

Let's Give Red Flag Laws a Try—With Abortion

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By Paul Curry

ARLINGTON, Va.—When you have to ask for a right, it ceases to be a right and becomes a privilege. And privileges, like freedom, can be taken away.

The right of the people to keep and bear arms is enshrined in the Second Amendment to the United States Constitution and it cannot, constitutionally, be taken away.

Red-flag laws

So-called red flag laws are an attempt to do just that, demote the “right” of the people to bear arms to a mere privilege.

Championed by left-wing politicians who would prefer we view the Bill of Rights, not as a sacrosanct guarantee of individual liberty, but rather an à la carte menu of daily preferences, red flag laws are, although often well-intentioned, ill-conceived reactionary surrenders of our Constitutional liberty.

It would be both curious and dangerous to see exactly how many other “rights” and liberties they truly believe are subject to such daily whims.

- Red flag laws allow individual judges to issue orders allowing law enforcement to seize firearms from American citizens, not on the basis of any committed crime, but, rather, based solely on the beliefs of others.
- Red flag laws allow for ex-parte hearings, that is, proceedings without the accused even being present to defend him- or herself.
- Red flag laws require the accused to appear before a court, after an order has been issued, and make an argument in defense of their rights. The accused must demonstrate, to the satisfaction of a judge who may or may not be friendly to 2nd Amendment rights, that they should be allowed to exercise their constitutional rights.
- Most importantly, red flag laws are ripe for abuse in any number of fashions. Red flag laws create an undue burden on citizens to prove that they are entitled to exercise their constitutional rights.

Victim of flawed mentality

This past October, Stephen Nichols, an 84-year-old Korean War veteran, former police officer, and current school crossing guard, was the victim of the flawed red flag law mentality.

Mr. Nichols' offense? He was overheard, and misquoted, by a waitress in an Oak Bluff, Mass., diner.

Mr. Nichols, speaking with a friend, complained of the local school's security officers leaving for coffee while the school children were unattended.

Mr. Nichols complained that anybody could "shoot up the school" while security officers took breaks. Subsequently, and on the word of the waitress who overheard his statement, Mr. Nichols had his licensed and registered firearms seized and was immediately fired from his position as a crossing guard.

Mr. Nichols had his 2nd, 4th, 5th, and 14th Amendment rights essentially revoked.

Even if acting in good faith

If we assume, for the sake of argument, that Mr. Nichols' accuser acted in good faith, what does his predicament say about the potential for people acting in bad faith?

How many ex-boyfriends, ex-girlfriends, ex-husbands, or ex-wives can easily abuse red flag laws?

How many constitutional rights are red flag law proponents willing to submit to arbitrary review by judges?

What if red flag laws were applied to other situations of life or death, say abortion?

Proponents of red flags laws regarding 2nd Amendment rights argue, absent evidence, that without them someone may die. If we applied the same reasoning to abortion rights, absent red flag laws for abortion, someone will die.

Applied to abortion

Suppose we apply red flag laws to abortion.

Should an ex-boyfriend, ex-husband, parent, or friend be able to petition a judge to halt an abortion?

Clearly, the decision to have an abortion is a highly emotional one, would it be so bad for a judge to halt the procedure, just long enough to make sure that the subject woman is acting rationally?

Should we allow an ex-boyfriend, ex-husband, parent, or school counselor to make the red flag abortion petition ex-parte?

Would pro-choice advocates feel comfortable that a judge hearing the red flag abortion petition could keep his or her personal and political feelings out of the ruling?

Would a woman seeking an abortion feel overly burdened by simply having to plead her case to a judge, or would she believe that she does not have to explain exercising her Constitutional rights to anyone?

Would a woman feel, in such circumstances, that abortion was no longer a right but a privilege?

Rights are not privileges

Constitutional rights are guaranteed to all citizens. They are not privileges that can be taken away arbitrarily or capriciously.

Proponents of red flag gun laws are comfortable with a judge deciding when an individual can exercise his or her 2nd Amendment rights.

Would they be equally comfortable with a judge determining the same for abortion rights?

Ben Franklin said

Life or death may hang in the balance of both. Perhaps the Supreme Court could look at them both.

Red flag laws are simply an unconstitutional burden on rights and, as Benjamin Franklin put it, "Those who would give up essential Liberty, to purchase a little temporary Safety, deserve neither Liberty nor Safety."