

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 712
102ND GENERAL ASSEMBLY

1240H.03C

DANA RADEMAN MILLER, 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 and an emergency clause.

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
2 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
2 Gun Seizure Act".**

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

**4 (1) Any gun control law, order, or measure that directs the temporary or
5 permanent seizure of any firearm, firearm accessory, or ammunition of an individual
6 without the adjudication of a contested court case; or**

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

**10 (a) Prohibits a Missouri citizen from owning, possessing, transporting,
11 transferring, or receiving any firearm, firearm accessory, or ammunition unless the
12 individual has been convicted of a violent felony crime or is otherwise disqualified under
13 section 455.050 or 571.070; or**

**14 (b) Orders the removal or requires the surrender of any firearm, firearm
15 accessory, ammunition from a Missouri citizen unless the individual has been convicted
16 of a violent felony crime or is otherwise disqualified under section 455.050 or 571.070.**

**17 3. Any federal order of protection, other judicial order issued by a federal court,
18 or federal executive order that is a red flag law or otherwise directs the confiscation of**

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.

19 any firearm, firearm accessory, or ammunition from any law-abiding citizen within the
20 borders of this state shall not be enforced in this state by any state agency, political
21 subdivision, or state or local law enforcement agency.

22 4. No state agency, political subdivision, or state or local law enforcement agency
23 shall receive any federal moneys for the purpose of enforcing any federal statute, federal
24 rule, federal executive order, or federal judicial order or findings or for the purpose of
25 enforcing any state statute, state rule, state executive order, or state judicial order or
26 findings that would have the effect of enforcing a red flag law against a Missouri citizen.

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

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

35 7. (1) A political subdivision or state or local law enforcement agency that
36 employs a law enforcement officer who knowingly acts to violate this section and enforce
37 a red flag law under the color of any state or federal statute, rule, executive order, or
38 judicial order or finding shall be liable to the party against whom the red flag law was
39 enforced in an action at law, suit in equity, or other proper proceeding for redress and
40 shall be subject to a civil penalty of fifty thousand dollars per occurrence.

41 (2) Any person injured under this section shall have standing to pursue an action
42 for injunctive relief in the circuit court of the county in which the action allegedly
43 occurred or in the circuit court of Cole County. The attorney general shall also have
44 standing to bring an action to enforce the provisions of this section.

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

47 (4) In an action brought under this section by a party against whom the red flag
48 law was enforced, a court may order injunctive or other equitable relief, recovery of
49 damages, other legal remedies, and payment of reasonable attorney's fees, costs, and
50 expenses of the party. The relief and remedies set forth shall not be deemed exclusive
51 and shall be in addition to any other relief or remedies permitted by law. The court may
52 award the prevailing party, if not the state of Missouri or a political subdivision thereof,
53 reasonable attorney's fees and costs.

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

Section B. Because immediate action is necessary to limit any overreach of the
2 federal government's power and to protect citizens' rights to bear arms, the enactment of
3 section 1.486 of section A of this act is deemed necessary for the immediate preservation of
4 the public health, welfare, peace, and safety, and is hereby declared to be an emergency act
5 within the meaning of the constitution, and the enactment of section 1.486 of section A of this
6 act shall be in full force and effect upon its passage and approval.

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