

JAN 23 2015

A BILL FOR AN ACT

RELATING TO FIREARMS POSSESSION.

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

1 SECTION 1. Section 134-7, Hawaii Revised Statutes, is
2 amended by amending subsection (f) and (g) to read as follows:
3 "(f) No person who has been restrained pursuant to an
4 order of any court, including an ex parte order as provided in
5 this subsection, from contacting, threatening, or physically
6 abusing any person, shall possess, control, or transfer
7 ownership of any firearm or ammunition therefor, so long as the
8 protective order, restraining order, or any extension is in
9 effect, unless the order, for good cause shown, specifically
10 permits the possession of a firearm and ammunition. The
11 restraining order or order of protection shall specifically
12 include a statement that possession, control, or transfer of
13 ownership of a firearm or ammunition by the person named in the
14 order is prohibited. [~~Sueh~~] The person restrained shall
15 relinquish possession and control of any firearm and ammunition
16 owned by that person to the police department of the appropriate
17 county for safekeeping for the duration of the order or



1 extension thereof. In the case of an ex parte order, the
2 affidavit or statement under oath that forms the basis for the
3 order shall contain a statement of the facts that support a
4 finding that the person to be restrained owns, intends to obtain
5 or to transfer ownership of, or possesses a firearm, and that
6 the firearm may be used to threaten, injure, or abuse any
7 person. The ex parte order shall be effective upon service
8 pursuant to section 586-6. [A~~t~~] Prior to the service of a
9 protective order or restraining order on a person who possesses
10 or may possess a firearm or ammunition, or both, the chief of
11 police shall search all applicable records to determine whether
12 the person has been issued any permits to acquire or has
13 registered any firearms, and at the time of service [~~of a~~
14 restraining order involving firearms and ammunition issued by
15 any court], the police officer [~~may~~] shall take custody of any
16 and all firearms and ammunition in plain sight, those discovered
17 pursuant to a consensual search, and those firearms
18 [~~surrendered~~] relinquished by the person restrained. If the
19 person restrained is the registered owner of a firearm and knows
20 the location of the firearm, but refuses to [~~surrender~~]
21 relinquish the firearm or refuses to disclose the location of



1 the firearm, the person restrained shall be guilty of a
2 misdemeanor. In any case, when a police officer is unable to
3 locate the firearms and ammunition either registered under this
4 chapter or known to the person granted protection by the court,
5 the police officer shall apply to the court for a search warrant
6 pursuant to chapter 803 for the limited purpose of seizing the
7 [~~firearm~~] firearms and ammunition.

8 For the purposes of this subsection, good cause shall not
9 be based solely upon the consideration that the person subject
10 to restraint pursuant to an order of any court, including an ex
11 parte order as provided for in this subsection, is required to
12 possess or carry firearms or ammunition during the course of the
13 person's employment. Good cause consideration may include but
14 not be limited to the protection and safety of the person to
15 whom [~~a restraining~~] the order is granted.

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



1 SECTION 2. Section 134-7.3, Hawaii Revised Statutes, is
2 amended by amending subsections (a), (b), and (c) to read as
3 follows:

4 "(a) If any applicant is denied a permit, the chiefs of
5 police of the respective counties shall send, by certified mail,
6 a notice setting forth the reasons for the denial and [may]
7 shall require that the applicant [voluntarily surrender all
8 firearms and ammunition to the chief of police where the
9 applicant resides or] dispose of all firearms and ammunition[-]
10 and provide a sworn statement to the chief of police that the
11 applicant has disposed of all firearms and ammunition in the
12 applicant's possession. The chief of police shall search all
13 applicable records to determine whether the applicant has been
14 issued any permits to acquire or has registered any firearms.
15 If [an] the applicant fails to [voluntarily surrender or]
16 dispose of all firearms and ammunition within thirty days from
17 the date notice was mailed, the chief of police [may] shall
18 seize all firearms and ammunition[-] from the applicant and, as
19 necessary, shall apply to the court for a search warrant
20 pursuant to chapter 803 for the limited purpose of seizing the
21 firearms and ammunition.

