



Iowa Gun Owners
Iowa's Only No Compromise Gun Rights Organization
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Opposition to Red Flag Gun Seizure Legislation

DATE: February 23, 2021

TO: Members of the Iowa House of Representatives and the Iowa State Senate

FROM: Aaron Dorr, Chairman of Iowa Gun Owners, on behalf of our members and supporters across Iowa

RE: Opposition to House File 24

Overview:

Rep. Bruce Hunter's H.F. 24 (Red Flag Gun Seizure legislation) is full of unconstitutional constructs that are damaging to the Second Amendment as well as fundamental (and centuries old) judicial concepts like 'innocent until proven guilty' and basic 'due process' rights. **On behalf of the members of Iowa Gun Owners, I am writing to urge you to oppose this legislation at all points in the legislative process.**

Bad Policy:

H.F. 24 allows over a dozen different family members, including distant relatives that an Iowan may not have seen in decades, to ask a judge to order the immediate surrender of a gun owners' firearms BEFORE he has been arrested, charged, or convicted of anything.

In addition, the presence of ex parte proceedings, found on page 2 (line 28) through page 5 (line 6) means that the hearing that determines whether or not an Iowan will lose his right to keep and bear arms takes place in secret! Should the gun owner learn of this hearing, he would still not be allowed to attend.

By requiring an Iowan to surrender his firearms BEFORE he has been convicted of a disqualifying offense under federal code 922 (G) or similar Iowa code, there is no way to ensure his due process rights are observed...because there is no process at all!

Consider how absurd this is in real life.

If an Iowan were charged with going 5 mph over the speeding limit on I-35 he would have the ability to defend himself in court, involve legal counsel, examine the government's

evidence against him, confront witnesses against him, and make his defense. He could even do this in front of a jury if he requested it.

An Iowan is entitled to all these due process rights for a speeding ticket. But should H.F. 24 become law, an Iowan could lose his God-given and constitutionally guaranteed right to keep and bear arms without the benefit of any of the due process right I described above.

This is a clear violation of the 5th Amendment which states that “nor shall any person...be deprived of life, liberty, or property, without due process of law.” More, the 6th Amendment requires, in part, that Americans have the right to confront witnesses against them and be allowed to provide witnesses to speak in their defense, too. H.F. 24’s ex parte process provides for none of these rights.

And while legal scholars debate whether or not the 6th Amendment applies in civil cases, this legislature should always err on the side of defending the civil liberties of the people of Iowa.

Anti-gun politicians claim that as these orders have an expiration date, Iowans rights are not being denied, only delayed, as though that makes the Constitutional issues a moot point. But from the time of Moses in Exodus 18:22, the Magna Carta in 1215, all the way to our current day, free people have always held that a ‘right delayed is a right denied.’

We don’t allow judges to order the surrender of an Iowan’s car for a few weeks because of how he may drive it in the future. We don’t allow judges to order the surrender of an Iowan’s prescription medication because of how it may be used in the future. And we don’t allow a judge to temporarily limit an Iowan’s 1st Amendment right to free speech because of something he may say in the future.

But H.F. 24 does exactly this to our Second Amendment rights, which is unacceptable to the members of Iowa Gun Owners.

To be very clear, these ex parte hearings are a flagrant violation of Iowans rights. But removing them and requiring judges to allow gun owners to be present in these hearings will still not make this legislation acceptable to the members of Iowa Gun Owners as it allows for the suspension of our rights before a gun owner has been convicted of a crime in a court of law!

Camel’s Nose Under the Tent:

Iowa Gun Owners is also opposed to this legislation because of what it is designed to lead to. By establishing legal precedent for *some* people to ask a judge for a ‘Red Flag Order’ against gun owners, it’s a quick move to allowing *almost anyone* to ask for one.

New York’s ‘Red Flag’ law, for example, has been expanded so much that now school teachers are allowed to file for one of these seizure orders!

But these laws are also designed to expand the list of *who* can be targeted by a ‘Red Flag’ seizure order. In Washington state, anti-gun politicians are trying to expand the state’s ‘Red Flag’ law to allow minor children to be targeted with these firearms orders. And, since

minor children can't legally own firearms, the proposed legislation would allow the state to seize the parent's firearms!

The members of Iowa Gun Owners oppose any form of 'Red Flag Gun Seizure' legislation, in part, because they are clearly designed as legislative tools that can be rapidly expanded once any form of them are passed into law.

What About NRA and GOP Support:

In 2018, the NRA came out in full support of ERPO's, another name for 'Red Flag Gun Seizure' orders. This happened while they were simultaneously lobbying in support of a ban on the 'bump stock' and dangerous 'FIX-NICS' legislation. In addition, several Republican Senators and Governors have officially supported versions of 'Red Flag Gun Seizure' legislation over the last few years.

But concluding that it's a politically viable option for Iowa legislators to support this would be a mistake. The NRA was wrong on this, and their membership has abandoned them in droves as a result of this, nearly tanking the NRA's entire brand in the process. And many politicians who have previously supported this legislation have withdrawn their support in the face of massive grassroots opposition.

Bad Politics:

H.F. 24 isn't just bad policy, it's bad politics, too.

Since our founding in 2009, the members of Iowa Gun Owners have been very harsh with the careers of politicians who refuse to support pro-gun legislation, let alone vote for out-and-out gun control!

In 2010 alone, dozens of members of the House and Senate were removed from office by IGO members after we exposed their votes against pro-gun legislation.

Senators Rick Mullin, Rich Olive, Bill Heckroth, Staci Appel, Becky Schmitz, and Keith Kreiman, in addition to Representatives McKinnley Bailey, Mark Kuhn, John Beard, Doris Kelley, Gene Ficken, Ray Zirkelbach, Geri Huser, Eric Palmer, Larry Merek, Mike Reasoner, and Paul Shomshor all lost their elections because of their support for gun control in Des Moines.

In 2014, Senator Daryl Beall was removed from office by gun owners in central Iowa, after our organization exposed the gun control bills he had sponsored in the Senate.

In 2016, gun owners shocked the political establishment and threw Senators Mike Gronstal, Steve Sodders, Brian Schoenjahn, Mary Jo Wilhelm, Thomas Courtney, and Chris Brase out of office after Iowa Gun Owners exposed their support for gun control with \$150,000 worth of radio, TV, and digital ads.

And in 2020, after Michael Bloomberg hit Iowa with several million dollars in digital ads with an expressed goal of flipping the legislature, gun owners re-elected the current

majorities and defeated anti-gun candidates like Abby Finkenauer, Theresa Greenfield, J.D. Scholten, and Joe Biden. As always, Iowa Gun Owners was there to highlight their records every step of the way, spending close to \$100,000 in radio and digital ads to do it.

It's clear that the voters in Iowa do not appreciate politicians who vote for gun control in Des Moines.

Conclusion:

H.F. 24 is bad policy for Iowa that destroys the Second Amendment, the due process rights afforded to us under the 5th and 6th Amendments, and the timeless concept of 'innocent until proven guilty.'

For these reasons and the political/electoral realities that I laid out above, I would strongly urge you to oppose H.F. 24 or any similar legislation -- even if it purports to have solved the due process issues contained in this bill.

If I can answer any further questions about this legislation, feel free to call our office at 515-309-7858 or email me at director@iowagunowners.org.