



## TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL TWENTY-EIGHTH LEGISLATURE, 2016

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 625, H.D.1, RELATING TO FIREARMS.

**BEFORE THE:**

SENATE COMMITTEE ON JUDICIARY AND LABOR

**DATE:** Wednesday, March 30, 2016

**TIME:** 9:30 a.m

**LOCATION:** State Capitol, Room 016

**TESTIFIER(S):** WRITTEN TESTIMONY ONLY.

(For more information, contact Lance Goto, Deputy Attorney General,  
at (808) 586-1160)

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Chair Keith-Agaran and Members of the Committee:

The Department of the Attorney General (Department) continues to support this bill and its amendment to section 134-7, Hawaii Revised Statutes (HRS), by expanding the list of offenses which are subject to the State's prohibition for individuals who may possess firearms.

The inclusion of Sexual Assault in the Fourth degree and Harassment by Stalking and comparable offenses is an appropriate extension of section 134-7, HRS, for the very reasons stated in the preamble of this measure. Indeed, the study cited by the bill's sponsors, found seventy-six percent of women murdered and eighty-five percent of women who survived a murder attempt by a current or former intimate partner, experienced stalking in the year preceding the murder.<sup>1</sup>

The Department would encourage the Committee to adduce further evidence within the legislative history of this bill that documents the known causation between partner stalking sexual assaults<sup>2</sup> and the propensity for partner stalkers to use firearms against their victims.<sup>3</sup>

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<sup>1</sup> Judith M. McFarland and others, Stalking and Intimate Partner Femicide, *Homicide Studies* 3 (4) (199):300-316

<sup>2</sup> Logan, T. & Cole, J. The Intersection of partner stalking and sexual abuse Violence Against Women (2011) vol 17 no. 7

<sup>3</sup> See, e.g. Mohandie, K., Meloy, J., M., & Williams, J. (2006). The RECON typology of stalking: Reliability and validity based upon a large sample of north American stalkers Journal of Forensic Science, 51,1,147-155.

Including such evidence will support the measure by illustrating the connection between stalking sexual assaults and the use of firearms during commission of those crimes.

With such evidence placed within the legislative history, the Department believes stalking and its attendant consequences – specifically sexual assaults and use of firearms as a stalking tactic – should overcome potential legal or constitutional challenges.

Thank you for the opportunity to comment.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

KEITH M. KANESHIRO  
PROSECUTING ATTORNEY

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**THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR**  
**SENATE COMMITTEE ON JUDICIARY AND LABOR**  
**Twenty-Eighth State Legislature**  
**Regular Session of 2016**  
**State of Hawai'i**

March 30, 2016

**RE: H.B. 625, H.D. 1; RELATING TO FIREARMS.**

Chair Keith-Agaran, Vice-Chair Shimabukuro and members of the Senate Committee on Judiciary and Labor, the Department of the Prosecuting Attorney of the City and County of Honolulu submitting the following testimony in support of H.B. 625, H.D. 1.

The purpose of this bill is to protect the public against gun violence which is associated with individuals who have a history of dangerous behavior. This bill seeks to achieve this purpose by extending the reach of §134-7, H.R.S., to encompass misdemeanor stalking offenses, misdemeanor sexual assault offenses and individuals who conduct the illegal sale of any drug.

Many Americans have differing opinions on the scope of our current gun laws. However, nearly all of us would agree that many criminals – particularly criminals with a history of dangerous behavior towards others – should not have access to firearms. The current amendment to H.B. 625, H.D. 1, which adds and clarifies the definition for “crime of violence” – to include sexual assault in the fourth degree and harassment by stalking – is in line with our Department’s existing belief that the term “crime of violence” in subsection (2) of H.B. 625 encompassed such offenses. Our Department acknowledges that the amendments made to H.B. 625, H.D. 1 are consistent with our Department’s ongoing concern with gun control and public safety.

For the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports H.B. 625, H.D. 1. Thank you for this opportunity to testify on this matter.

POLICE DEPARTMENT  
**CITY AND COUNTY OF HONOLULU**

801 SOUTH BERETANIA STREET • HONOLULU, HAWAII 96813  
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KIRK CALDWELL  
MAYOR

LOUIS M. KEALOHA  
CHIEF

MARIE A. McCAULEY  
CARY OKIMOTO  
DEPUTY CHIEFS

OUR REFERENCE RR-DNK

March 30, 2016

The Honorable Gilbert Keith-Agaran, Chair  
and Members  
Committee on Judiciary and Labor  
State Senate  
Hawaii State Capitol  
415 South Beretania Street, Room 016  
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran and Members:

SUBJECT: House Bill No. 625, H.D. 1, Relating to Firearms

I am Richard C. Robinson, Major of the Records and Identification Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports House Bill No. 625, H.D. 1, Relating to Firearms.