1 (b) Any person disqualified from ownership, possession, or
2 control of firearms and ammunition under section [~~134-7~~] 134-
3 7(a), (b), (c), (d), or (e) shall [~~voluntarily surrender all~~
4 ~~firearms and ammunition to the chief of police where the person~~
5 ~~resides or~~] dispose of all firearms and ammunition[~~-~~] and
6 provide a sworn statement to the chief of police that the person
7 has disposed of all firearms and ammunition in the person's
8 possession. The chief of police shall search all applicable
9 records to determine whether the person has been issued any
10 permits to acquire or has registered any firearms. If [any] the
11 person fails to [~~voluntarily surrender or~~] dispose of all
12 firearms and ammunition within thirty days from the date of
13 disqualification, the chief of police [~~may~~] shall seize all
14 firearms and ammunition[~~-~~] and, as necessary, shall apply to the
15 court for a search warrant pursuant to chapter 803 for the
16 limited purpose of seizing the firearms and ammunition.

17 (c) For the purposes of this section, "dispose" means
18 selling the firearms to a gun dealer licensed under section 134-
19 31, transferring ownership of the firearms to any person who
20 meets the requirements of section 134-2, or surrendering all
21 firearms to the chief of police where the person resides for



1 storage or disposal[; provided, for a person subject to section
2 ~~134-7(f)~~, "dispose" shall not include transferring ownership of
3 the firearms to any person who meets the requirements of section
4 ~~134-2~~]."

5 SECTION 3. Section 134-7.5, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

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



1 SECTION 4. Section 806-11, Hawaii Revised Statutes, is
2 amended by amending subsections (a), (b), and (c) to read as
3 follows:

4 "(a) At the time of arraignment, the court shall order a
5 defendant who is under indictment for, or who has waived
6 indictment for, or who has been bound over to the circuit court
7 for a felony, or any crime of violence, or an illegal sale of
8 any drug, to dispose of all firearms and ammunition within the
9 defendant's possession in a manner in compliance with the
10 provisions of chapter 134 and shall inform the defendant of the
11 provisions of section 134-7(b) and section 134-12.5. The
12 defendant shall comply with an order issued pursuant to this
13 section within forty-eight hours of the issuance of such
14 order[-] and provide a sworn statement to the chief of police
15 where the defendant resides that the defendant has disposed of
16 all firearms and ammunition in the defendant's possession. A
17 defendant's compliance with the forty-eight hour requirement of
18 this section shall not give rise to a prosecution for violations
19 of sections 134-2, 134-3 or 134-4.

20 (b) The court shall immediately notify the chief of police
21 of the county where the defendant resides that the defendant has



1 been ordered to [~~voluntarily surrender all firearms and~~
2 ~~ammunition to the chief of police or~~] dispose of all firearms
3 and ammunition within the defendant's possession. The chief of
4 police shall search all applicable records to determine whether
5 the defendant has been issued any permits to acquire or has
6 registered any firearms.

7 (c) If the defendant fails to [~~voluntarily surrender all~~
8 ~~firearms and ammunition to the chief of police where the~~
9 ~~defendant resides or~~] dispose of the firearms and ammunition
10 within forty-eight hours of the issuance of the order, the chief
11 of police [~~may~~] shall seize all firearms and ammunition[~~-~~] and,
12 as necessary, shall apply to the court for a search warrant
13 pursuant to chapter 803 for the limited purpose of seizing the
14 firearms and ammunition."

15 SECTION 5. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

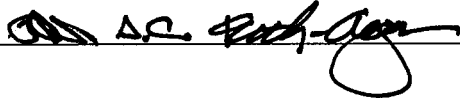
18 SECTION 6. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



S.B. NO. 462

1 SECTION 7. This Act shall take effect upon its approval.

2

INTRODUCED BY: 



S.B. NO. 462

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 and 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.

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