



North Dakota House of Representatives

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Chairman Porter and Members of the Energy and Natural Resources Committee,

I am state representative Matt Heilman from district seven representing Bismarck. I come before you today in support of my bill, House Bill 1401. This bill defines extreme risk protections in section one. Section two goes on to say a state agency or political subdivision may not adopt or implement an extreme risk protection. This bill was modeled after Oklahoma's senate bill 1081 from 2020. Over a dozen states have red flag laws, but Oklahoma is the first to have an anti red flag law. This bill did pass and became state law. It is the first of it's kind and I would be more than happy to see North Dakota pass similar legislation.

This is a straight forward bill with the primary goal of preventing red flag laws being adopted or implemented by a state agency or political subdivision. I am more than happy to stand for any questions and respectfully ask for a do pass recommendation.

Proposed Amendment: Page 1 line 10 and 11

Remove “,without due process” to have section one read as:

As used in this section, "extreme risk protection provision" means a rule, ordinance, regulation, or guideline prohibiting an individual who is not otherwise precluded from possessing a class 2 firearm and dangerous weapon license from having a firearm in that individual's custody or control, or from possessing, or receiving a firearm, ~~without due process.~~

The problem with the original language is that any red flag law passed and includes sufficient due processes protections would not meet the definition of an extreme risk protection provision under the proposed law and would be legal. Thus, it should be deleted. Also, North Dakota Century Code (NDCC) also has no definition of “due process.” NDCC already covers the issue of people mentally incapable of a firearm and forfeiture of a dangerous weapon or firearm by a person convicted of a crime. This is under 62.1-02.

Proposed Amendment: Page 1 Line 12

“A state agency or political subdivision may not accept any grant or funding to adopt or implement any rule, ordinance, regulation, or guideline having the effect of imposing an extreme risk protection order against a resident of this state.”

The purpose of this amendment is to prohibit North Dakota from receiving grant money to implement red flag laws under the federal Bipartisan Safer Communities Act. Under this federal law, in order to qualify for the grant money, any red flag law passed would have to include all of the due process provision outlined in the law. If 1401 was passed as written, it is likely that any law that met the grant requirements of the Bipartisan Safer Communities Act would not meet the definition of an extreme risk protection provision, and North Dakota would still be able to collect the federal grant money.