

# HB514 INTRODUCED



1 4QNVIR-1

2 By Representatives Yarbrough, Whorton, Butler, Harrison, Kiel,

3 Stringer

4 RFD: Judiciary

5 First Read: 23-May-23

6 2023 Regular Session



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SYNOPSIS:

Under existing law, a public official or employee is prohibited from enforcing any executive order issued by the President of United States which restricts the use, ownership, or possession of firearms and related accessories.

This bill would prohibit any state agency, state or local law enforcement agency, or political subdivision from enforcing any red flag law in this state.

This bill would provide a cause of action for the enforcement of a red flag law.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to firearms; to prohibit the enforcement of any red flag law in this state; and to provide a cause of action for the enforcement of a red flag law.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) This section shall be known and may be cited as the Anti-Red Flag Gun Seizure Act.

(b) For purposes of this section, the term "red flag



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29 law" means any federal, state, or local statute, law,  
30 regulation, ordinance, directive, rule, executive order, or  
31 judicial order or finding that prohibits a resident of this  
32 state from owning, possessing, transporting, transferring, or  
33 receiving a firearm, firearm accessory, or ammunition; or that  
34 directs or requires the temporary or permanent seizure,  
35 removal, confiscation, or surrender of a firearm, firearm  
36 accessory, or ammunition from a citizen of this state. The  
37 term shall not include Section 13A-11-72, Code of Alabama  
38 1975, Section 30-5-7, Code of Alabama 1975, or any other  
39 provision of law restricting the possession of a firearm,  
40 firearm accessory, or ammunition on the basis of a criminal  
41 conviction.

42 (c) No state agency, political subdivision, state or  
43 local law enforcement agency, or an employee thereof shall  
44 enforce, receive funds to enforce, or have authority to  
45 enforce, regardless of origin, any red flag law in this state.  
46 This subsection shall not apply to any agent of the federal  
47 government enforcing a federal law or order.

48 (d) A state or local law enforcement agency or  
49 political subdivision that employs a law enforcement officer  
50 that knowingly enforces a red flag law under the color of any  
51 state or federal statute, rule, executive order, or judicial  
52 order or finding shall be liable to the individual the law was  
53 enforced against and shall be subject to a civil penalty of  
54 fifty thousand dollars (\$50,000) per occurrence.

55 (e) (1) Any individual that suffers injury as a result  
56 of having a red flag law enforced against them shall have



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57 standing to commence an action in the circuit court of the  
58 county in which the injury occurred.

59 (2) In an action brought by an individual injured by  
60 the enforcement of a red flag law, the court may order  
61 injunctive or equitable relief, recovery of damages, other  
62 legal remedies, and payment of reasonable attorney fees,  
63 costs, and expenses incurred by the individual. The court  
64 shall hold a hearing on any motion for a temporary restraining  
65 order or preliminary injunction within 30 days of receipt.

66 (f) The Attorney General shall have standing to bring  
67 an action to enforce the provisions of this section.

68 (g) Sovereign immunity shall not be an affirmative  
69 defense to any action brought under this section.

70 (h) Nothing in this section shall be construed to  
71 prevent a firearm, firearm accessory, or ammunition from being  
72 seized as evidence by law enforcement in the course of an  
73 investigation.

74 Section 2. This act shall become effective on the first  
75 day of the third month following its passage and approval by  
76 the Governor, or its otherwise becoming law.