

House File 2718 - Introduced

HOUSE FILE 2718
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 430)

A BILL FOR

1 An Act relating to the seizure of firearms, providing penalties,
2 and including effective date provisions.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. NEW SECTION. **724.33 Anti-red flag gun seizure.**

2 1. This section may be cited and referred to as the "Anti-Red
3 *Flag Gun Seizure Act*".

4 2. For purposes of this section:

5 a. "Law-abiding citizen" means a person that is not otherwise
6 precluded under state law from possessing a firearm.

7 b. "Red flag law" means any of the following:

8 (1) A firearm control law, order, or measure that directs the
9 temporary or permanent seizure of any firearm, firearm accessory,
10 or ammunition of an individual.

11 (2) A federal statute, federal rule, federal executive order,
12 or federal judicial order or finding, or any state statute, state
13 rule, state executive order, or state judicial order or finding,
14 that does any of the following:

15 (a) Prohibits a resident from owning, possessing,
16 transporting, transferring, or receiving any firearm, firearm
17 accessory, or ammunition without the conviction of a violent
18 felony crime or other disqualification under section 724.8B.

19 (b) Orders the removal or requires the surrender of any
20 firearm, firearm accessory, or ammunition from a resident except
21 persons lawfully in custody or persons who have been released
22 after the execution of a bail bond after having been charged with
23 a violent felony as described in section 724.8B.

24 3. Any federal order of protection, other judicial order
25 issued by a federal court, or federal executive order that is
26 a red flag law or otherwise directs the confiscation of any
27 firearm, firearm accessory, or ammunition from any law-abiding
28 citizen within the borders of this state shall not be enforced in
29 this state by any state agency, political subdivision, or state
30 or local law enforcement agency.

31 4. No state agency, political subdivision, or state or local
32 law enforcement agency shall receive any federal moneys for the
33 purpose of enforcing any federal statute, federal rule, federal
34 executive order, or federal judicial order or findings, or for
35 the purpose of enforcing any state statute, state rule, state

1 executive order, or state judicial order or findings, that would
2 have the effect of enforcing a red flag law against a resident.

3 5. No state entity or employee thereof, political subdivision
4 or employee thereof, or other person shall have the authority to
5 enforce or attempt to enforce a red flag law regardless of the
6 red flag law's origin or the authority of the issuing entity.
7 This subsection shall not apply to any agent of the federal
8 government enforcing a federal law or federal order.

9 6. Nothing in this section shall be construed to prevent a
10 firearm, firearm accessory, or ammunition from being seized as
11 evidence by law enforcement in the course of an investigation.

12 7. a. A political subdivision or state or local law
13 enforcement agency that employs a law enforcement officer who
14 knowingly acts to violate this section and enforce a red flag
15 law under any state or federal statute, rule, executive order, or
16 judicial order or finding shall be liable to the party against
17 whom the red flag law was enforced in an action at law, suit
18 in equity, or other proper proceeding for redress and shall
19 be subject to a civil penalty of fifty thousand dollars per
20 occurrence.

21 b. Any person injured under this section shall have standing
22 to pursue an action for injunctive relief in the district court
23 of the county in which the action allegedly occurred or in the
24 district court of Polk county.

25 c. The court shall hold a hearing on any motion for a
26 temporary restraining order or preliminary injunction within
27 thirty days of service of the petition.

28 d. In an action brought under this section by a party against
29 whom the red flag law was enforced, a court may order injunctive
30 or other equitable relief, recovery of damages, other legal
31 remedies, and payment of reasonable attorney fees, costs, and
32 expenses of the party. The relief and remedies set forth in this
33 section shall not be deemed exclusive and shall be in addition
34 to any other relief or remedies permitted by law. The court
35 may award the prevailing party, if not the state or a political

1 subdivision thereof, reasonable attorney fees and costs.

2 e. Sovereign immunity shall not be an affirmative defense to
3 any action brought under this section.

4 Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate
5 importance, takes effect upon enactment.

6 EXPLANATION

7 The inclusion of this explanation does not constitute agreement with
8 the explanation's substance by the members of the general assembly.

9 This bill establishes the "Anti-Red Flag Gun Seizure Act"
10 related to the seizure of firearms.

11 For purposes of the bill, "red flag law" is defined as any
12 firearm control law, order, or measure that directs the seizure
13 of any firearm of an individual; or any federal or state rule,
14 statute, or judicial order that prohibits a resident from owning
15 or receiving any firearm, or any order for the removal or
16 surrender of any firearm, unless such resident is lawfully in
17 custody or has been released after the execution of a bail bond
18 after having been charged with a violent felony.

19 The bill provides that any red flag law that directs the
20 confiscation of any firearm from any law-abiding citizen within
21 Iowa will not be enforced within Iowa.

22 The bill prohibits any state agency, political subdivision,
23 or state or local law enforcement agency from receiving any
24 federal funds for the purpose of enforcing any federal law,
25 order, or judicial finding or for the purpose of enforcing any
26 state statute, rule, order, or judicial finding that would have
27 the effect of enforcing a red flag law against a resident.

28 The bill prohibits any person, including a state entity or
29 employee thereof, or political subdivision or employee thereof,
30 from enforcing or attempting to enforce a red flag law regardless
31 of the red flag law's origin or the authority of the issuing
32 entity, except that this prohibition shall not apply to any agent
33 of the federal government enforcing a federal law or federal
34 order.

35 The bill provides that any political subdivision or state

1 or local law enforcement agency that employs a law enforcement
2 officer that knowingly violates the provisions of the bill is
3 liable to the party against whom a red flag law was enforced and
4 additionally will be subject to a civil penalty of \$50,000 per
5 occurrence.

6 In any action brought under the provisions of the bill, a
7 court may order injunctive or other equitable relief, recovery of
8 damages, other legal remedies, and payment of reasonable attorney
9 fees, costs, and expenses of the party. Such relief must not
10 be exclusive and additional relief or remedies may be awarded as
11 otherwise permitted by law.

12 The bill takes effect upon enactment.

unofficial