

A Green Light for Red Flag Laws



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In the wake of recent tragedies in Buffalo and Uvalde, a massive push for comprehensive gun safety reform is once again dominating the headlines. Among the common-sense policy proposals gaining traction with federal lawmakers are “red flag” laws. Also known as Extreme Risk Protection Orders, these laws allow law enforcement, family members, and/or medical professionals to petition a judge to temporarily suspend an individual’s access to firearms after showing they present a danger to themselves or someone else. Red flag laws are currently on the books in 19 states and the District of Columbia.

While their implementation varies state to state in terms of who can actually petition for the order, red flag laws have successfully removed guns from dangerous hands across the nation. Studies show that the rate of death by firearms in states with red flag laws is significantly lower than those without – 11.26 per 100,000 residents compared to 17.5. Supporters of these policies also contend that had one been enacted in Texas, it could have prevented the massacre at Robb Elementary School where 19 children and 2 teachers were killed. Prior to the attack, the gunman in Uvalde

displayed disturbing behavior and dangerous warning signs, as do 56% percent of mass shooting perpetrators.

Unlike other more restrictive gun provisions, red flag laws have gained bipartisan support at both the state and federal level. After the mass shooting at Marjory Stoneman Douglas High School in Parkland, FL, the Republican-controlled Florida legislature passed its red flag law in 2018, and 14 additional states followed suit. Currently, Florida and Indiana are the only Republican-controlled states to have enacted a red flag law, but their success serves as a blueprint for others to support this important legislation—without fearing backlash from the influential gun lobby.

The Florida Case Study

After the Parkland shooting, state lawmakers were called upon to take action that would prevent future tragedies in Florida schools. A bipartisan group of state representatives and senators successfully passed the Marjory Stoneman Douglas High School Public Safety Act, SB 7036, in March 2018, just three weeks after the shooting. In addition to a red flag law that permits police officers to petition for the removal of firearms from dangerous people, the law also banned bump stocks and raised the minimum age to purchase a gun in the state from 18 to 21.

In the state senate, Republican Senator Bill Galvano sponsored the bill. In the lower chamber, Republican Rep. Jose Oliva teamed up with Democratic Rep. Jared Moskowitz, an alum of Marjory Stoneman Douglas, to champion the bipartisan effort through the state house. Both Galvano and Oliva were re-elected to their seats in the 2018 election and selected to serve respectively as Senate President and Speaker of the House for the 2018-2020 legislative term. Galvano continued to push for tougher gun regulations during his tenure as Senate President, but due to the Florida legislature's strict term limits, both Galvano and Oliva were ineligible for reelection in 2020.

SB 7036 passed in both houses of the Florida Legislature with majority support from Republican lawmakers. It passed in the house 67-50, with 57 Republican "yes" votes, and in the senate 20-18, with 17 Republican "yes" votes. Democrats largely withheld support for the legislation due to opposition against provisions they believed unnecessarily tightened school security and permitted teachers to carry firearms in the classroom. Republican then-Governor Rick Scott signed the bill into law, bucking efforts by the NRA for him to veto it.

Of the Republican lawmakers voting in support of the bill, 67 of them had an A or A+ rating with the NRA prior to the legislation. After the bill passed, most of those ratings dropped to B's or lower. Despite the drop, nearly all incumbents who were not term-limited won reelection in 2018. Gov. Scott's NRA rating also dropped from a A+ to a C, yet he was nonetheless successful in his 2018 bid to the U.S. Senate.

The threats by the NRA against policymakers in Florida never materialized into voter opposition at the polls. If anything, support for these popular laws may have ended up helping some GOP

candidates gain support among swing voters. This trend continued with federal lawmakers from Florida who challenged the gun lobby on some of the most common-sense gun reforms that the majority of Americans support. In 2021, Senators Rubio and Scott introduced a bipartisan bill that would incentivize states to enact red flag laws like the one in Florida. And in the U.S. House of Representatives, GOP Congressman Brian Mast was downgraded from an A rating to an F after proposing expanded background checks and a ban on AR-15 rifles in the wake of the Parkland shooting. In his 2018 reelection bid, Mast received 77% of the vote in the Republican primary and went on to defeat his Democratic challenger in the general election. He was reelected in 2020, despite a consistent F rating and being labeled as a “true enemy to gun owners’ rights” by the NRA.

The Indiana Case Study

Indiana’s red flag law was passed in 2005 and amended in 2019. In fact, Indiana was the second state to pass such a policy, following Connecticut in 1999. The law was enacted in the wake of the 2004 death of Indianapolis police officer Jake Laird while responding to an emergency where a mentally ill individual had killed his mother and began shooting at officers. The shooter, who suffered from schizophrenia, had previous encounters with law enforcement that resulted in the confiscation of his large arsenal of firearms and ammunition. However, the individual was able to petition for the return of those weapons due to the absence of legal authority for the court to keep them away.

The Indiana General Assembly quickly convened to pass “Jake Laird’s Law,” with nearly unanimous support in both chambers. The Indiana legislation, like Florida’s law, permits only law enforcement to petition for the seizure of an individual’s firearms. In the ten years since the law’s passage, firearm suicide rates in Indiana have dropped 7.5%. After the Parkland shooting, Indiana legislators reevaluated their own law and passed an expanded version with nearly unanimous consent. The amended law made it a misdemeanor for anyone found to be dangerous to possess a firearm and a felony to knowingly or intentionally provide a firearm to a dangerous person. Republican Governor Eric Holcomb signed the bill into law and was still endorsed by the NRA in his 2020 reelection bid.

Conclusion

Red flags laws have garnered bipartisan support across the country, and recent polling shows over 70% of Americans want to see them expanded. So it’s no surprise that of the 83 members of U.S. House of Representatives whose NRA ratings were downgraded between 2008 and 2018, only 11 of them lost reelection. As the gun lobby’s once impervious grip on congressional lawmakers continues to wane, more and more Republicans are beginning to feel comfortable with confronting the NRA in an effort to prevent unnecessary tragedies like those in Parkland, Buffalo, and Uvalde. They recognize that the time for action is now.

