



## 2023 FACT SHEET FOR MAINE LEGISLATORS

### *The Pending Gun Safety Bills LDs 22, 60, 168, and 1340 will make Maine safer*

The Maine CDC's latest report confirms that Maine has the highest gun death rate of any state in the Northeast and a fast-growing suicide by firearm problem. From 2020 to 2021, Maine firearm suicides rose from 132 to 158 (~20%). In addition, as of 2020, guns are now the leading cause of death for US children and teens in the U.S., surpassing auto accidents. The proposed gun safety bills below will work together to reverse these disturbing trends and represent the best steps legislators can take to keep Mainers safe from gun violence.

#### LD 168 - An Act Regarding Criminal Background Checks for the Sale, Transfer or Exchange of Firearms:

- **LD 168 will significantly reduce the sale of guns to prohibited people in Maine.** The background check system exists to prevent criminals and other dangerous individuals from obtaining firearms. The current system, which is restricted to licensed dealers, allows prohibited people to obtain guns in Maine easily *through private sales*.
- **Maine is a well-known source state for “black market” or trafficked guns** that are used later in crimes throughout the U.S. and Canada. LD 168 will stop out-of-staters who can't pass background checks in their own states, like Massachusetts and New York, from coming to Maine to get their crime guns through private sales (a current common practice, due Maine's current lax law).
- **LD 168 specifically does NOT create a firearm registry.** The same process now used by licensed dealers would apply to all sellers of guns. The FBI background check system has to destroy records of sales within 24 hours. Licensed dealers must keep records of sales for tracing and auditing purposes, but the records are not kept by any government agency. This same process will apply if universal background checks are established.
- **LD 168 includes an exception for law enforcement and transfers between family members.** Unlike the 2016 referendum, if this law were passed, background checks would not be necessary for transfers between family members or for purchases by law enforcement or members of the armed forces.

#### LD 60 - An Act to Require a 72-hour Waiting Period After the Sale of a Firearm:

- **LD 60 could significantly lower Maine's very high gun suicide rate.** Suicide is an impulsive act. Maine's current firearm suicide rate (88% of Maine gun deaths) and over-all suicide rate (19.5 per 100,000 ppl, higher than 34 other states) could be significantly reduced with the passage of LD 60, based on a comparison of statistics between states with no pre-purchase or post-purchase waiting periods (like Wyoming (73%: 20.6); Alabama (67%: 16); West Virginia (65%: 18.1); and Kentucky (65%: 17.7); with those that do (like New York (20%: 8.1); Massachusetts (20%: 8.4);); Rhode Island (22%: 10.1); New Jersey (25%: 8.3); and Connecticut (30%: 9.3).
- Experts agree that imposing a **waiting period allows an opportunity for intervention and a cooling off period.**
- **Data shows that imposing waiting periods lowers gun suicide rates.**
- When South Dakota repealed its 2-day waiting period in 2009, the next year it had a 7.6 % increase in gun suicides.

#### LD 22 - An Act to Impede the Transfer of Firearms to Prohibited Persons:

- **LD 22 makes the first offense a civil violation and further violations class D crime** for anyone who knowingly or intentionally sells or transfers a firearm to a person whom the seller/transferor either knows or has reason to believe is prohibited from having a firearm under 15 MSRA Section 393.
- This proposed legislation increases gun safety in the state by trying to **ensure that prohibited persons do not possess firearms.** This is a federal law, but not a state law. Adding the state law would strengthen the ability of law enforcement and prosecutors to keep our communities safe, and **gives prosecutors more options** when faced with people who have knowingly given a gun to people who can't pass a background check
- The Bill results from a **specific recommendation of the 2nd Annual Report of the Deadly Force Review Panel.** That Report noted the use of firearms by prohibited persons in cases where deadly force was used, and

recommended the passage of a statute like LD 22 to safeguard not only the individuals against whom deadly force was used but also law enforcement responding to these situations.

- **The bill creates a new statute, 15 M.R.S.A. §394, to prohibit the sale or transfer of a firearm** to a person whom the seller/transferor either **knows or has reason to believe is a prohibited person** under Section 393 of Maine law. A violation of Section 394 is a Class D crime.

#### **LD 1340 - An Act to Prohibit the Sale or Possession of Rapid-fire Modification Devices:**

- LD 1340 **will prevent semi-automatic firearms from being converted into extremely dangerous military grade weapons** that can potentially fire up to 1,200 rounds per minute.
- These devices, known as **bump stocks**, were **used to kill 58 people and to injure 500 others at a 2017 Las Vegas festival**, in just one recent example.
- This legislation **aligns directly with efforts 14 other states** and DC.
- This bill is concerned with **accessory devices, not the firearms themselves**. There have been no cases striking down rapid-fire modification device prohibitions. The bill is an option that **many states have utilized without Second Amendment challenges**. It is not incongruent with the Maine Constitution (which discusses regulations of firearms, not accessories.)
- **Two District Attorneys and the Sheriff of Cumberland County testified in support** of the bill. The Kennebec County DA Meagan Maloney noted a **recent incident in Waterville** where more law enforcement officers were placed in danger as the suspect utilized one of these devices to shower them with a "barrage of bullets." She described the continuing emotional trauma experienced by those officers, and the resulting physical injuries (i.e. one officer shot in both arms) due to the use of this device. DA Maloney said in testimony: "*A hand gun or a hunting rifle could not have caused this assault to the physical and mental well-being of those who strive every day to protect us. Their job is hard enough—we don't need to make it harder.*" She noted she was unable to lodge additional charges because ME did not have a ban on rapid fire devices.
- **These devices are not allowed for hunting, so do not infringe on Maine's heritage rights, nor are they allowed for self-defense** under current law.

#### **How have Maine courts ruled on gun safety measures?**

**These bills meet the Maine Law Court's constitutional standard for consistency with article 1, Section 16 of the Maine Constitution, as it is a bill that will promote public safety by means of a reasonable background check regulation to prevent persons identified as unsafe from acquiring firearms.**

In the Maine Law Court's 2022 decision, *In re Weapons Restriction of J*, 2022 ME 34, upholding Maine's yellow flag law, Title 34-B MRSA § 3862-A (2)(A), the Court repeated its standard of review for determining the constitutionality of laws under art. I, §16 of the Maine Constitution (which includes the statement that the right to bear arms "*shall never be questioned*"). The Law Court held:

"We have previously held that this section of the Maine Constitution does not give an absolute right to bear arms. Further, article I, section 16, like the rest of the Maine Constitution, is subject to [the State police power]. It is 'settled law' that article IV, part 3, section 1 gives the State 'police power' to pass general regulatory laws promoting the public health, welfare, safety and morality.' *State v. Brown*, 571 A.2d 816, 820 (Me. 1990). However, the regulation of constitutional rights through the State's police powers must be 'reasonable'..."