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Senate Government Oversight and Reform Committee
Senate Bill 278
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Good afternoon Chairman Coley, Vice Chair Uecker and members of the Senate Government Oversight and Reform Committee. Thank you for allowing us to give sponsor testimony on Senate Bill 278, which establishes a legal process for temporarily removing firearms from the possession of people who are displaying signs of being a danger to themselves or others, commonly known as “red flag” legislation.

Since the shooting nearly two months ago in Parkland, Florida, we’ve seen increased interest in red flag laws and rightfully so.

Many have talked about red flag bills in the context of preventing mass shootings, which is important. But, most often, guns were removed from people not seen as threats to large groups, but as risks to themselves or their families including those suffering from debilitating illnesses such as Alzheimer’s or alcoholism.

Firearm suicide accounts for nearly two-thirds of gun deaths in the United States. While nine out of ten suicide attempts with a gun result in death, most people who attempt suicide by other means live – and do not eventually die by suicide. Family and household members are often the first to see the signs of danger but are left without legal recourse to effectively intervene.

A study in 2016 led by researchers at Duke University concluded that Connecticut’s red flag law, implemented in 1999, appeared to have prevented some suicides. This bill would reduce the risk of tragedy in an unstable situation.

Under the bill, a petitioner would give a civil court an affidavit, made under oath, stating the specific statements, actions, or facts that give rise to the reasonable fear of imminent dangerous acts by the other party. Courts could grant an emergency ex parte extreme risk protection order, lasting up to 14 days. Within 14 days, a full hearing with both parties must be scheduled.

At that hearing, a family member or law enforcement officer or agency could seek a protection order that lasts one year. The order would give at-risk individuals time to recover and limit their access to weapons while tensions deescalate.

If either a temporary or permanent ERPO is granted, the bill has a process for law enforcement to serve notice and conduct a reasonable search and seizure of any firearms. There is also a mechanism

for an individual to surrender firearms. In all cases, a receipt is given and once an ERPO is no longer in effect the firearms are returned.

To directly address a common concern: the red flag legislation we have introduced protects individuals' right to due process. The petitioner must prove that the person is an imminent danger to themselves or others. And a person who knowingly makes a false claim to obtain an extreme risk protection order would be guilty of a misdemeanor of the third degree. The gun owner has an opportunity to make their case at a full hearing. After both parties are heard, the judge can issue an ERPO lasting for one year, with an opportunity for the gun owner to later petition to end the order early.

Red flag laws across the country are passing with bipartisan support. To date, seven states have implemented red flag laws – California, Connecticut, Washington State, Oregon, Indiana and just recently – Florida and Rhode Island. Over 20 states have introduced red flag legislation since last spring.

On the federal level, two red flag bills have been introduced – one by Senators Marco Rubio (R-Florida) and Bill Nelson (D-Florida) and another from Senators Richard Blumenthal (D-Connecticut) and Lindsey Graham (R-South Carolina). Senator Rubio, following the Parkland shooting, told a Miami news station that state laws such as red flag legislation could have helped prevent the recent tragedy, and is included in his plan to address gun violence.

Not only legislators, but gun rights advocates, law enforcement and even some individuals who have been served ERPOs have indicated their approval of these laws.

Fox News recently reported that a Second Amendment rights group in Washington is supportive of the state's red flag law after seeing its effectiveness in the state.

Law enforcement officials who support red flag laws say that they allow the authorities to step in before something catastrophic occurs. The removals are temporary and firearms and ammunition are returned to people no longer deemed dangerous.

In their report, Fox News also interviewed a man who agreed with the confiscation of his firearms. An Army veteran, who was being treated for post-traumatic stress disorder, had his guns confiscated after showing erratic behavior in a public space while carrying his handgun. Following the seizure, he stated his gratitude that the officers had taken the gun from him when they had.

With a wide range of individuals and groups supporting red flag laws, it is apparent that this bill has the potential to create consensus and garner bipartisan support. This is a common-sense measure to tackle gun violence while still protecting people's Second Amendment rights.

Thank you again for allowing us the opportunity to speak on Senate Bill 278 and at this time we would be happy to answer any questions you may have.