

JAN 18 2023

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# A BILL FOR AN ACT

RELATING TO FIREARMS POSSESSION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that registration  
2 requirements and background checks help prevent the  
3 proliferation of firearms to persons not permitted to possess  
4 one. The legislature also acknowledges that circumstances may  
5 arise where an individual once permitted to own firearms may no  
6 longer have that right. Currently, there is no mechanism for  
7 law enforcement to ensure that a person who already possesses  
8 firearms but has subsequently lost the right to own one properly  
9 disposes or dispossesses themselves of their firearms.

10           Accordingly, the purpose of this Act is to require those  
11 individuals who can no longer possess firearms and ammunition to  
12 provide a sworn statement to law enforcement stating that they  
13 no longer possess firearms and ammunition, and give law  
14 enforcement agencies a mechanism to remove firearms and  
15 ammunition in the case of noncompliance.

16           SECTION 2. Section 134-7, Hawaii Revised Statutes, is  
17 amended by amending subsections (f) and (g) to read as follows:



1           "(f) No person who has been restrained pursuant to an  
2 order of any court, including a gun violence protective order  
3 issued pursuant to part IV, from contacting, threatening, or  
4 physically abusing any person, shall possess, control, or  
5 transfer ownership of any firearm or ammunition therefor, so  
6 long as the protective order, restraining order, or any  
7 extension is in effect, unless the order, for good cause shown,  
8 specifically permits the possession of a firearm and ammunition.  
9 The protective order or restraining order shall specifically  
10 include a statement that possession, control, or transfer of  
11 ownership of a firearm or ammunition by the person named in the  
12 order is prohibited. The person restrained shall relinquish  
13 possession and control of any firearm and ammunition owned by  
14 that person to the police department of the appropriate county  
15 for safekeeping for the duration of the order or extension  
16 thereof. ~~[A]~~ Prior to the service of a protective order or  
17 restraining order on a person who possesses or may possess a  
18 firearm or ammunition, or both, the chief of police shall search  
19 all applicable records to determine whether the person has been  
20 issued any permits to acquire or has registered any firearms,  
21 and at the time of service ~~[of a protective order or restraining~~



1 ~~order involving firearms and ammunition issued by any court~~, a  
2 police officer [~~may~~] shall take custody of any and all firearms  
3 and ammunition in plain sight, those discovered pursuant to a  
4 consensual search, and those firearms [~~surrendered~~] relinquished  
5 by the person restrained. If the person restrained is the  
6 registered owner of a firearm and knows the location of the  
7 firearm, but refuses to [~~surrender~~] relinquish the firearm or  
8 refuses to disclose the location of the firearm, the person  
9 restrained shall be guilty of a misdemeanor. In any case, when  
10 a police officer is unable to locate the firearms and ammunition  
11 either registered under this chapter or known to the person  
12 granted protection by the court, the police officer shall apply  
13 to the court for a search warrant pursuant to chapter 803 for  
14 the limited purpose of seizing the [~~firearm~~] firearms and  
15 ammunition.

16 For the purposes of this subsection, good cause shall not  
17 be based solely upon the consideration that the person subject  
18 to restraint pursuant to an order of any court is required to  
19 possess or carry firearms or ammunition during the course of the  
20 person's employment. Good cause consideration may include but



1 not be limited to the protection and safety of the person to  
2 whom [~~a restraining~~] the order is granted.

3 (g) Any person disqualified from ownership, possession,  
4 control, or the right to transfer ownership of firearms and  
5 ammunition under [~~this section~~] subsection (a), (b), (c), (d),  
6 or (e) shall [~~surrender or~~] dispose of all firearms and  
7 ammunition in compliance with section 134-7.3."

