

April 16, 2017

From: Jim Mischel  
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**Senate Committee on Judiciary**

Chair	Senator Floyd Prozanski
Vice-Chair	Senator Kim Thatcher
Member	Senator Michael Dembrow
Member	Senator Dennis Linthicum
Member	Senator James Manning Jr.

I am writing in opposition to SB 719-4, -5 Extreme risk protection orders "Gut and Stuff".

This is a very craftily written bill aimed at confiscation of firearms, that I suspect, when put to the test, would be considered unconstitutional. But, the sponsor of this bill claim it is not. I suspect justices of the Supreme Court may have a different view. It is a bad bill that does not deserve to see the light of day. Adding this as an amendment to an existing bill to get around the rules of the senate, "cheat the system", is illegitimate and morally wrong.

This bill covers everything from the meat cleaver and butcher knife in the kitchen to the individual firearm to the car in the driveway. It does nothing to remove a rope, a step out into traffic, drowning, overdose of pills or any other form of doing harm to one's self. *It makes absolutely no provision for mental health to the person this bill accuses of having a mental problem!*

There is no due process without extreme expense and hardship to the respondent. A respondent who has been charged with nothing, a person who has been convicted of nothing. A person who suddenly finds themselves being placed in a position of extreme financial duress to defend his or her property, needed or not. There is so much inherent potential for misuse, abuse and you can bet it will occur. It costs the person filing for this order, or the Police Officer, nothing. The target of the action will probably face a minimum of \$3500 to even begin to defend his or her property.

It will cost even more money for appeals if you happen to be unfortunate enough to be in front of Multnomah County Circuit Court Judge Kenneth Walkermade:

[http://www.oregonlive.com/portland/index.ssf/2016/09/all\\_guns\\_in\\_us\\_should\\_be\\_dumpe.html](http://www.oregonlive.com/portland/index.ssf/2016/09/all_guns_in_us_should_be_dumpe.html)

**"If I could, I would take all the guns in America, put them on big barges and go dump them in the ocean," the judge said. "Nobody would have a gun. Not police, not security, not anybody. We should eliminate all of them."** (Multnomah County Circuit Court Judge Kenneth Walkermade:)

What kind of fair and impartial hearing are people going to get from someone like Walkermade?

Then you have judges like former Yamhill County Circuit Court Judge Carroll Tichenor (retired) of My Lai Massacre Prosecutorial fame.

He told my wife and I when we were trying to get protection of my Mother In Law, that our request was denied, "She may not know now what she did five minutes ago, but five minutes ago when she did it, she knew exactly what it was she was doing". November 2015.

He also has this under his belt: <http://katu.com/news/local/after-murder-suicide-judge-defends-denial-of-moms-custody-request>

Emily Sinovic KATU News, The Associated Press and KATU.com Staff Friday, July 6th 2012

"PORTLAND, Ore. - When Amy Engels filed for divorce, she feared that her husband posed an "immediate danger" to her children and asked a Yamhill County judge for temporary custody of them.

The judge, Cal Tichenor, denied her request, writing "Danger not established."

Six weeks later, police say Amy Engels' husband, Randall, shot and killed them all, including himself in the family's Dundee home. Police said Friday that Amy and the children were shot in the head and then Randall shot himself in the head..."

And these are the people, the biased and opinionated Judges and Courts you want people to go to and request an Extreme Risk Protective order from. These are the judges one will have to appear in front of to defend their property and supposedly their loved ones?

No! Arbitrary, temperamental, biased judges are not the answer. If a person is so dangerous, why are the folks not seeking a family mental commit? Why is the Police Officer not conducting a POH and taking the person who is a danger to himself or others to a medical facility for evaluation, confinement or treatment? Could it be that mental health professionals don't want to be sued or subject to malpractice charges so let them out faster than family or Law Enforcement can get to the door?

Like many other bills, what had started out as a simple respectable idea, suicide prevention, has been stolen and morphed into a monstrosity that is vehemently an anti-gun bill with confiscation of personal property without due process as its primary goal. A person who demonstrates a mental health crisis and a danger to himself (herself), can be taken to a health care facility and held for 72 hours of observation with additional steps available based on what is observed. Under this bill, "Sally threatened to cut my head off because I wouldn't take her to the movies". Oops there goes the guns, the BBQ gas and the kitchen utensils for a year. Tow off the car and the pickup and good luck on taking the swimming pool in the back yard.

"(D) Driving under the influence of intoxicants under ORS 813.010 or 813.011;"

Ridiculous to the supposed purpose of this bill and an "Extreme Risk Protection Order". A firearm or the kitchen butcher knife isn't the problem here. Alcoholic Beverages, Drugs to include Marijuana and a Motor vehicle is the problem.

"(E) An offense involving cruelty or abuse of animals;"

By whose definition? According to certain folks and animal rights groups, this would include anyone who participates in or supports rodeos, hunting, fishing or butchering a chicken. No ORS or legal definition is defined here.

"(d) Evidence of controlled substance or alcohol abuse;"

By whose definition? Oregon passed a law "legalizing" marijuana, now you are saying don't smoke your joint or you could lose your firearms? Again, no legal definition defined here.

"(g) Evidence of an acquisition or attempted acquisition within the previous 180 days by the respondent of a firearm, ammunition of another deadly weapon as defined in ORS 161.015;"

There goes the hunting season, target practice and all rod and gun clubs. ODFW is going to be very upset over the loss of license revenue. Under this very "consideration" alone, I qualify to have my firearms confiscated many times over.

By whose definition will we define an "unlawful and reckless display or brandishing of a firearm." Would this include cowboy action shooting, or perhaps the person who carries his shotgun from his house to his pickup parked in his own driveway, just to have a teacher at the school next door report this nefarious affair and cause a massive law enforcement response and school lock down. Don't laugh; this very thing happened to me just a couple of short years ago.

Instead of attacking individual rights in this manner, perhaps you should concentrate your efforts towards emergency mental health interdiction such as given Law Enforcement Officers a much stronger position and support for making Peace Officer Mental Holds.

Respectfully,  
Jim Mischel  
Sheridan, Oregon