Currently, Section 134-7 of the Hawaii Revised Statutes articulates who may not own or possess a firearm. Within that section, there is a clear intent to provide greater protection to victims of domestic violence by removing firearms from the perpetrators of domestic violence. The proposed changes in this bill extend the prohibition of firearm ownership to those people who were convicted of stalking. In nearly all of the stalking cases the HPD investigates, there is a domestic violence element. Additionally, this bill clarifies that Sexual Assault in the Fourth Degree is a covered offense that will prohibit the ownership of a firearm.

The HPD urges you to support House Bill No. 625, H.D. 1, Relating to Firearms.

Thank you for the opportunity to testify.

APPROVED:

Sincerely,

  
\_\_\_\_\_  
Louis M. Kealoha  
Chief of Police

  
Richard C. Robinson, Major  
Records and Identification Division



NATIONAL RIFLE ASSOCIATION OF AMERICA  
INSTITUTE FOR LEGISLATIVE ACTION  
(916) 446-2455 voice ▪ (703) 267-3976 fax  
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STATE & LOCAL AFFAIRS DIVISION  
DANIEL REID, HAWAII STATE LIAISON

March 29, 2016

The Honorable Gilbert Keith-Agaran  
Chair, Senate Committee on Judiciary and Labor  
Sent Via Email

Re: House Bill 625 – OPPOSE

Dear Mr. Chairman:

On behalf of the Hawaii members of the National Rifle Association, I oppose House Bill 625.

HB 625 would expand the class of those prohibited from exercising their second amendment rights to include those convicted of certain misdemeanor crimes. Constitutional rights are generally restricted only upon conviction of a felony. The reasons for this are two-fold. It limits restrictions on constitutional rights to only the most serious offenses, and, perhaps more importantly, felony convictions provide greater procedural protections to the accused, which results in more reliable convictions. The right to keep and bear arms should not be treated as a second-class right and should be restricted only upon conviction of a felony, like other rights.

Under this bill, sending unwanted text messages and emails could qualify someone for misdemeanor stalking and possibly result in an individual being denied a constitutional right. Further, by including a new category of prohibited possessors for certain misdemeanor crimes some citizens who may have taken a plea deal years ago will also become prohibited overnight and not been apprised of this additional penalty when taking their deal or fighting their case. Gun owners may not even know they are prohibited under this new statute until they renew their permit and discover that they are now in violation of the law due to a misdemeanor crime that occurred many years ago.

Thank you for your attention and I ask that you oppose this bill.

Cordially,

Daniel S. Reid  
State Liaison

# HAWAII RIFLE ASSOCIATION

P.O. BOX 543 KAILUA, HAWAII 96734

Phone: (808) 306-7194

Established in 1857

March 28, 2016

Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Maile S. L. Shimabukuro, Vice Chair  
Committee on Judiciary and Labor

Honorable Chair, Vice Chair and Committee Members:

The Hawaii Rifle Association is **STRONGLY OPPOSED** to **HB 625** Misdemeanor harassment , for the following reasons:

- \* This bill will deny core constitutional rights to a fourth degree misdemeanor for something as simple as sending an unwanted text, email, or phone call.
- \* A conviction on such a charge would permanently deprive a citizen of their Second Amendment rights, the penalty for which would usually be a small fine or perhaps three or four days in jail. Hardly the level of crime that warrants the loss of rights.
- \* This will also involve any persons who pled out to this misdemeanor in the past and will now be swept up in the confiscation of their firearms and be permanently disqualified for firearm ownership.

**PLEASE KILL THIS BILL.**

Submitted by,

Harvey F. Gerwig, President  
Hawaii Rifle Association  
Cell: (808) 306-7194  
Email: ( hghawaii@gmail.com )

**Legislation:** HB 625

**Prepared by:** Robin Lloyd, State Legislative Director, Americans for Responsible Solutions

**Support**

**Testimony Prepared for the Senate Committee on Judiciary and Labor**

March 30, 2016

Thank you, Chairman Keith-Agaran, Vice Chair Shimabukuro, and members of the Judiciary and Labor Committee for the opportunity to submit testimony in support of Representative Lee's bill, HB 625, which would expand the list of individuals prohibited from purchasing or possessing a firearm.

My name is Robin Lloyd and I am the State Legislative Director for Americans for Responsible Solutions. Former Congresswoman Gabby Giffords and her husband Captain Mark Kelly founded ARS to find commonsense solutions to gun violence in the United States. We work with advocates and legislators across the country, including here in Hawaii, to promote middle-of-the-road policies that will build safer communities.