8 SECTION 3. Section 134-7.3, Hawaii Revised Statutes, is  
9 amended by amending subsections (a) through (d) to read as  
10 follows:

11 "(a) If any applicant is denied a permit, the chiefs of  
12 police of the respective counties shall send, by certified mail,  
13 a notice setting forth the reasons for the denial and [~~may~~]  
14 shall require that the applicant [~~voluntarily surrender all~~  
15 ~~firearms and ammunition to the chief of police where the~~  
16 ~~applicant resides or~~] dispose of all firearms and ammunition[-]  
17 and provide a sworn statement to the chief of police that the  
18 applicant has disposed of all firearms and ammunition in the  
19 applicant's possession. The chief of police shall search all  
20 applicable records to determine whether the applicant has been  
21 issued any permits to acquire or has registered any firearms.



1 If [~~an~~] the applicant fails to [~~voluntarily surrender or~~]  
2 dispose of all firearms and ammunition within thirty days from  
3 the date notice was mailed, the chief of police [~~may~~] shall  
4 seize all firearms and ammunition[~~-~~] from the applicant and, as  
5 necessary, shall apply to the court for a search warrant  
6 pursuant to chapter 803 for the limited purpose of seizing the  
7 firearms and ammunition.

8 (b) Any person disqualified from ownership, possession, or  
9 control of firearms and ammunition under section [~~134-7~~] 134-  
10 7(a), (b), (c), (d), or (e) or part IV, within forty-eight hours  
11 of disqualification, shall [~~voluntarily surrender all firearms~~  
12 ~~and ammunition to the chief of police where the person resides~~  
13 ~~or~~] dispose of all firearms and ammunition[~~-~~] and provide a  
14 sworn statement to the chief of police that the person has  
15 disposed of all firearms and ammunition in the person's  
16 possession. The chief of police shall search all applicable  
17 records to determine whether the person has been issued any  
18 permits to acquire or has registered any firearms. If [~~any~~] the  
19 person fails to [~~voluntarily surrender or~~] dispose of all  
20 firearms and ammunition within forty-eight hours from the date  
21 of disqualification, the chief of police [~~may~~] shall seize all



1 firearms and ammunition[-] and, as necessary, shall apply to the  
2 court for a search warrant pursuant to chapter 803 for the  
3 limited purpose of seizing the firearms and ammunition.

4 (c) For any person disqualified from ownership,  
5 possession, or control of firearms and ammunition under section  
6 134-7(c), or because the person has been admitted to a  
7 psychiatric facility, whether for emergency or involuntary  
8 hospitalization, pursuant to part IV of chapter 334, once the  
9 chief of police is notified that the person is disqualified, the  
10 chief of police shall promptly issue a notice to the  
11 disqualified person to immediately [~~surrender~~] dispose of all  
12 firearms and ammunition[-] and provide a sworn statement to the  
13 chief of police that the person has disposed of all firearms and  
14 ammunition in the person's possession. The chief of police  
15 shall search all applicable records to determine whether the  
16 person has been issued any permits to acquire or has registered  
17 any firearms. The notice shall be in writing, shall set forth  
18 the reasons for the disqualification, and shall state the  
19 requirement that the person immediately [~~surrender~~] dispose of  
20 all firearms and ammunition to the chief of police. If [any]  
21 the person fails to [~~voluntarily surrender~~] dispose of all



1 firearms and ammunition upon receiving notice, the chief of  
2 police ~~[may]~~ shall seize all firearms and ammunition~~[-]~~ from the  
3 person and, as necessary, shall apply to the court for a search  
4 warrant pursuant to chapter 803 for the limited purpose of  
5 seizing the firearms and ammunition. The firearms and  
6 ammunition shall be held in police custody until the person has  
7 been medically documented to be no longer adversely affected as  
8 provided in section 134-7 or until transferred or sold by the  
9 owner. Nothing in this subsection shall be construed to limit  
10 the duties imposed by subsection (b).

