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Overview of Initiative 1491, to ban possession of a firearm by certain persons at the request of family members, household members or police

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Initiative 1491 would change state law to allow family members, household members and government officials, like police officers, to ask a court to take away the Second Amendment right of a person to possess a firearm. The family member, household member or government official seeking the ban would have to show that the person poses a serious risk of violent future behavior.

The court could then issue an “extreme risk protection order.” Any firearms owned by the person subject to the order would be collected by police and the person would be barred to possessing any firearm for the time period the order is in effect. The order could be in effect for up to one year, and could be renewed indefinitely by the court. If the order is violated, the person would lose the right to possess a firearm for at least five years.

The person who lost their Second Amendment rights under Initiative 1491 could ask a court for a hearing to have that right restored.

Supporters of Initiative 1491 say it is necessary for the police to remove firearms from the possession of people who might pose a danger to themselves or to others. They say that, due to mental illness, instability or past violent behavior, forcibly collecting firearms and banning their possession is sometimes necessary to prevent suicide or other violent crimes. They say the constitutional due process rights of people subjected to Initiative 1491’s ban would be protected. The advocacy group Alliance for Gun Responsibility is the sponsor of the initiative.

Opponents of Initiative 1491 question the need to expand the power of the police to initiate the confiscation firearms from private citizens. They note that under Initiative 1491 a person’s Second Amendment rights would be removed without any investigation, formal charges or prosecution.

They also note that protection orders for friends, co-workers, family members, household members and anyone else under threat are already available under current law. They say that dangerous individuals, such as the mentally ill who have been civilly committed, convicted felons and people on parole are already barred from possessing firearms. Opponents say defeat of Initiative 1491 is necessary to protect basic due process and civil rights under current law.

The initiative is opposed by the National Rifle Association and other Second Amendment groups.