Like federal law, Hawaii state law prohibits individuals convicted of domestic violence misdemeanors from purchasing or possessing firearms or ammunition. However, the state of Hawaii does not bar individuals convicted of misdemeanor stalking and sexual assault crimes from possessing firearms. The bill being considered today, HB 625, would do just that.

This bill is important to further address the problem of guns being used to target women and those in abusive relationships. Several states have taken action over the last few years to restrict stalkers' access to guns. For example, in 2012, Florida enacted a law prohibiting gun possession by anyone subject to a restraining order against stalking or cyberstalking. In 2014, Minnesota enacted a law prohibiting gun possession by convicted stalkers and people subject to anti-stalking protective orders.

The catalysts for many of these laws are news stories of particular women whose lives might have been saved if stronger laws had prevented the abusers from accessing guns. HB 625 follows this trend and would strengthen Hawaii's gun laws by prohibiting only those people who have been convicted of a crime from purchasing or possessing firearms. Research has shown that an individual's criminal history is a good indicator that a person is dangerous and shouldn't have a gun.

This bill also ensures that law enforcement has the authority to deny gun permits to people who have been convicted of certain crimes. These are crimes where the victim is often a woman. This bill would protect women from gun violence and prevent women from being put at risk by offenders with guns. In Hawaii, over 41% of homicides of

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# AMERICANS FOR **RESPONSIBLE** SOLUTIONS

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women in Hawaii are intimate partner and domestic violence related and of those, over 30% were committed with a gun.<sup>1</sup>

About 1 in 6 women and 1 in 19 men experience stalking at some point in their lifetime.<sup>2</sup> In many cases stalking is closely related to domestic violence: in 2010, slightly more than half of stalking victims were current or former intimate partners with the perpetrators.<sup>3</sup> The Department of Justice has estimated that about 139,000 stalking victims were attacked with a weapon in one 12-month period nationwide, and 23% of the weapons used were handguns.<sup>4</sup>

This bill, HB 625, is an important step forward to protect victims of stalking and sexual assault and ensure that the convicted perpetrators of these dangerous crimes do not have access to firearms. Americans for Responsible Solutions strongly supports this legislation. Thank you.

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<sup>1</sup> Gerney, A., & Parsons, C. (2014, June). *Women Under the Gun: How Gun Violence Affects Women and 4 Policy Solutions to Better Protect Them*. Center for American Progress.

<sup>2</sup> Office on Violence Against Women, *The Office on Violence Against Women's Grant Funds Used to Address Stalking: 2012 Report to Congress*, 3 (2012), at <http://www.justice.gov/sites/default/files/ovw/legacy/2013/04/22/2012-stalking-rpt.pdf>.

<sup>3</sup> *Id.*

<sup>4</sup> U.S. Dep't of Justice, *Stalking Victimization in the United States* (Jan. 2009), at <http://www.justice.gov/sites/default/files/ovw/legacy/2012/08/15/bjs-stalking-rpt.pdf>.





# THE SEX ABUSE TREATMENT CENTER

*A Program of Kapi'olani Medical Center for Women & Children*

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Dennis Dunn

Councilmember  
Carol Fukunaga

David I. Haverly

Linda Jameson

Michael P. Matsumoto

Robert H. Pantell, MD

Joshua A. Wisch

DATE: March 30, 2016

TO: The Honorable Gilbert Keith-Agaran, Chair  
The Honorable Maile Shimabukuro, Vice Chair  
Senate Committee on Judiciary and Labor

FROM: The Sex Abuse Treatment Center  
A Program of Kapi'olani Medical Center for Women & Children

RE: Testimony in Support of H.B. 625 H.D. 1  
Relating to Firearms

Good morning Chair Keith Agaran, Vice Chair Shimabukuro, and members of the Senate Committee on Judiciary and Labor.

The Sex Abuse Treatment Center (SATC) supports H.B. 625 H.D. 1, which would clarify that misdemeanor harassment by stalking and sexual assault are examples of crimes of violence that disqualify a person from owning, possessing or controlling any firearms or ammunition.

Under the current Hawai'i Revised Statutes (H.R.S.) § 134-7(b), no person who is under indictment, waived indictment, is bound to circuit court, or convicted for any "crime of violence" is prohibited from ownership, possession or control of any firearm or ammunition. H.R.S. § 134-7(d) further provides that no person who is less than 25 years old and has been adjudicated by the family court of two or more "crimes of violence" may own, possess, or control any firearm or ammunition. A "crime of violence" is further defined in H.R.S. § 134-1 as any offense defined in Title 37 (the Hawai'i Penal Code), that involves injury or threat of injury to the person of another.

