



“GUN VIOLENCE CONFISCATION ORDERS”

“Take the Guns First, Go through Due Process... (Never.)”

Sometimes repackaged as “Extreme Risk Protection Orders” or “Gun Violence Restraining Orders (GVRO)”, these bills call for Second Amendment rights to be stripped from law-abiding Americans without due process based largely on unsubstantiated accusations from disgruntled family members, neighbors, co-workers, and/or current or ex-romantic partners or roommates. Legislation may vary from state to state regarding the specific procedures that would be involved to accomplish this unconstitutional objective.

RMGO Position: **Strongly Oppose**

March 20, 2018

Talking Points & References:

- **Gun Confiscation Without Due Process**
 - The proposal would allow a court to issue a so-called “Gun Violence Restraining Order,” which involves a court entering a secret order banning someone from possessing firearms or ammunition and confiscation of firearms that individual already has. The order and seizure warrant may be issued *ex-parte* (in other words, before any notice at all to the subject of the order.)
 - Such legislation contemplates that the persons who would initiate the request for this order are the family and ex-lovers of the person whose firearms are to be seized. For many people those two categories are going to be full of people who now dislike them and would be motivated to lie to the court. Additionally, the bill provides no penalty for lying to secure a GVRO.
 - Such legislation contemplates that orders, and the accompanying seizure warrants, would be issued without any notice at all in advance to the subject of the order. You would find out when the SWAT team comes to your door to “collect” your guns. The order may be issued using the very weak “reasonable suspicion” standard of evidence.
 - The court would report the issuance of these orders to the FBI within two days of issuing them, barring the individual from being able to purchase a firearm. Law enforcement would be obligated to confiscate the individual’s firearms.
 - Only after seizure of the firearms and entry of the order can the subject of the order challenge the issuance of the order and beg for their rights and their guns back.
 - The court is supposed to have a hearing within 30 days of the entry of the initial order, after notice to the subject of the order. At the hearing the State must show “reasonable suspicion” that the person poses a “significant risk” to themselves or to another person.

- **Seizure of Firearms Belonging to Innocent Third parties**
 - Some state and federal versions of this bill state that firearms belonging to other persons besides the subject of the order, such as other household family members, are also to be seized if the police think the subject of the order can access them.
 - After thirty days, third party persons can ask the court for their firearms back.
- **Disgruntled Family Members and Roommates**
 - Under such legislation, family members who oppose the Second Amendment could use something as simple as a pro-gun Facebook post to assert that a family member should have their gun rights stripped and their firearms confiscated.
 - Under such legislation, disgruntled current or former roommates would also be able to initiate the gun confiscation process.
 - Individuals can be denied their right to self-defense based on any number of emotionally-charged personal disputes, where no crime is committed and no probable cause exists that a crime might be committed.
- **Indefinite suspension of Second Amendment Rights**
 - The subject of the order may, depending on the specifics of the legislation request a hearing after the fact. In some cases this has been limited to a single hearing, where if the subject loses, that may not request a new hearing, even if new evidence becomes available or if their life circumstances no longer warrant such a prohibiting,
 - Under most proposals, subsequent orders can be renewed indefinitely barring the named individual from purchasing a firearm (one year at a time) and having their guns returned to them (three years at a time).
 - For some this may amount to a lifetime Second Amendment ban.
 - Any attempt to buy a gun by someone subject to a GVRO is a crime.

This bill also does not say what would happen to confiscated firearms if they are not returned to the owner, and the owner does not arrange for them to be transferred to a dealer for sale. Would they be destroyed, resold, or otherwise disposed? Would the accused be compensated for the taking of their property?

Bottom Line: “Gun Violence Restraining Orders” are GUN CONFISCATION ORDERS.

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