

HOUSE BILL No. 2441

By Committee on Federal and State Affairs

2-22

1 AN ACT concerning firearms; creating the anti-red flag gun seizure act;
2 prohibiting the enforcement of any law, regulation or order that
3 prohibits the possession of a firearm in violation of amendment II to the
4 constitution of the United States; providing a cause of action and civil
5 penalties for violations of the act.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. (a) The provisions of this section shall be known and may
9 be cited as the anti-red flag gun seizure act.

10 (b) As used in this section:

11 (1) (A) "Material aid and support" includes voluntarily giving or
12 allowing others to make use of lodging, communications equipment or
13 services, including social media accounts, facilities, weapons, personnel,
14 transportation, clothing or other physical assets; and

15 (B) "material aid and support" does not include giving or allowing the
16 use of medicine or other materials necessary to treat physical injuries or
17 any assistance provided to help persons escape a serious, present risk of
18 life-threatening injury; and

19 (2) "red flag law" means:

20 (A) Any law, rule and regulation or executive order that directs the
21 temporary or permanent seizure of any firearm, firearm accessory or
22 ammunition of an individual without the adjudication of a competent
23 court; or

24 (B) any federal statute, rule, regulation, executive order or judicial
25 order or any state statute, rule and regulation, executive order or judicial
26 order that:

27 (i) Prohibits a citizen of this state from owning, possessing,
28 transporting, transferring or receiving any firearm, firearm accessory or
29 ammunition unless such individual is prohibited from possessing a firearm
30 under K.S.A. 2022 Supp. 21-6304, and amendments thereto, or K.S.A. 75-
31 7c25, and amendments thereto; or

32 (ii) requires the seizure of any firearm, firearm accessory or
33 ammunition from a citizen of this state or a surrender of such by a citizen
34 of this state unless such individual is prohibited from possessing a firearm
35 under K.S.A. 2022 Supp. 21-6304, and amendments thereto, or K.S.A. 75-
36 7c25, and amendments thereto.

1 (c) Any federal law, rule, regulation, executive, administrative or
2 judicial order that is a red flag law shall be considered an infringement on
3 the people's right to keep and bear arms as guaranteed by amendment II to
4 the constitution of the United States and section 4 of the bill of rights of
5 the constitution of the state of Kansas and an infringement on the right to
6 due process as guaranteed by amendments V and XIV to the constitution
7 of the United States and sections 10, 15 and 18 of the bill of rights of the
8 constitution of the state of Kansas. Any such law, rule, regulation or order
9 shall be invalid and unenforceable in this state.

10 (d) No state agency, political subdivision or state or municipal law
11 enforcement agency shall receive or expend any federal moneys for the
12 purpose of enforcing any red flag law against a citizen of this state or any
13 federal or state law, rule, regulation or order that would have the effect of
14 enforcing a red flag law against a citizen of this state. No state agency,
15 political subdivision or municipal law enforcement agency or any
16 employee thereof shall have the authority to enforce or attempt to enforce
17 a red flag law. Nothing in this subsection shall be construed to prohibit any
18 agent of the federal government from enforcing any federal law, rule,
19 regulation or order.

20 (e) (1) Any law enforcement agency or political subdivision of this
21 state that employs a law enforcement officer who violates this section
22 while acting under the color of any state law, rule and regulation or
23 executive, administrative or judicial order shall be liable to the individual
24 against whom the red flag law was enforced for any damages resulting
25 from such violation and subject to a civil penalty of \$50,000 for each
26 occurrence. Each violation with respect to a firearm, firearm accessory or
27 container of ammunition shall constitute a separate occurrence.

28 (2) Any law enforcement agency or political subdivision of this state
29 that employs an individual, acting or who previously acted as an official,
30 agent, employee or deputy of the government of the United States, or
31 otherwise acted under the color of federal law within the borders of this
32 state after the effective date of this section, who enforced or attempted to
33 enforce any red flag law or gave material aid and support to the efforts of
34 another individual or agency of the government of the United States who
35 enforced or attempted to enforce any red flag law shall be subject to a civil
36 penalty of \$50,000 for each such employee.

37 (3) Any individual aggrieved by a violation of this section may bring
38 an action in a court of competent jurisdiction for injunctive and other
39 relief. Upon the filing of a motion for a temporary or permanent
40 injunction, the court shall hold a hearing on such motion within 30 days of
41 service of such motion on the defendant.

42 (4) The court may award reasonable attorney fees and court costs to
43 the prevailing party in any action filed pursuant to this section unless such

- 1 prevailing party is the state of Kansas or any political subdivision thereof.
- 2 (5) Sovereign immunity shall not be an affirmative defense in any
- 3 action filed pursuant to this section.
- 4 Sec. 2. This act shall take effect and be in force from and after its
- 5 publication in the statute book.