Harassment by stalking and all forms of sexual assault, including those described in the offense of sexual assault in the 4<sup>th</sup> degree such as unwanted sexual contact or exposure of genitals, cause or threaten injury to their victims. For stalking such injuries may include fear, feelings of vulnerability, difficulty trusting others, anxiety, depression, disrupted sleeping and nightmares, disrupted eating and other physical consequences. Likewise, sexual assault causes a wide range of physical, emotional, cognitive and social injuries to victims.

The amendment proposed in H.B. 625 H.D. 1 would clarify that these offenses and other misdemeanors like them are examples crimes of violence that are disqualifying conditions for firearm ownership, possession or control. Thank you for this opportunity to testify.



# **Institute for Rational and Evidence-based Legislation**

**P. O. Box 41**

**Mountain View, Hawaii 96771**

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March 24, 2016

Committee Chair, Vice Chair, and Members,

Please vote to stop HB625 from becoming law.

Please let me be clear that although I strongly oppose HB 625 in its current form I do not mean in any way to question or diminish the seriousness of some stalking behaviors as to the substantial negative impacts upon those stalked.

There are two main areas of concern with the proposed law:

1. What behaviors, deemed “criminal”, ought to result in the lifelong denial of a fundamental individual God-given enumerated Constitutionally-guaranteed civil right?
2. What is the quality, reliability, and accuracy of the research that purports to show that such a lifelong denial of said right is warranted by the supposed “facts”? And what is the “real world” consequence in terms of “prevention” (via confiscation of legally-owned firearms) of harm to stalking victims as opposed to the harm of revoking a Constitutionally-guaranteed right to people perhaps guilty of a misdemeanor crime?

Both of these issues, in regards to HB 625, are lengthy and complex, but they can be simplified without distortion to highlight the problems of the bill.

As to the first issue, what behaviors, deemed “criminal”, ought to result in the lifelong denial of a fundamental individual God-given enumerated Constitutionally-guaranteed civil right? We need look no further than to the Supreme Court of the United States (SCOTUS) where Justice Thomas, on February 29, 2016, asked from the bench during oral arguments regarding a case (*Voisine, et. al. v. United States*) in which a lifelong ban on the Second Amendment rights of an individual found guilty of misdemeanor “recklessness” was being challenged: “Can you think of another Constitutional right that can be suspended based upon misdemeanor violation of a State law?” The reason he asked, of course, is because there is NO other Constitutional right that can be suspended based upon misdemeanor violation of a State law. Prior legal precedent is that such Constitutional rights may only be revoked upon commission and conviction of a crime deemed serious enough to merit a felony status. Why the exception as per HB 625?

Yet here we have Hawaii legislators wanting to do exactly that. The question is why? What arguments and evidence clearly warrant the Second Amendment rights as being “an exceptional case” that merits revocation upon a misdemeanor conviction of “stalking”?

That brings us to the second set of issues: the quality, reliability, and accuracy of the research that purports to show that such a lifelong denial of said right is warranted.

I believe it's fair to state that most of the “research” (with the exception of the FBI crime database statistics) cited by proponents of HB 625 is what is commonly referred to as “advocacy research”, that is, “research” undertaken by individuals already holding a point of view that they seek to justify by “research” that is highly biased and thus selectively seeks and reports data.

One generic indication that such is case with the “research” cited to support HB 625 is the common use of the (controversial?) term “femicide”. Even though a substantial number of men are stalked ([W]omen and men were equally likely to experience harassment. Males were as likely to report being stalked by a male as a female offender (table 4). Forty three percent of male stalking victims stated that the offender was female, while 41% of male victims stated that the offender was another male. Female victims of stalking were significantly more likely to be stalked by a male (67%) rather than a female (24%) offender. [Katrina Baum et al., (2009). "Stalking Victimization in the United States," (Washington, DC:BJS, 2009).]), not only is there no mention of that fact, but there is also no mention of how many men are murdered or assaulted by their stalkers, nor any mention of whatever the term would be to refer to such cases (mascucide? androcide?). The supposition of the term “femicide” is that women are murdered BECAUSE they are women, and thus subject to the inequities of a hegemonist patriarchal legal system perpetrated by knowing misogynists or unknowing dupes (aka the public in general, and legislators in particular).

