



GUN OWNERS OF AMERICA

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TESTIMONY IN OPPOSITION TO HB 246

January 26, 2021 -- New Hampshire House Health, Human Services and Elderly Affairs Committee

Good afternoon, for the record, my name is Alan Rice; I am resident of Bedford, NH and I am here today as the New Hampshire State Director for Gun Owners of America, a national organization with close to 2 million individual members. **We strongly oppose HB 246.**

HB 246 is a long, complex bill which is not much different than other bills that this body has heard and rejected over the past four years. HB 246 will allow the “guardian-in-fact” of a “vulnerable adult” to strip a Granite Stater of his Second, Fourth, Fifth, and Fourteenth Amendment rights through a “secret” telephone call -- with no hearing whatsoever -- and no chance for the accused to defend himself or to state his point of view before guns are confiscated. Guilty until proven innocent is not the American way.

We believe that HB 246 is another, brazen attempt at injecting government into every aspect of people’s private lives through the use of court appointed, court ordered guardians and fiduciaries who, if HB 246 is adopted, will be given the authority to have their guns confiscated. HB 246 describes vulnerable adults as:

“Vulnerable” means that the physical, mental, or emotional ability of a person is such that he or she is unable to manage personal, home, or financial affairs in his or her own best interest, or he or she is unable to act or unable to delegate responsibility to a responsible caretaker or caregiver.

But HB 246 goes on to state that: the “vulnerable adult” can authorize the Department of Health and Human Services to act on their behalf. This seems contradictory. If the vulnerable adult is “unable to manage personal, home, or financial affairs in his or her own best interest,” how then, would that person have the presence of mind to delegate these affairs to a state agency?

This conflict shows that HB 246 was not drafted to help anyone, but rather its intention is to provide another way for disgruntled family members to retaliate against someone who has probably not done anything wrong.

Another aspect of HB 246 that places the unsuspecting in legal peril is that it allows the courts to look back in time indefinitely:

The court shall not deny the plaintiff protective orders based solely on a lapse of time between an act of abuse, exploitation, or neglect and the filing of a petition, provided that the underlying act presents a credible threat to the plaintiff’s current safety or physical, mental, or financial well-being.

Who can request such a protection order? Pretty much anyone: a disgruntled child, sibling, niece, nephew, spurned lover, visiting nurse, police officers, anti-gun conservation officers. **The list of potential plaintiffs is endless and they can request such an order over the telephone.**

HB 246 includes language that appears to allow the defendant to demand a hearing at his own expense. He can expect the cost of said hearing to be tens of thousands of dollars. What is particularly galling is that the complainant is not bound by rules of evidence; and he, she, or the bureaucrat can throw in any accusation they wish into evidence – without incontrovertible proof!

In the meantime, while the accused and defendant are waiting for a hearing, the police can take any action they wish to “protect the complainant.” This will almost certainly include gun confiscation. In accordance with standard protocol, under HB 246, the police can arrive at an individual's door in the middle of the night to ransack his house and, if he resisted, to arrest and shoot him.

This is exactly what happened in Ferndale, Maryland, to 60-year-old Gary Willis, a "gentle" man who was targeted by a vindictive relative, and who was shot to death when police arrived at his darkened house at 5:17 AM because he answered the door with a gun. Which, at 5:17AM is a prudent way to answer the door.

Sure, after the order is entered and the guns are confiscated, you can spend thousands of dollars on attorneys and experts to attempt to convince a judge to return your property. That is NOT due process; true due process occurs when the presumption of innocence remains and the accused has an opportunity to be heard in court before their property is taken.

So even if the gun owner survives the "knock-on-the-door" in the middle of the night, it is unlikely that he will be able to summon the resources to defend his constitutional rights in court.

If the sponsors of HB 246 truly wish to protect “vulnerable adults”, they should read:

R.S.A. 631:8 Criminal Neglect of Elderly, Disabled, or Impaired Adults – which provides that purposeful causing serious bodily injury to an elderly, disabled, or impaired adult is a Class A Felony and knowingly or recklessly causing serious bodily injury is a Class B Felony;

R.S.A. 631:9 Financial Exploitation of an Elderly, Disabled, or Impaired Adult, and;

R.S.A. 631:10 provides that those who financially exploit those vulnerable members of society, can be convicted of at the least a misdemeanor and at worst, if the exploitation is \$1500 or more, a Class A Felony.

These laws already protect the most vulnerable members of society -- HB 246 is not even needed.

On behalf of almost two million members of Gun Owners of America, I'm urging you to vote HB 246 “inexpedient to legislate.”

Thank you.