement agencies regarding the impact of its work, the Panel heard from agency heads that the reviews were useful: "One chief stated, 'We used the Panel's report to update our policies, procedures, and training to improve officer and public safety.'" (DFRP, January 2023, pg. 1 and 6-7)

The Deadly Force Review Panel requested we as a Legislature consider this legislation in its January 2022 report, but I want to share information and conclusions from this year's report because it provides important context for evaluating LD 22.

In the 3rd Annual Report of the Deadly Force Review Panel, the Panel noted that, in the (then) 20 cases involving officer-involved shootings it had reviewed, the "incidents and characteristics of the individuals against whom deadly force was used are consistent. The individuals are white, middle age (trending younger), males who have mental health and/or substance use issues, and have firearms or other weapons. They are known in their community to be troubled and often violent. More than half have been involved in domestic violence incidents, and more than a third have threatened suicide." (DFRP January 2023, pg. 1)

The Panel acknowledged that mental health concerns were a common factor in these cases: "They are all tragic with symptoms of underlying gaps in our social safety net. The call to law enforcement is a last resort for families seeking intervention for family members in violent crises." Id.

In the (then) 20 incidents reviewed since Panel created and the individuals against whom law enforcement used deadly force:

- 100% were white males (average age: 40).
- 80% had criminal histories.
- 100% had weapons at hand, and 63% used their weapons during the incident.
- 74% were in a mental health crisis and/or suicidal, including three who said they intended "suicide by cop."
- 84% were known by their family, friends, or neighbors to be violent.

- 50% were living in isolated rural locations in Maine.
- 58% were using alcohol.
- 37% were using drugs.
- 47% involved domestic violence, with domestic partners present for at least part of the incidents.
- 32% expressed suicidal intent.
- 84% were known to others as violent.
- 26% were legally prohibited from possessing firearms.

The Panel's 2023 findings were consistent with the cases reviewed in its January 2022 report, and with their examination of a random sample of cases that occurred prior to the Panel review process.

In the January 2022 report, the Panel asked the Legislature to pass legislation that would prevent access to firearms by people already prohibited from having them.

In many of the cases the Panel reviewed, the individual against whom deadly force was used discharged a firearm at another person or responding law enforcement officers. The Panel observed that several of these individuals were in mental health crisis and/or suffering from significant substance misuse. Some of these individuals had a prior violent criminal history and some were convicted felons, prohibited by both federal and state law from possessing firearms. This raises the important question of how these individuals came into possession of the firearms in the first instance. The possession and presentation of firearms elevates the dangerousness of a situation and imposes significant safety concerns for responding law enforcement officers, involved citizens, and the perpetrators themselves. (DFRP January 2022, pg. 4-5)

The Panel proposed statutory language intended to deter friends, acquaintances, family members, or other individuals from selling or otherwise providing a firearm to another person when that individual knows that the other person is prohibited from possessing a firearm for any of the reasons already set forth in Maine law at 15 MRS §393. Those reasons include persons convicted of committing a felony or found not criminally responsible by reason of insanity of committing a felony; persons subject to a domestic violence restraining order if certain additional requirements are met; persons subject to specific types of orders related to mental health and substance use disorder; and fugitives from justice.

Today I am presenting an amendment that clarifies the bill to ensure that the impact of the proposed statute focuses directly and narrowly on the circumstances that gave rise to the Deadly Force Review Panel's concern. It makes clear and explicit that the prohibition against sale or transfer to someone prohibited from owning or possessing a firearm

pursuant to section 393 applies when the transferor knows or has reason to believe that the person is prohibited. The amendment also closely tracks existing federal law at 18 USC §922(d).

LD 22, as amended, would prohibit a person from knowingly or intentionally selling or transferring a firearm to someone who the seller or transferor knows or has reason to believe is prohibited from owning, possessing, or having under their control a firearm by 15 MRS §393. Violation would be a Class D crime.

I urge you to keep an open mind as you consider LD 22. Use of deadly force by law enforcement officers is a difficult subject on so many levels. I've listened to each of the Deadly Force Review Panel's annual presentations to the Judiciary Committee, read the three annual reports, and considered each of the 21 case-specific reports. I'm grateful that the members of the Panel put so much time, effort, and care into every report – they are truly dedicated to our State to have accepted this volunteer role.

Every situation is tragic for the family who called law enforcement for help with a loved one in violent crisis. Every situation is tragic for the law enforcement officer deeply impacted by the necessity of using deadly force that resulted in the death of another person and also by the possibility of a homicide charge. Every situation is tragic for the victims in harm's way during the crisis. Every situation underscores Maine's unmet need for services for individuals requiring mental health treatment and behavioral mental health services.

The Panel's annual reports point to many steps we should be taking to reduce the harms that result from use of deadly force. This is one step, which they and I feel is important and impactful.

Thank you for your consideration today. I urge the committee to vote ought to pass as amended on LD 22, and am happy to answer your questions.



Anne Carney

State Senator, Senate District 29

South Portland, Cape Elizabeth, and part of Scarborough

LD 22 An Act to Impede the Transfer of Firearms to Prohibited Persons
Sponsor's proposed amendment, 4/3/23

1 Be it enacted by the People of the State of Maine as follows:

2 Sec. 1. 15 MRSA §394 is enacted to read:

3 §394. Prohibited sale or transfer of firearms to certain persons

4 1. Definitions. As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "Firearm" has the same meaning as in Title 17-A, section 2, subsection 12-A.

7 B. "Sell" has the same meaning as in Title 17-A, section 554-A, subsection 1,
8 paragraph C.

9 C. "Transfer" has the same meaning as in Title 17-A, section 554-A, subsection 1,
10 paragraph A.

11 2. Sale or transfer prohibited. A person may not knowingly or intentionally sell or
12 transfer a firearm to a person ~~who~~ when the seller/transferor knows or has reason to
13 believe that the person is prohibited from owning, possessing or having under
14 that person's control a firearm pursuant to section 393 and who does not have a permit
issued under section 393.

15 Violation of this subsection is a Class D crime.