Let's get specific about the use of some of the statistics used, and those statistics NOT used, to make the case for HB 625. It is claimed that a very high percentage of persons (in the cited research they seem to be referring only to female victims of stalking) who are assaulted (including killed) were previously subject to stalking by the person who eventually assaulted them. That is no doubt true. The percentages may vary among various researchers, but it is certainly true that many people who are assaulted have been “stalked”. What all the research cited fails to reveal, and one has to wonder why, is “How many stalkers DO NOT ASSAULT those they stalk? This is critically important because those convicted of the stalking crime will lose their Constitutional right for their entire lifetime.

By citing research that states that a high percentage of people assaulted have been stalked first, one might be left with the “impression” that a high percentage of stalkers assault their stalking victims. Why would advocates for this bill, and the researchers they cite, OMIT these facts? And surely the proponents of this bill know the truth: **Only 21% of people stalked are assaulted by their stalkers.** That means that 79% of the people who would lose their Constitutional rights are guilty of “only” stalking (which has very broad and ambiguous definitions). There is no breakout that I could find of the statistics for Hawaii alone, but nationwide “7.5 million people are stalked in one year in the United States”. [Matthew J. Breiding et al., “Prevalence and Characteristics of Sexual Violence, Stalking, and Intimate Partner Violence Victimization – National Intimate Partner and Sexual Violence Survey, United States, 2011”, *Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report*, Vol. 63, No. 8 (2014): 7]

That means that were laws such as HB 625 enacted nationwide (a goal of some of the organizations submitting testimony before this committee) that approximately 5,925,000 people, EACH YEAR, the vast majority of stalkers, could have their Constitutional rights revoked for stalking which did not involve nor lead to any form of assault. Should the Constitutional rights of such individuals be revoked for “stalking” alone? If the legislators believe that to be the case, why not simply write a law that states that stalking, as clearly and specifically defined, is a felony and that would automatically disqualify

such a convicted person (felon) from possessing firearms? Why the reluctance to propose a simple law? Why allow a vague and ambiguous law to potentially deny Constitutional rights to people based upon someone being “annoyed” and/or “fearful” due to receiving two “unwanted” emails or text messages? Is that really a basis for a felony conviction? Why would legislators not simply declare that such behavior warrants denial of Constitutional rights via felony status by law? Hawaii legislators have already revisited the stalking law previously when they changed the criteria from “one” instance of the behaviors listed as sufficient for conviction to “two or more” instances requisite for conviction. The stalking law component of HB 625 needs to be amended to clarify which stalking behaviors warrant revocation of Constitutional rights.

Another problem with statistics concerns not only the research itself, but how it is quoted and reported by supporters of HB 625. One such example is the written testimony of Robin Lloyd, State Legislative Director, Americans for Responsible Solutions. The testimony is: “This bill would protect women from gun violence and prevent women from being put at risk by offenders with guns. In Hawaii, over 41% of homicides of women in Hawaii are intimate partner and domestic violence related and of those, over 30% were committed with a gun.” Her footnoted citation for those statistics is: Gerney, A., & Parsons, C. (2014, June). Women Under the Gun: How Gun Violence Affects Women and 4 Policy Solutions to Better Protect Them. Center for American Progress. This paper is available online at: <https://cdn.americanprogress.org/wp-content/uploads/2014/06/GunsDomesticViolencereport.pdf>

The report cites, Table 1, that for Hawaii there are two sources of information regarding intimate partner (IP) and domestic violence (DV) homicides: 1. FBI (IP only) and 2. Fatality Review Board (IP and DV combined). The combined IP and DV homicide rate is 25.3%, not the 41% stated by Lloyd. That's an overstatement by 62%. Why the need to drastically misreport statistics from one's own cited sources? Likewise with the claim by Lloyd that 30% of the intimate partner and domestic violence related homicides (or “femicides” if you prefer), whereas her own citation (Table 1 again) states that percentage to be 21.7%. Another exaggerated misstatement by more than 32%. Again, why misreport? One would suspect that it is an attempt to “make things appear worse than they are”. But surely there would be no need to misrepresent reality were the goals of Lloyd's organization uncontroversial.

This leads directly to another problem: the target of the intended legislation: firearms and firearms owners.

For Hawaii homicides firearms are used in 20.7% of all murders (CRIME IN HAWAII, 2013, A REVIEW OF UNIFORM CRIME REPORTS, Prepared By Lydia Seumanu Fuatagavi, Senior Research Analyst, and Paul Perrone Chief of Research & Statistics Research & Statistics Branch Crime Prevention & Justice Assistance Division, October 2015), which very closely correlates with the percentage of IP and DV homicides using firearms (21.7%). Thus it's clear that firearms are used no more frequently in IP and DV homicides, than in homicides of the general population. There is no excessive, exaggerated, or unusual amount of firearm use in “femicides”. So why target only the weapon and the rights associated with it? Obviously, nearly 80% of all homicides are via means other than firearms. Why not target those weapons, as they are equally used in general homicides and “femicides”? In Hawaii knives and bladed instruments are used in 34.5% of homicides, while “hands, fists, and feet” are used in 44.8% of homicides. There are FOUR TIMES as many non-firearm homicides as firearm homicides, yet we see no legislation directed at the overwhelmingly-used weapons which are NOT constitutionally protected. Why? If firearm use demands specific legislation as to deny a Constitutional rights for a misdemeanor, where is the legislation to criminalize the much more frequently used tools of “non-gun violence”? Why not legislate proportionally to the reality of rates of weapon use?

