

# Maine Association of Psychiatric Physicians



Testimony regarding LD 1811, An Act to Enhance Personal and Public Safety by Requiring Evaluations of and Judicial Hearings for Persons in Protective Custody Regarding Risk of Harm and Restricting Access to Weapons.

To:  
The Honorable Senator Michael Carpenter and Honorable Representative Donna Bailey and The Honorable Members of the Joint Standing Committee on Judiciary

From: Henry Skinner, MD, DFAPA  
President, Maine Association of Psychiatric Physicians

June 5, 2019

My name is Henry Skinner, MD. On behalf of the Maine Association of Psychiatric Physicians (of which I am President) and the Maine Council of Child and Adolescent Psychiatry (Secretary) and Tri-County Mental Health Services (Medical Director), I offer the following testimony vehemently opposed to LD 1811. As currently written, this bill has far too many flaws. It will not accomplish what its authors hope and it will further stigmatize persons with mental illness and increase barriers to accessing mental health services

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for the very members of the public that it is hoped will be served.

In my capacity as the only psychiatrist (by contract) for Maine's third largest hospital, I am very likely to be called upon to perform an evaluation for future harm as mandated by this bill, should it pass. Unfortunately, there will be absolutely no medical or scientific basis to support any purported evaluation for risk of harm. Very little is scientifically known about harm risk prediction on an individual basis, except that future behavior is predicted by past behavior. On an epidemiological and public health basis, we know that a firearm in the home increases the risk of suicide, murder and accidental injury. A medical practitioner performing a certification examination will most likely not know anything about the individual except what information is furnished by law enforcement. Essentially they will be rubber-stamping the officer's concerns and this will not add anything to the information that the judge will be reviewing at the 14-day hearing.

I would furthermore be extremely uncomfortable performing one of these evaluations because of the risk of personal retribution by the subject of the certification. That person will know where I work and won't have much trouble figuring out where I and my family live. There will also be serious liability concerns for both the medical practitioner and the facility.

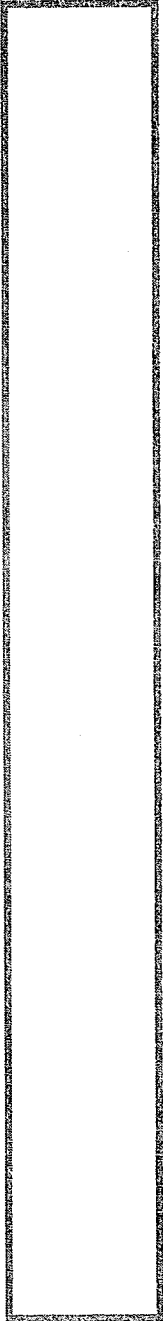


The focus of the current gun-safety conversation is mistakenly focused on mass shootings. While these events garner the lion's share of the media attention, the truth is that far more people die from the single-victim shootings that occur on an hourly basis in this country. Most of these shooters are mentally stable people who commit "crimes of passion." They most commonly are stressed by intra-familial conflict or romantic adversity. There are also many intentional, strategic shootings related to drug and gang activity, but this accounts for less than 20% of murders in Maine.

This bill's attempt to frame gun violence as a mental health problem belies the fact that most shooters DO NOT have a mental health condition. This bill would fail to address the majority of the people at risk for causing harm with firearms.

Furthermore, attaching the assessment to mental health will perpetuate the idea that the medical and mental health community is anti-gun-rights. People with mental health concerns who are also gun owners may be reluctant to seek mental health help for fear of encountering discomfort with their Second Amendment Freedoms.

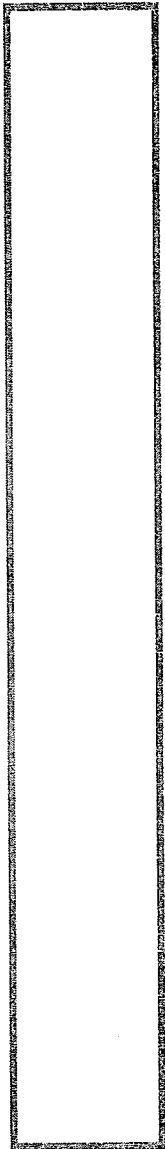
One of the reasons for the existence of this alternative to the "Red Flags" bill (LD1312) is reported discomfort, amongst some interests, with an ex-parte intervention. It should be noted that throughout the



United States it is common for people to have temporary restriction on their First Amendment Right to Freedom of Association via ex-parte proceedings granting Temporary Protection Orders.

The PTP paragraph (Sec. C-2. 15 MRSA §393, sub-§1, ¶E, paragraph 4) is gratuitously stigmatizing for the following reason: everyone on a PTP has already been involuntarily committed at least once before being placed on a PTP. This language is therefore redundant, ineffectual, and meaningless. It should be deleted in the interest of reducing stigma associated with mental illness and again reinforcing the separateness of mental illness from gun violence risk.

There are Constitutional Concerns about using the "Blue Paper" as a model for this legislation. The "Blue paper" statute on which this bill is premised is itself already very problematic. Law Enforcement personnel already routinely decline to honor a "blue paper" because it violates rights of due process and protections against unreasonable searches & seizures. In practice, the police will perform a welfare check on someone who is reported to them to be at risk. If the police are satisfied that the person is not a risk to self or others based on their own (often cursory and not-very-clinical) interview, then they will not take them into protective custody. This is on the sound basis that they have been justifiably and successfully sued too many times. Next legislative session I would like



to revise the involuntary commitment statute so that it is use-able when needed while ensuring respect for individuals' constitutional rights. The civil commitment statute is the wrong framework for gun safety legislation.

I express my gratitude to you for your time and thoughtful consideration of this bill during this very late stage of the legislative season. Because it is a very complex issue and the process of developing the language has been rushed, I urge you to carry LD 1811 and LD 1312 over to next year. Unfortunately, I don't think there will be any loss of political will or momentum because a steady drumbeat of outrageous gun killings will continue to generate ever more public outrage. I think responsible gun owners will be especially concerned about getting this legislation right.

Thank you,

*Dr. Henry C. Skinner*