

RESOLUTION 11 - 2019

**THE BOARD OF COMMISSIONERS OF MONTROSE COUNTY, COLORADO  
AFFIRMING SUPPORT OF SECOND AMENDMENT RIGHTS AND URGING THE COLORADO GENERAL  
ASSEMBLY TO FOCUS FUNDING AND LEGISLATION TOWARD INCREASING MENTAL HEALTH CARE  
AVAILABILITY IN COLORADO**

**WHEREAS**, C.R.S. 30-11-101 provides counties with the authority to adopt and enforce ordinances and resolutions regarding health, safety and welfare issues; and

**WHEREAS**, C.R.S. 30-11-103 provides that the powers of a county as a body politic and corporate shall be exercised by the board of county commissioners; and

**WEHREAS**, The Second Amendment to the United States Constitution, adopted in 1791 as part of the Bill of Rights, protects the inalienable and individual right of the people to keep and bear arms; and

**WHEREAS**, The Supreme Court said in the case *District of Columbia v. Heller*, 554 U.S. 570 (2008), "(t)he Second Amendment...is the very product of an interesting balancing by the people...(which) surely elevates above all other interests the rights of law-abiding, responsible citizens to use arms in defense of hearth and home."; and

**WHEREAS**, the Supreme Court in *McDonald v. Chicago*, 561 U.S. 742 (2010), affirmed that the right of an individual to "keep and bear arms," as protected under the Second Amendment, is incorporated by the Due Process Clause of the Fourteenth Amendment against the "infringement by the States"; and

**WHEREAS**, the Supreme Court, in *United States v. Miller*, 307 U.S. 174 (1939), opined that firearms that could "contribute to the common defense" are protected by the Second Amendment; and

**WHEREAS**, Article II, Section 3 of the Constitution of Colorado provides that all "persons have certain inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; of acquiring, possessing and protecting property; and of seeking and obtaining their safety and happiness"; and

**WHEREAS**, Article II, Section 13 of the Constitution of Colorado provides that the "right of no person to keep and bear arms in defense of his home, person and property, or in aid of the civil power when thereto legally summoned, shall be called in question"; and

**WHEREAS**, Article II, Section of the Constitution of Colorado provides that no “ex post facto law nor law impairing the obligation of contracts, or retrospective in its operation.....shall be passed by the general assembly”; and

**WHEREAS**, Article II, Section 7 of the Constitution of Colorado provides that the “people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures”; and

**WHEREAS**, Article II, Section 15f the Constitution of Colorado provides that “(p)ivate property shall not be taken or damaged, for public or private use, without just compensation,” which the Colorado Supreme Court has indicated includes a legal interference with the physical use, possession, disposition, or enjoyment of the property, including temporarily; and

**WHEREAS**, the Board finds that mental health illnesses are an increasing source of concern as a cause of suicide, domestic violence and violence in the community; and

**WHEREAS**, the Board finds that making appropriate mental health services and facilities and substance abuse services and facilities available to all persons should be a primary focus of legislative attempts at preventing possible dangers of firearm possession by persons suffering from mental health or substance abuse conditions; and

**WHEREAS**, the Board finds that identification, evaluation and treatment of persons in need of mental health or substance abuse services, including state funding of additional mental health and substance abuse facilities, should also be a primary focus of preventing possible dangers of firearm possession by such individuals; and

**WHEREAS**, the Board finds that any legislation which potentially infringes upon an individual’s rights under the Constitution to own one or more firearms, to be free of unlawful searches and seizures, to be considered innocent until proven guilty beyond a reasonable doubt, and to be able to confront his accusers, must be very narrowly tailored to address mental health and substance abuse treatments and services as the primary focus with any other remedies such as confiscation of firearms as an exigent circumstance; and

**WHEREAS**, the Board finds that House Bill 19-1177 fails to adequately address the need for increased attention to mental health and substance abuse services and facilities and attempts to solve perceived concerns regarding possible dangers of persons with mental health or substance abuse issues possessing firearms by failing to adequately protect Constitutional rights of individuals; and

**WHEREAS**, the Board finds that House Bill 19-1177 infringes upon the inalienable rights of the citizens of unincorporated Montrose County by allowing for family members, roommates and law enforcement officers to petition for the temporary removal of weapons *ex parte*, without notice or the right to confront one's accusers, contemplating search warrants that order peace officers to forcibly enter premises and confiscate an individual's property without evidence of a crime being committed; and

**WHEREAS**, the Board finds that it is more reasonable and just to address growing concerns about mental health and substance abuse by addressing how to provide services to meet those needs rather than to limit the inalienable rights of law-abiding citizens.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONTROSE COUNTY** that:

1. The General Assembly is strongly urged to not adopt and pass into law HB 19-1177, and Governor Polis is hereby requested to veto such legislation, if it is passed by the General Assembly and comes to his desk for signature.
2. The General Assembly is urged to fund additional mental health services and facilities, since it is noted that the state mental health hospital in Pueblo is insufficient to meet the demands for mental health evaluation, treatment and services for substance abuse.
3. Montrose County will support and protect the constitutional rights of its citizens and reiterates its support for all individual rights and liberties guaranteed by the constitutions of the United States and the state of Colorado.

Done this 20<sup>th</sup> day of March, 2019.

ATTEST:

*Tressa Guynes*

*Eloise Lentz*  
Eloise Lentz, Deputy Clerk



**Board of County Commissioners of  
Montrose County, Colorado**

*Sue Hansen*

Sue Hansen, Chair

*Roger Rash*

Roger Rash, Vice Chair

*Keith Caddy*

Keith Caddy, Commissioner