Now let's examine how many firearms would likely be confiscated in the real world if HB 625 were enacted with the intent to enhance public safety. Imagine a hypothetical pool of 1000 stalkers (to use a simple round number), consisting of the average variation of stalking behaviors. We've already noted that 210 (21%) of those stalkers will eventually assault their victims. How many of those assaults will involve firearms, and thus be subject to prevention via the proposed law? I can find no data exclusively for assaults by stalkers, but for Hawaii firearms are used in 9.1% of all murders, robberies, and aggravated assaults combined ("strongarm" 46.7%, "other/unknown" 18%) (the data for "forcible rape" is not available). If the use of firearms is similar for stalking assaults as other assaults and the other crimes listed, that would mean that out of our original pool of 1000 stalkers, that 19 (9.1% of the 210 assaults) would use a firearm when their stalking involved assaulting their victim. The next question to determine how many crimes would be prevented (how many people would be saved from a firearm assault) is to determine how many of those 19 people would be using a legally-owned firearm, that is, one registered in their name, and thus able to be confiscated via the mechanism of HB 625. Several things need to be considered here. One is that the most predictive indicator that a particular stalker will escalate his behaviors to the point of assault is having a previous criminal history or history of mental health problems. Many of these people will thus be "prohibited persons" and not legally allowed to own or possess firearms, so a records search of legal firearms owners will not yield their names, and thus no confiscation could be ordered. Now, how many criminals, in general (again there is no data for stalkers using firearms in particular) use their own legally-owned firearms when committing crimes using a firearm? Estimates via various research concludes that number to be between 3% and 11%. That would be .57 to 2.09 instances of potential actual stalkers having their legally-owned firearms confiscated out of an original pool of 1000 stalkers (.057% to .209%). One might want to claim the oft heard "but if it saves even one life (assault) it's worth it". But at what cost? Surely one must look at some kind of "cost/benefit analysis" as well as "unintended consequences" to make a rational decision about the merits of HB 625. In this case I submit that denying a Constitutionally-guaranteed right to the vast majority of nonviolent stalkers with an almost infinitesimally small potential for enhancing public safety does not warrant passage of HB 625.

Finally, the astounding, almost unbelievable, irony to all this proposed legislation, is that this same legislative body that wants to deny a Constitutionally-guaranteed right by misdemeanor conviction, won't even allow a hearing in any committee of legislation that would allow the legal exercise of the one Constitutionally-guaranteed right that actually would at least give women (or anyone) a chance to defend themselves against that minority of stalkers that do commit an assault: their right to bear arms outside their home.

If the legislators of Hawaii want to revoke, for a lifetime, the Constitutionally-guaranteed rights of individuals, for certain behaviors, they should write a law that details the specific behaviors that warrant such a penalty, and make the penalty a felony, thus being consistent with prior "prohibited person" designation and revocation of rights. HB 625 doesn't do that. What it does do is potentially revoke said Constitutionally-guaranteed rights for what *could* be nothing more than annoyance.

If the legislators of Hawaii really want to protect citizens from crime, including women who are assaulted by a stalker, or anyone else, pass legislation as in 45 other states wherein law-abiding individuals may lawfully exercise their right to bear arms outside their home for self-defense. Hawaii is a "no issue" state (four (4) Carry Concealed Weapon (CCW) licenses issued since 2000, two in 2001, one in 2006, and one, issued for a term of NINE DAYS in 2013), disingenuously posing as a "may issue" state. How many more women in Hawaii need become victims of larger, stronger criminals

because they aren't allowed to have a tool that at least gives them a chance to survive an attack? You are responsible for every victim you've disarmed.

thank you,

George Pace

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:**  
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**Date:** Monday, March 28, 2016 10:42:45 AM

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**HB625**

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Ho'omana Pono, LLC.	Support	Yes

Comments: We STRONGLY SUPPORT at his bill as it is a public safety issue. Our laws prohibit drinking & driving for the same common sensical reasoning that this bill should pass.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**Cc:**  
**Subject:** Submitted testimony for HB625 on Mar 30, 2016 09:30AM  
**Date:** Tuesday, March 29, 2016 9:55:40 AM

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**HB625**

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Jerry Ilo	Babooze Bowstrings	Oppose	No

Comments: Absolutely oppose! A misdemeanor is just that, a misdemeanor! We already have sufficient procedures to bar convicted FELONS from owning firearms. This is just plain over reaching and overzealous!

