

The Trace

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In this Monday, Dec. 9, 2019 photo, a man stands near the doorway as Lynchburg residents meet over a 2nd Amendment sanctuary resolution. [Emily Elconin/The News & Advance via AP]

GUN RIGHTS

Second Amendment Sanctuaries, Explained

The wave of local resolutions to defy state and federal gun laws has reached more than 400 municipalities in 20 states.

by Jennifer Mascia · @JenniferMascia · January 14, 2020

In the span of two months, more than 120 towns, cities, and counties in Virginia have declared themselves “Second Amendment sanctuaries” where “unconstitutional” gun laws would not be enforced. The movement is drawing steam from the raft of gun reform bills state Democrats introduced after gaining full **control** of the statehouse for the first time in more than two decades.

But Virginia is hardly alone: More than 400 municipalities in 20 states have now passed resolutions opposing the enforcement of certain gun laws passed by state or federal lawmakers. In other places, sheriffs say they won’t enforce specific gun safety laws and firearm confiscation statutes.

Meanwhile, rural residents in both red and blue states continue to pack public meetings to protest gun regulations. In December, GOP Kentucky Representative Thomas Massie attended a standing-room only meeting of the Vanceburg City Council and **observed** that his constituents’ enthusiasm for the gun sanctuary movement “feels even stronger than the Tea Party in 2010.”

What exactly is the Second Amendment sanctuary movement?

The gun rights supporters who came up with the term “Second Amendment sanctuary” modeled the idea on the “sanctuary cities” that **flourished** in the early 2000s as some liberal cities resisted immigration policies. In that iteration, San Francisco and other cities prohibited the use of public resources to assist federal immigration enforcement.

Bryan Kibler, the state’s attorney in Effingham County, Illinois, is credited with first applying the term to the gun debate. “We’re just stealing the language that sanctuary cities use,” he **told** The Associated Press in

2018. (Before this, a few states and counties had passed what were, effectively, gun sanctuary laws, but they didn't yet use that terminology.)

The newer, Second Amendment type of sanctuary refers to a city, town, or county that has adopted a resolution rejecting the enforcement of state or federal gun laws perceived to violate the Second Amendment. Targeted regulations commonly include red flag laws, universal gun background checks, and bans on assault-style weapons.

The specific language used in Second Amendment resolutions varies from place to place. **Some** are more general declarations in support of Second Amendment rights, while **others** specify how a community will withhold support for state or federal gun laws.

In Effingham County, Illinois, officials **passed a resolution** in April 2018 vowing not to enforce "the unconstitutional actions of the state government." The action was prompted by five proposals then under consideration by state lawmakers — including a bump stock ban, an assault weapons ban, and a high-capacity magazine ban. Within a few weeks, four other rural counties **followed suit**. Today, **more than 70** municipalities throughout Illinois have declared themselves gun sanctuaries. And they have spread to 19 other states. Colorado counties **began passing** such resolutions this past spring as a red flag law advanced in the state legislature; by the time the new law took effect this year, 44 localities had enacted them.

What role do rural sheriffs play in the sanctuary movement?

After a wave of states passed reforms after Sandy Hook in 2013, sheriffs in Oregon began **publicly declaring** that they wouldn't enforce new gun restrictions. Many of these law enforcement officials align themselves with the movement of "**constitutional sheriffs**," who believe their position should grant them the authority to determine the constitutionality of state and local laws, even if that means defying the federal government. In New Mexico, 30 of the state's 33 county sheriffs have announced their support for gun sanctuaries; in Washington, 24 of the state's 39 sheriffs **have**; and in Nevada, all of the state's 17 sheriffs have **publicly declared** their opposition to new gun laws.

Although some of these rural sheriffs acted before the first Second Amendment sanctuary resolution passed, they are generally considered to be a part of the same movement.

What are the legal implications for gun sanctuary resolutions?

Many experts say that sanctuary resolutions are largely symbolic and not legally binding. But last year, after the movement had spread to 12 states, Kibler, the state's attorney in Effingham County, told **Rolling Stone**, "We've gotten past the symbolic stage. We're standing up for ourselves."

Now, a number of state attorneys general and other legal experts argue that there could be court challenges or lawsuits for localities that stop enforcing state gun laws.

Virginia Attorney General Mark Herring **opined** in December that the resolutions "have no legal force." Last year, Washington Attorney General Bob Ferguson **warned** that sheriffs who declined to enforce Initiative 1639 — which required enhanced background checks for semiautomatic rifles — could be held liable if a law enforcement official refused to vet a gun buyer who later uses that gun to harm someone. And Colorado's Attorney General Phil Weiser **said** that any sheriffs who refuse to enforce new gun laws should resign.

Mary B. McCord, a former acting assistant attorney general for national security, argued in **The Washington Post** that Second Amendment sanctuary resolutions have no legal basis and that only a court can overturn a state or federal law. "State constitutions, statutes and common law generally affirm the 'supremacy' of federal and state law, meaning that local jurisdictions are preempted from enacting conflicting ordinances and resolutions," she wrote.

Some officials who have passed gun sanctuary resolutions acknowledge that they don't carry the force of law. The Board of Commissioners in Citrus County, Florida, said its resolution was a declaration of support.

for the Second Amendment and had no legal authority. "It's not saying we won't obey rules," Commissioner Jimmie T. Smith **said**.

But other local governments have used their resolutions to outline specific enforcement actions. The Mohave County, Arizona, Board of Supervisors, which **passed** a Second Amendment sanctuary resolution in November, **said** it "will not authorize or appropriate government funds, resources, employees, agencies, contractors, buildings, detention centers, or offices for the purpose of enforcing laws that unconstitutionally infringe on the people's right to keep and bear arms."

Gun reform advocates say that the court system is where this dispute should — and will — play out. "The proper procedure if law enforcement officers and local governments have issue with new laws is to bring legal action in the courts, and have courts determine whether those laws are constitutional," said Jonathan Lowy, vice president of the legal action project at the gun reform group Brady.

Then there is the possibility of lawsuits — the kind brought by victims of gun violence perpetrated by someone whose gun should theoretically have been confiscated.

Does the gun lobby support the sanctuary effort?

Yes, but the extent of its role in helping the movement spread remains unclear.

The National Rifle Association has offered broad, if vaguely worded, support: "Liberty is reliant upon the participation of free people, and this includes the vast number of citizens and communities who are lawfully exercising their rights under the First Amendment to defend their freedoms under the Second," the organization said in **a December statement**. "It is the tyrannical nature of politicians that triggers sanctuary, not the other way around."

But last February, Brady **obtained** emails suggesting that the NRA had **ghostwritten** pro-gun op-eds for rural New Mexico sheriffs to submit to local newspapers.

"We're not talking about a grassroots movement," Christian Heyne, the group's vice president, said during a call with reporters earlier this month. "This is coming from this gun industry that, frankly, can feel the fact that the public no longer finds them relevant."

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