

A proposal before the Board of County Commissioners, Levy County, Florida

To reinforce existing Resolution 2019-099, Declaring Levy County a Second Amendment Sanctuary, by enacting an ordinance to prevent the use of Levy County government funds and resources for the purpose of enforcing any law, arising under federal statute, which limits or affects the rights of Levy County citizens to keep and bear arms.

Second Amendment Sanctuary resolutions, while common, are largely symbolic. The proposed ordinance would strengthen Resolution 2019-099.

- More than 61% of American Counties are Now Second Amendment Sanctuaries.
<https://sanctuarycounties.com/2021/06/20/more-than-61-of-american-counties-are-now-second-amendment-sanctuaries/>
- Ultimately, "Second Amendment sanctuary" resolutions are purely symbolic and have no legal weight – and many state officials are making this clear.
<https://www.bradyunited.org/act/second-amendment-sanctuaries>
- "I think it's really just posturing by the gun lobby and their supporters," said Andy Pelosi, who co-chairs The Florida Coalition to Prevent Gun Violence. "It really doesn't have any teeth."
<https://www.foxnews.com/us/florida-county-second-amendment-sanctuary-gun-rights> (in response to Lake County, Florida, resolution.)

We can do more - fifteen states have enacted legislation to protect Second Amendment rights from future restrictions.

<https://www.uslawshield.com/second-amendment-sanctuary-state-update-15-and-counting/>

- "Under this act, no public officer or state or local employee has the authority to enforce firearms laws declared invalid by the act. However, state employees may accept aid from federal officials in an effort to enforce Missouri laws. Sovereign immunity shall not be an affirmative defense under this act."
- "Any public officer or state or local employee who tries to enforce the firearms law declared invalid by the act or any person who acts under the color of law to deprive a Missouri citizen of rights or privileges ensured by the federal and state constitutions shall be subject to a civil penalty of \$50,000 per employee hired by the law enforcement agency. In such an action attorney's fees and costs may be awarded."
- Missouri HB 85, "Second Amendment Preservation Act," (signed into law 6/14/21).



Why we can - The proposed ordinance is a permissible exercise of the Commission's authority under Florida's Home Rule Powers Act.

- The act reads, in pertinent part, "As provided in s. 2(b), Art. VIII of the State Constitution, municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law." Fla. Stat. § 166.021 (1) (2020).
- The proposed ordinance is not preempted by Fla. Stat. § 790.33 because it does not affect the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage, or transportation of firearms or ammunition.

Why we should - The Commission should enact the proposed ordinance to safeguard Second Amendment rights within Levy County and to avoid liability under Florida law.

Florida Senate Bill No. 1884, Preemption of Firearms and Ammunition Regulation, Section 2. This act shall take effect July 1, 2021.
Approved by the Governor May 7, 2021.

" A person or an organization [...] who is adversely affected by any ordinance, regulation, measure, directive, rule, enactment, order, or policy, whether written or unwritten, promulgated or caused to be enforced in violation of this section may file suit against any county, agency, municipality, district, or other entity in any court of this state having jurisdiction over any defendant to the suit for declaratory and injunctive relief and for actual damages, as limited herein, caused by the violation. A court shall award the prevailing plaintiff in any such suit [attorney fees and damages not more than \$100,000]." SB1884 at 20-34.

The current United States federal executive departments hold blatant disregard for constitutional rights where firearms are at issue.

- Caniglia v. Strom, No. 20-157, May 17, 2021, the unanimous decision of the court held, *inter alia*, The very core of the Fourth Amendment's guarantee is the right of a person to retreat into his or her home and "there be free from unreasonable governmental intrusion."
- Biden Admin Argues in Favor of Qualified Immunity in Case Where Police Seized Guns from Man's Home without Warrant. <https://www.msn.com/en-us/news/crime/biden-admin-argues-in-favor-of-qualified-immunity-in-case-where-police-seized-guns-from-man-s-home-without-warrant/ar-BB1e7HET>
- June 7, 2021, the USDOD released a model confiscation order for legislation which, if enacted, would empower the government to extinguish a person's Second Amendment rights and confiscate their firearms without due process. <https://www.nraila.org/articles/20210609/doj-releases-biden-gun-confiscation-order-legislation>

David Chipman, the anticipated ATF Director, is reputed to hold views and beliefs which are hostile to the Second Amendment and therefore hostile to the rights of the citizens of Levy County.

- Biden's planned pick for ATF director a fierce advocate for gun control.
<https://www.cnn.com/2021/04/07/politics/david-chipman-joe-biden-atf-director/index.html>
- It's hard to imagine choosing a nominee who is more hostile to the rights of American gun owners than Chipman," the National Rifle Association said in a statement.
- Senator Marsha Blackburn, a Republican from Tennessee, argued that Chipman had an "agenda." "I asked him if he referred to common semiautomatic rifles as assault weapons, and he affirmed, yes, he did," she said. His position "would effectively ban all sporting rifles in the United States."
<https://www.courthousenews.com/senate-panel-advances-biden-nominee-to-atf-director/>



The ATF's Frontline business model seeks to commandeer local resources to enforce federal gun laws.



"Frontline is ATF's collaborative and intelligence-driven approach to accomplishing its law enforcement and regulatory mission. Importantly, Frontline relies on ATF's highly valued partnerships with state and local law enforcement agencies to be effective in fighting violent crime."

"Under this collaborative approach, ATF's Frontline business model ensures ATF's limited resources are focused on the most violent offenders in a community, where the strong penalties associated with federal violations represent the most appropriate sanctions. To ensure ATF's resources are aligned to produce maximum impact, Frontline requires ATF field divisions to conduct annual domain assessments to identify the law enforcement and regulatory priorities specific to their respective areas of responsibility."

The ATF is establishing Task Forces across the country in an effort to enlist state and local officers to enforce federal gun laws.

NYPD, Federal ATF Create Illegal-Gun Task Force After Shootings



Source:

<https://www.bloomberg.com/news/articles/2021-06-08/nypd-federal-atf-create-illegal-gun-task-force-after-shootings>

Task force with ATF agents and local law enforcement created to combat gun violence on the Peninsula



Source:

- [Task force with ATF agents and local law enforcement created to combat gun violence on the Peninsula | WAVY.com](#)

The proposed ordinance would be a model application of Federalism: a form of government in which powers are divided between two levels of government of equal status.





Printz v. United States, 521 U.S. 898 (1997)

Held: The federal government violated the Tenth Amendment when Congress required state and local officials to perform background checks on people buying guns.

Proposed ordinance language

- “Whereas” language within Resolution 2019-099, plus:
- Federalism statement
- Substantive text: “No funds, resources, employees, agencies, contractors, buildings, detention centers, or offices of Levy County may be appropriated for the purpose of enforcing any law, arising under federal law, which limits or affects the rights of the citizens of Levy County to keep and bear arms.”
- Enforcement mechanism

Take away – the proposed ordinance will and won't:



- Won't prevent the enforcement of any state law;
- Won't force county officers or employees to judge the constitutionality of federal law;
- will help Levy County avoid liability under Florida Senate Bill No. 1884;
- will prevent the use of Levy County resources against our citizens;
- will preserve valuable funds and resources;
- will protect the Constitutional Rights of Levy County citizens.