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**HB625**

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Isaacson	Individual	Oppose	No

Comments: Basic civil rights should not be lost due to a misdemeanor conviction. In an historic question recently, Justice Thomas raised this very issue to the government prosecutor in a case very much like one that could come from instituting this measure, and the prosecutor could not name any other basic civil right that would be lost for misdemeanor convictions. The loss of such a right should be linked to felony convictions, and there may be some latitude, even then, as to which convictions should lead to the loss of basic civil rights. As this is not settled law, this measure should be deferred until the issue has been resolved by SCOTUS.

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**HB625**

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Carlo Barbasa	Individual	Oppose	No

Comments:

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**HB625**

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Dara Carlin, M.A.	Individual	Support	No

Comments:

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**HB625**

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
David Brilliant	Individual	Oppose	No

Comments:

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**HB625**

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
David Soon	Individual	Oppose	No

Comments: Someone who has a grudge against you could do a lot of damage with this law.

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**HB625**

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Edward Hampton	Individual	Oppose	No

Comments:

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**HB625**

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Eric Ako DVM	Individual	Oppose	No

Comments:

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## **HB625**

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Henry Bennett	Individual	Oppose	No

Comments: RE: Firearms bills--HB 625, 626, 2629, and 2632 As currently presented, all four of these bills should be stopped. HB 625 and 626 are simply WRONG to allow possibly minor infractions to eliminate a significant constitutional right. HB 2629 would allow infraction charges, rather than only convictions, to eliminate a significant constitutional right--and we should NOT be financially charged to exercise a constitutional right. HB 2632 would allow the loss of a constitutional right without due process, possibly for some basic medical issues. I have seen comments indicating this could allow the loss of a constitutional right simply on the opinion of a police officer--if this is true this should NEVER be acceptable. None of the above should be acceptable. Mahalo, Henry Bennett

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## **HB625**

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Karin Nomura	Individual	Support	No

Comments: I hope this law is passed, as there are some who abuse their right to own a fire arm, or who are imbalanced or immature and shouldn't be allowed near one.

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As someone who's had their life turned upside down by people – some I've known for years as clients or co-workers – support this wholeheartedly. In the past years, I've had threats against my family and dogs, with the insinuation/threat of violence, which included a red laser light on my dog; smell of gun smoke; threats of a raid; etc. With some of those people, while not residing in my neighborhood, finding the need to constantly be in my neighborhood or at a neighbor's home that I had previously taken out a TRO against, to comment by the back wall "I'm trying to scare you", non-stop commentary of "what is she doing now" and other items. For example, I just came home from shopping, and I get to hear commentary of how the items I'm carrying up don't look heavy, to while I'm putting items away, commentary that I'm putting items away – this type of constant chatter/commentary has been over 3 years now. Where I can't even go to the bathroom before without them acting out – which I've notified the police numerous times, with nothing occurring, not even a police report. Though in recent weeks the bathroom commentary or bath time commentary have finally become more of the "we're still here" but at least without the loud group commentary/statements normally directed at me.

If someone is imbalanced enough to threaten the use of a gun, as a terroristic measure or claim it's a "joke" that is constantly being said – previously multiple times through out the day, or uses gun smoke as a means to terrify, I don't believe they should be allowed to own a gun. It's not a toy. Even when they claim to "joke"/"just punking" about being suicidal or shooting someone. And especially when this has been 8 years of stalking – as the parties involved live no where near my home, yet apparently find themselves in my neighborhood daily for the past 6-7 years. (Which I've been told there is nothing that can be done to prevent them from coming to my neighborhood to hold these type of get togethers or parties, without a TRO – though I had one previously when they started arriving and hanging out there...to which now comments about how the TRO was specific to certain parties not the household or property, hence it was alright for it to have occurred than as well...with shouts after I submitted a request for an investigation as to me this is terroristic threatening – parties of how this isn't terroristic threatening under Hawaii laws, as I'm not terrified – my days of bringing my dog into the house during threats of, have stopped; my desire to "move" after the constant threat and harassment to "move, we don't like your kind" etc. has ended, and I plan on staying, but they still try with "everybody hates you here, move" type. But no arrests or police reports) So, with that said, considering how difficult it is just to have a stalker arrested or prevented from harassing or threatening...imagine having that same stalker armed and blatantly shouting about "we're still here" or around. And the side that I once took out a TRO against, happily joking around about "put the gun away" or other items, especially after 7 years ago shouting "open my house to anyone who will f\*\*k with her" and having a cacophony of people around ever since.

