



Written by [Bob Adelman](#) on January 13, 2023

Dozens of Illinois Sheriffs Won't Enforce New Gun Law

[More than 80 Illinois county sheriffs](#) are refusing to enforce the state's new gun law banning the sale, purchase, or possession of so-called assault weapons. The new law also bans magazines with capacities exceeding 10 rounds for rifles and 15 rounds for pistols. In addition, the new law, while grandfathering firearms owned prior to passage of the law, requires owners of the now-offending firearms to register them with the state police.

Whiteside County Sheriff John Booker says that the law "goes after the law-abiding citizen ... [that's] what we're upset about." Sheriffs in Greene, Macoupin, Monroe, and Madison counties won't be enforcing the law either.

McHenry County Sheriff Robb Tadelman announced that "neither myself nor my office will be checking to ensure that lawful gun owners register their weapons with the state, nor will we be arresting ... law-abiding individuals who have been charged solely with non-compliance with this act."

Sheriffs in Kankakee, Boone, and Winnebago counties aren't going to enforce it.

McDonough County Sheriff Nick Petitgout called the new law "a clear violation of the Second Amendment to the U.S. Constitution."

Knox County Sheriff Jack Harlan issued a news release:

Part of my duties that I accepted upon being sworn into office was to protect the rights provided to all of us, in the Constitution. One of those enumerated rights is the right of the people to keep and bear arms, provided under the Second Amendment.

I, among many others, believe that [the new law] is a clear violation of the Second Amendment.

Edwards County Sheriff Darby Boewe posted a lengthy statement on Facebook:

Part of my duties that I accepted upon being sworn into office was to protect the rights provided to all of us, in the Constitution. One of those rights enumerated is the right of the people to KEEP and BEAR ARMS provided under the 2nd Amendment. The right to keep and bear arms for defense of life, liberty and property is regarded as an inalienable right by the people...

Therefore, as custodian of the jail and chief law enforcement officer for Edwards County, that neither myself or my office will be checking to ensure that lawful gun owners register their weapons with the state, nor will we be arresting or housing individuals that have been



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charged solely with non-compliance of this act.

Madison County Sheriff Jeff Conner went even further. In a joint statement with the county's State Attorney Tom Haine, they wrote:

We feel the duty to clarify for our citizens the policy their Madison County law enforcement leaders will adopt with regard to this new situation....

As with any statute passed by the legislature and signed by the governor, it is presumed constitutional.

But we are acutely aware that this statute touches on fundamental constitutional issues and is in obvious tension with recent and binding Supreme Court precedent on the Second Amendment [i.e., *New York State Rifle & Pistol Association, Inc. v. Bruen*]. Among other things, it bans many of the most popular firearms in America, firearms that are currently in common use for lawful purposes and which law-abiding citizens have legally owned for many years.

Whatever the policy justification, such a ban is hard to square with the Supreme Court's 2022 decision in *Bruen*, which stated simply: "the Second Amendment protects the possession and use of weapons that are 'in common use at the time.'" Based on the analysis above, we expect a strong court challenge to HB 5471 in short order....

Therefore, pending further direction by the courts, the Madison County Sheriff's Office will not expend its limited resources to check whether otherwise law-abiding gun owners have registered their weapons with the state, nor will the Madison County Sheriff's Office be arresting or housing otherwise law-abiding individuals solely due to non-compliance with [the law]....

The citizens of Madison County can remain confident that their local law enforcement will not turn the criminal justice system against those acting within their clearly defined constitutional rights.

Without saying so directly, these Illinois county sheriffs are taking their roles as constitutional sheriffs seriously. Former Graham County, Arizona, Sheriff Richard Mack defined those roles:

"To keep the peace and to secure, defend and protect the people of this jurisdiction from threats to their liberties, their livelihoods, and the peaceable enjoyment of their property.

The nature of that solemn oath requires that the actions of the sheriff in the performance of his duty must conform to the Constitution of the United States and the Constitution of this State.

The State of Illinois, represented by Governor J.B. Pritzker, rejects the whole idea of constitutional sheriffs defending the rights of those who elected them. A Pritzker spokesman declared that, contrary to the opinions expressed by those 80-some sheriffs, "the assault weapons ban is the law of Illinois. The General Assembly passed the bill, and the governor signed it into law.... Sheriffs have a constitutional duty to uphold the laws of the state [and] not pick and choose which laws they support."



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Harold Krent, a professor at Chicago-Kent College of Law, agrees with Pritzker:

The General Assembly has decided [that the gun law] is constitutional. The [state's] attorney general has decided it's constitutional. I think it's an incredible risk for sheriffs to say: "We're not going to enforce a law" because that's encouraging a lack of respect for the law.

Various pro-Second Amendment groups, including the Second Amendment Foundation, are filing suits against the law. They have not only the *Bruen* decision on their side, they also have the Supreme Court's decision in *Norton v. Shelby County*, decided in 1886, on their side. In that case the high court ruled:

An unconstitutional statute is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal contemplation, as inoperative as though it had never been passed.

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