

SECOND REGULAR SESSION

HOUSE BILL NO. 1683

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WHALEY.

4404H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To amend chapter 1, RSMo, by adding thereto one new section relating to the anti-red flag gun seizure act, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 1, RSMo, is amended by adding thereto one new section, to be known as section 1.486, to read as follows:

1.486. 1. This section shall be known and may be cited as the "Anti-Red Flag Gun Seizure Act".

2. As used in this section, "red flag law" means:

(1) Any gun control law, order, or measure that directs the temporary or permanent seizure of any firearm, firearm accessory, or ammunition of an individual, except persons lawfully in custody or persons who have been released after the execution of a bail bond after having been charged with a dangerous felony, as defined in section 556.061; or

(2) Any federal statute, federal rule, federal executive order, or federal judicial order or finding, or any state statute, state rule, state executive order, or state judicial order or finding, that:

(a) Prohibits a Missouri resident from owning, possessing, transporting, transferring, or receiving any firearm, firearm accessory, or ammunition, except persons lawfully in custody or persons who have been released after the execution of a bail bond after having been charged with a dangerous felony, as defined in section 556.061; or

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (b) Orders the removal or requires the surrender of any firearm, firearm
18 accessory, or ammunition of an individual, except persons lawfully in custody or persons
19 who have been released after the execution of a bail bond after having been charged
20 with a dangerous felony, as defined in section 556.061.

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

26 4. No state agency, political subdivision, or state or local law enforcement agency
27 shall receive any federal moneys for the purpose of enforcing any federal statute, federal
28 rule, federal executive order, or federal judicial order or findings, or for the purpose of
29 enforcing any state statute, state rule, state executive order, or state judicial order or
30 findings, that would have the effect of enforcing a red flag law against a Missouri
31 resident.

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

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

40 7. (1) A political subdivision or state or local law enforcement agency that
41 employs a law enforcement officer who knowingly acts to violate this section and enforce
42 a red flag law under the color of any state or federal statute, rule, executive order, or
43 judicial order or finding shall be liable to the party against whom the red flag law was
44 enforced in an action at law, suit in equity, or other proper proceeding for redress and
45 shall be subject to a civil penalty of fifty thousand dollars per occurrence.

46 (2) Any person injured under this section shall have standing to pursue an action
47 for injunctive relief in the circuit court of the county in which the action allegedly
48 occurred or in the circuit court of Cole County.

49 (3) The court shall hold a hearing on any motion for a temporary restraining
50 order or preliminary injunction within thirty days of service of a petition for the same.

51 (4) In an action brought under this section by a party against whom the red flag
52 law was enforced, a court may order injunctive or other equitable relief, recovery of
53 damages, other legal remedies, and payment of reasonable attorney's fees, costs, and

54 expenses of the party. The relief and remedies set forth in this section shall not be
55 deemed exclusive and shall be in addition to any other relief or remedies permitted by
56 law. The court may award the prevailing party, if not the state of Missouri or a political
57 subdivision thereof, reasonable attorney's fees and costs.

58 (5) Sovereign immunity shall not be an affirmative defense to any action brought
59 under this section.

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