11 (d) For the purposes of this section, "dispose" means  
12 selling the firearms to a gun dealer licensed under section  
13 134-31, transferring ownership of the firearms to any person who  
14 meets the requirements of section 134-2, or surrendering all  
15 firearms to the chief of police where the person resides for  
16 storage or disposal~~[-; provided that, for a person subject to~~  
17 ~~section 134-7(f) or part IV, "dispose" shall not include~~  
18 ~~transferring ownership of the firearms to any person who meets~~  
19 ~~the requirements of section 134-2]."~~

20 SECTION 4. Section 134-7.5, Hawaii Revised Statutes, is  
21 amended by amending subsection (a) to read as follows:



1           "(a) Any police officer who has reasonable grounds to  
2 believe that a person has recently assaulted or threatened to  
3 assault a family or household member [~~may~~] shall seize all  
4 firearms and ammunition that are in plain view of the officer or  
5 were discovered pursuant to a consensual search and that the  
6 police officer has reasonable grounds to believe were used or  
7 threatened to be used in the commission of the offense. [~~The~~  
8 ~~police officer may seize any firearms or ammunition that are in~~  
9 ~~plain view of the officer or were discovered pursuant to a~~  
10 ~~consensual search, as necessary for the protection of the~~  
11 ~~officer or any family or household member.] Firearms seized  
12 under this section shall be taken to the appropriate county  
13 police department for safekeeping or as evidence."~~

14           SECTION 5. Section 806-11, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) through (c) to read as  
16 follows:

17           "(a) At the time of arraignment, the court shall order a  
18 defendant who is under indictment for, or who has waived  
19 indictment for, or who has been bound over to the circuit court  
20 for a felony, or any crime of violence, or an illegal sale of  
21 any drug, to dispose of all firearms and ammunition within the



1 defendant's possession in a manner in compliance with the  
2 provisions of chapter 134 and shall inform the defendant of the  
3 provisions of section 134-7(b) and section 134-12.5. The  
4 defendant shall comply with an order issued pursuant to this  
5 section within forty-eight hours of the issuance of such  
6 order[-] and provide a sworn statement to the chief of police  
7 where the defendant resides that the defendant has disposed of  
8 all firearms and ammunition in the defendant's possession. A  
9 defendant's compliance with the forty-eight-hour requirement of  
10 this section shall not give rise to a prosecution for violations  
11 of sections 134-2, 134-3 or 134-4.

12 (b) The court shall immediately notify the chief of police  
13 of the county where the defendant resides that the defendant has  
14 been ordered to [~~voluntarily surrender all firearms and~~  
15 ~~ammunition to the chief of police or~~] dispose of all firearms  
16 and ammunition within the defendant's possession. The chief of  
17 police shall search all applicable records to determine whether  
18 the defendant has been issued any permits to acquire or has  
19 registered any firearms.

20 (c) If the defendant fails to [~~voluntarily surrender all~~  
21 ~~firearms and ammunition to the chief of police where the~~



1 ~~defendant resides or~~ dispose of the firearms and ammunition  
 2 within forty-eight hours of the issuance of the order, the chief  
 3 of police [~~may~~] shall seize all firearms and ammunition[~~-~~] and,  
 4 as necessary, shall apply to the court for a search warrant  
 5 pursuant to chapter 803 for the limited purpose of seizing the  
 6 firearms and ammunition."

7 SECTION 6. This Act does not affect rights and duties that  
 8 matured, penalties that were incurred, and proceedings that were  
 9 begun before its effective date.

10 SECTION 7. Statutory material to be repealed is bracketed  
 11 and stricken. New statutory material is underscored.

12 SECTION 8. This Act shall take effect upon its approval.

13

INTRODUCED BY: Karl Rhoad



# S.B. NO. 53

**Report Title:**

Firearms Possession; Surrender or Disposal

**Description:**

Requires individuals denied a firearm permit or otherwise disqualified from possessing firearms and certain defendants to provide a sworn statement that the individual has disposed of any firearms and ammunition in the individual's possession. Requires the applicable chief of police to search firearm permit and registration records for those individuals before serving a protective order or restraining order involving firearms or ammunition, and to seize any firearms or ammunition that were not disposed of. Requires police to seize firearms and ammunition in domestic abuse cases that are in plain view of the officer or discovered by consensual search.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

