

Talking Points: SF1262/HF1605
Latz/Pinto Gun Violence Protective Orders



We need to be able to remove guns from those who represent a threat to themselves or others – *before* tragedies occur.

When a person is in crisis, loved ones and law enforcement are often the first to see warning signs that he or she poses a threat. Gun Violence Protective Orders, often called “Red Flag orders,” empower family and law enforcement to petition a civil court for an order that removes guns from a high-risk situation. Gun Violence Protective Orders would be issued based on past dangerous behavior and current threat levels, NOT psychological diagnosis. By providing due process in the form of a court hearing, this bill strikes a balance between commitment to public safety and respect for individual constitutional rights.

SUMMARY OF THE BILL

This legislation would enable family members and law enforcement to present evidence to a judge that a person should not have access to guns based on their **behavior** – not diagnosis -- and that alternative solutions are inadequate. If the court finds the person poses a significant danger of bodily injury to self or others with a firearm, it issues the prohibiting order. The subject must then turn in his/her guns and is prohibited from buying new guns while the order is in place.

Before issuing red flag orders, courts are directed to consider several indicators of violence, including recent threats or acts of violence, violations of domestic violence protective orders, criminal convictions, and other signs of increased risk.

The law has built-in protections against abuse: It is a misdemeanor to give false information in a red flag proceeding or to seek a red flag order with the intention to harass.

There are two kinds of red flag orders – emergency orders and orders after a hearing.

- Emergency orders last for 14 days and are issued only when the judge finds reasonable grounds that the person presents an “immediate and present danger.”
- Orders after a hearing last for 6 months to 2 years, and are issued only if the subject has the opportunity to appear at a hearing and respond to allegations that he is too dangerous to be armed. The judge must find by a preponderance of the evidence that the person poses a significant danger of bodily injury by having a gun.

NEED FOR GUN VIOLENCE PROTECTIVE ORDERS

Gun Violence Protective orders would have enabled law enforcement and family members to prevent recent mass shootings by having guns removed from individuals showing signs of being dangerous:

- In the case of 19-year-old Nikolas Cruz, numerous missed red flags left a community grieving after the recent mass shooting at Marjorie Stoneman Douglas High School in Parkland, Fl. Cruz’ behavior raised concerns among neighbors as early as age 9; later he showed a propensity for violence toward small animals, expressed enthusiasm about guns and knives and even began introducing himself as "a school shooter." Police and even the FBI were alerted to Cruz's behavior many times over the

years, but there would have been no way for them to remove his guns. At the time of the shooting, a Red Flag bill had been introduced in the Florida legislature, but had gotten nowhere.

- A recent example was the mass shooting at the Fort Lauderdale airport in January, the shooter had been suffering from escalating mental illness and PTSD. He heard voices, experienced violent rages, and believed he was a victim of CIA mind control. The FBI seized his gun while he underwent psychological evaluation, but they couldn't keep it because there is no Red Flag law in place. When the gun was returned to Santiago, he flew with it to Fort Lauderdale and started shooting.
- Before he killed six people near the University of California, Santa Barbara, in May 2014, the shooter made homicidal and suicidal threats online. His parents asked law enforcement to step in. But the shooter did not have a criminal history that prohibited him from having firearms, and the police were unable to keep guns out of his hands.
- Before killing 12 people and injuring three at the Washington Navy Yard in September 2013, the shooter had been treated for serious mental health issues including paranoia and "hearing voices" and had a series of run-ins with the police, including firearms incidents in multiple states. But he was not prohibited from having guns, and law enforcement had no means to disarm him.

RESEARCH SUPPORTING BILL

While high-profile shootings tend to drive the political impetus behind gun violence protective orders, a new study by Duke University shows how in one state, Connecticut, gun removals from high-risk people may have prevented up to 100 suicides, or one death for every 10-20 guns removed. **The study also showed that people in need of help were significantly more likely to accept it after their guns were temporarily removed.**

Nearly 80% of gun deaths in Minnesota are suicides. Research shows that for people considering ending their own life, limiting access to guns matters must be the first priority. More than half of all suicides in the U.S. are carried out with a firearm. Guns are exceptionally lethal; in 2014, about 87% of gun suicide attempts were fatal compared to just 3% of attempts by drug overdoses, according to a CDC analysis.

Because suicide is often an impulsive decision, removing firearms from the immediate vicinity of a potential victim can reduce death. States with lower gun ownership rates have substantially lower suicide rates.

GUN LOBBY ARGUMENTS AGAINST PASSAGE

Claim: Mental illness is the culprit behind gun violence, not access to guns.

Truth: Mental illness accounts for only 4% of interpersonal (non-suicide) violence within the United States and individuals with serious mental illness are much more likely to be **victims** than perpetrators of violence. But a very small percentage of those who live with mentally illness do present a danger to others, and the majority of victims of gun suicide experience depression and other forms of psychological impairment. Red flag laws enable family and law enforcement to petition the court to have guns temporarily removed from those who exhibit behaviors that show them to be a danger to themselves or others. These laws save lives.

Claim: We already have means to keep these people from harming themselves or others: the 72 hour hold.

Truth: The 72-hour hold and other forms of involuntary commitment take away ALL an individual's rights, not just their right to possess a firearm. Moreover, after the hold or commitment is over, the individual may refuse ongoing treatment and continue to represent a threat. This bill will allow people to continue working, caring for their families and living their lives--albeit without having access to firearms--and give them strong impetus to seek treatment in order to get their guns back.