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**HB625**

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Keola	Individual	Oppose	No

Comments:

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**HB625**

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Kerry Nagai	Individual	Oppose	Yes

Comments:

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**HB625**

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Mark Genovese	Individual	Oppose	No

Comments: Please stop this nonsense this is a bad bill.

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**HB625**

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Matt	Individual	Oppose	No

Comments: In the words of Supreme Court Justice “Can you give me another area where a misdemeanor suspends a constitutional right?” There is no proof that this law would do anything to protect the victim of domestic violence or stalking. If you are going to take away a right, you need to first show the proposed revocation of that right would actually make a difference.

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**HB625**

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Michael A. Wee	Individual	Oppose	No

Comments: This measure sets a dangerous precedent where "a misdemeanor violation suspends a constitutional right?" I OPPOSE this bill!

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**HB625**

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Moran	Individual	Support	No

Comments: Please support. Mahalo. Mike Moran Kihei

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**HB625**

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Mr. Sosta	Individual	Oppose	No

Comments: A misdemeanor is not and should not be a sufficient offense regardless of the crime to prohibit ones constitution right to keep and bear arms under both the U.S. and Hawiian constitutions. Keep and enforce the present laws on the books that prohibit firearms ownership at the felony level. Stop whittling away at the right to keep and bear arms. You all can make all the laws you want but only law abiding people will adhear criminal will not mind and continue to disobey the law. I oppose this bill and any other legislation that further restricts and takes away from the second amendment and the right off the people of Hawaii to keep and bear arms.

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## **HB625**

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Pablo Wegesend	Individual	Oppose	No

Comments: Under this bill, sending unwanted (but non-threatening) text messages and emails could qualify someone for misdemeanor stalking (even for something like "baby, please dont leave me, I'm sorry") and possibly result in an individual being denied a constitutional right. Constitutional rights are generally restricted only upon conviction of a felony. The reasons for this are two-fold. It limits restrictions on constitutional rights to only the most serious offenses, and, perhaps more importantly, felony convictions provide greater procedural protections to the accused, which results in more reliable convictions. The right to keep and bear arms should not be treated as a second-class right and should be restricted only upon conviction of a felony like the right to vote, to serve on a jury, and to hold public office. Further, by including a new category of prohibited possessors for certain misdemeanor crimes some citizens who may have taken a plea deal years ago will also become prohibited overnight and not have been apprised of this additional penalty when taking their deal or fighting their case. Gun owners may not even know they are prohibited under this new statute until they renew their permit and discover that they are now in violation of the law due to a misdemeanor crime that occurred many years ago.

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**HB625**

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Phil Yoneshige	Individual	Oppose	No

Comments:

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**HB625**

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Philip Pearson	Individual	Oppose	No

Comments:

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**HB625**

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Frey	Individual	Oppose	No

Comments:

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**HB625**

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Daniel MD	Individual	Oppose	No

Comments:

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HB 625

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**HB625**

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
ROBERT KAY	Individual	Oppose	No

Comments: While I don't condone sexual assault, the bill is poorly written. In its current form, a misconstrued text or email from a jilted lover or someone with an ax to grind could result in losing one's 2A rights. This bill should be rubbished or completely rewritten.

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**HB625**

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
scott shimoda	Individual	Oppose	No

Comments:

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**HB625**

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Thomas Mayo	Individual	Oppose	No

Comments: DEAR SIRs: MY OPPOSITION TO THIS BILL IS PRIMARILY CONCERNED WITH THE WORDING. IT IS VAGUE AND NON DEFINITIVE. SOMETHING AS SIMPLE AS A MISUNDERSTOOD EMAIL OR EVEN ONE SENT TO THE WRONG PERSON BY ACCIDENT COULD RESULT IN THE LOST OF ONE'S SECOND AMENDMENT RIGHTS. PLEASE DEFER THIS BILL UNTIL IT HAS MUCH BETTER DEFINITIONS. THANK YOU.

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**Cc:**  
**Subject:** Submitted testimony for HB625 on Mar 30, 2016 09:30AM  
**Date:** Monday, March 28, 2016 1:21:56 PM

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**HB625**

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Todd Yukutake	Individual	Oppose	No

Comments: I oppose this bill as this removes a constitutional right for a misdemeanor offense. If you support someone losing their rights for this crime, then upgrade stalking and sexual assault to a felony offense instead.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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