

GCLA Notes – 2 October 2018

Last month I reported that about a dozen states have passed “Red Flag Gun Seizure” legislation, also known as “Extreme Risk Protection Order (ERPO)” laws. I presented an in depth review of the new proposed Missouri legislation, House Bill 1340.

It turns out, that quietly, a Red Flag Gun Seizure bill was proposed in the US Senate on 22 March 2018, by Senator Marco Rubio.

Senate Bill 2607, has been read in the Senate chamber, and has been sent to the Judiciary committee for comment. This is a bad news / good news situation.

- a. The bad news is that Red Flag firearms seizure legislation has moved to the national level, which makes it more visible and ripe for Bloomberg money to push the antigun agenda.
- b. The other bad news is that the anti-gun lobby are claiming this bill is a given for passing, since it was put forth by a conservative.
- c. The good news is that Rubio may have prevented a California or Florida copy of the Red Flag Seizure laws to be proposed at the national level, and has instead provided legislation, that is more sensible and has more checks and balances, and more protections for the accused.
- d. The bad news is that the proposed is still onerous and constraining to our civil rights.
- e. The good news is that if this legislation were law in all states, and was followed properly, it probably would have prevented some of the recent mass shootings where there were concerns voiced about an individual, but law enforcement and prosecutors believed that they did not have the power to act.

A few notes on the proposed S 2607 language:

1. Limits on who can file for an ERPO against an individual
2. Limits on the criteria justifying an ERPO seizure.
3. The accused is present at the hearing, except in extreme situations.
4. Accuser faces the accused, except in extreme situations.
5. The accuser must sign an affidavit, and is subject to felony charges for perjury or false evidence.
6. The law requires prompt return of firearms and ammunition when the ERPO is lifted (or if the court refuses to order an ERPO after firearms have been surrendered).

7. The law allows for a family member, not living with the accused to take possession of all firearms and ammo, under certain conditions and restrictions. Otherwise,
8. the State, or County, or City, or Indian Tribunal Authority will take possession of the firearms and ammo. They must store them properly and must return them when the order is lifted.
9. The criteria to justify an ERPO is similar to many of the criteria for purchasing a gun (e.g. domestic violence, drug use, threats of violence to self or others, documented evidence of mental illness, previous weapons violations, etc.)
10. Similar to other ERPO legislation, the standard period for the seizure is 1 year. The accused may petition during the year to lessen the time, but also the court may extend the seizure in unlimited 1 year increments.

The NRA has had the message for years that it is not the gun, but the individual. This legislation puts some teeth in the ability to prevent certain individuals, especially those who have expressed concerns to family or law enforcement, from possessing firearms and ammo for a period of time (until the threat is mitigated).

I am not a fan of any Red Flag or ERPO legislation, BUT, this is about as close to getting good legislation to target the potential risky individual as we can hope for, without going overboard with truly anti-gun legislation like California and Florida ERPO laws. Congress is going to pass something, and soon. Do we fight this and risk getting something 10X worse, or do we back this and be happy that it is minimally onerous.

I ask that every GCLA member get a copy of S 2607, read it, and decide for yourselves if this is good or bad.

Other News:

Effingham County Illinois is now a Sanctuary County for 2nd Amendment Abuse. The EC Board voted to pass a resolution to not follow any Federal, State, or Local legislation that violates the Second Amendment. Salute!!

California Appeals Court Upheld Ban on Post 2013 Pistols that don't meet the state requirement for firing pin and other identification. No newly introduced pistols have been available in California because of this law. The law requires the firearm must imprint a unique code in two locations, on the primer and either the case or preferably the bullet itself. The technology does not exist today.