

JAN 20 2017

A BILL FOR AN ACT

RELATING TO FIREARMS.

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

1 SECTION 1. The legislature finds that the Terrorist
2 Screening Database, informally referred to as the terrorist
3 watchlist, was established under President George W. Bush in
4 2003 as a response to the September 11, 2001 attacks. Several
5 different federal agencies can submit information to the
6 watchlist which is administered by the Federal Bureau of
7 Investigation's Terrorist Screening Center. Individuals are
8 placed on the watchlist when there is reasonable suspicion that
9 they are known or suspected terrorists.

10 According to the United States Government Accountability
11 Office, individuals on the watchlist attempted to purchase
12 firearms from United States dealers at least 2,233 times and
13 succeeded ninety-one per cent of the time. The legislature
14 concludes that inclusion on the Federal Bureau of
15 Investigation's Terrorist Screening Database indicates that an
16 individual poses a serious and potentially threatening risk to
17 public safety that warrants disqualification from firearms



1 ownership, possession, or control under Hawaii law. At least
2 two other states have implemented, and several others are
3 considering, prohibitions on firearms ownership by individuals
4 on the watchlist that are similar to this measure.

5 SECTION 2. Section 134-7, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "§134-7 Ownership or possession prohibited, when; penalty.

8 (a) No person who is a fugitive from justice or is a person
9 prohibited from possessing firearms or ammunition under federal
10 law shall own, possess, or control any firearm or ammunition
11 therefor.

12 (b) No person who is under indictment for, or has waived
13 indictment for, or has been bound over to the circuit court for,
14 or has been convicted in this State or elsewhere of having
15 committed a felony, or any crime of violence, or an illegal sale
16 of any drug shall own, possess, or control any firearm or
17 ammunition therefor.

18 (c) No person who:

19 (1) Is or has been under treatment or counseling for
20 addiction to, abuse of, or dependence upon any
21 dangerous, harmful, or detrimental drug, intoxicating



1 compound as defined in section 712-1240, or
2 intoxicating liquor;

3 (2) Has been acquitted of a crime on the grounds of mental
4 disease, disorder, or defect pursuant to section
5 704-411; or

6 (3) Is or has been diagnosed as having a significant
7 behavioral, emotional, or mental [~~disorders~~] disorder
8 as defined by the most current diagnostic manual of
9 the American Psychiatric Association or for treatment
10 for organic brain syndromes;

11 shall own, possess, or control any firearm or ammunition
12 therefor, unless the person has been medically documented to be
13 no longer adversely affected by the addiction, abuse,
14 dependence, mental disease, disorder, or defect.

15 (d) No person who is less than twenty-five years old and
16 has been adjudicated by the family court to have committed a
17 felony, two or more crimes of violence, or an illegal sale of
18 any drug shall own, possess or control any firearm or ammunition
19 therefor.

20 (e) No minor who:



1 (1) Is or has been under treatment for addiction to any
2 dangerous, harmful, or detrimental drug, intoxicating
3 compound as defined in section 712-1240, or
4 intoxicating liquor;

5 (2) Is a fugitive from justice; or

6 (3) Has been determined not to have been responsible for a
7 criminal act or has been committed to any institution
8 on account of a mental disease, disorder, or defect;

9 shall own, possess, or control any firearm or ammunition
10 therefor, unless the minor has been medically documented to be
11 no longer adversely affected by the addiction, mental disease,
12 disorder, or defect.

13 For the purposes of enforcing this section, and
14 notwithstanding section 571-84 or any other law to the contrary,
15 any agency within the State shall make its records relating to
16 family court adjudications available to law enforcement
17 officials.

18 (f) No person who has been restrained pursuant to an order
19 of any court, including an ex parte order as provided in this
20 subsection, from contacting, threatening, or physically abusing
21 any person, shall possess, control, or transfer ownership of any



1 firearm or ammunition therefor, so long as the protective order,
2 restraining order, or any extension is in effect, unless the
3 order, for good cause shown, specifically permits the possession
4 of a firearm and ammunition. The restraining order or order of
5 protection shall specifically include a statement that
6 possession, control, or transfer of ownership of a firearm or
7 ammunition by the person named in the order is prohibited. Such
8 person shall relinquish possession and control of any firearm
9 and ammunition owned by that person to the police department of
10 the appropriate county for safekeeping for the duration of the
11 order or extension thereof. In the case of an ex parte order,
12 the affidavit or statement under oath that forms the basis for
13 the order shall contain a statement of the facts that support a
14 finding that the person to be restrained owns, intends to obtain
15 or to transfer ownership of, or possesses a firearm, and that
16 the firearm may be used to threaten, injure, or abuse any
17 person. The ex parte order shall be effective upon service
18 pursuant to section 586-6. At the time of service of a
19 restraining order involving firearms and ammunition issued by
20 any court, the police officer may take custody of any and all
21 firearms and ammunition in plain sight, those discovered



1 pursuant to a consensual search, and those firearms surrendered
2 by the person restrained. If the person restrained is the
3 registered owner of a firearm and knows the location of the
4 firearm, but refuses to surrender the firearm or refuses to
5 disclose the location of the firearm, the person restrained
6 shall be guilty of a misdemeanor. In any case, when a police
7 officer is unable to locate the firearms and ammunition either
8 registered under this chapter or known to the person granted
9 protection by the court, the police officer shall apply to the
10 court for a search warrant pursuant to chapter 803 for the
11 limited purpose of seizing the firearm and ammunition.

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

20 (g) Any person who is named on the Terrorist Screening
21 Database maintained by the Terrorist Screening Center



1 administered by the Federal Bureau of Investigation, or any
2 successor to the Terrorist Screening Database, shall be
3 prohibited from owning, possessing, or controlling any firearm
4 or ammunition therefor until the person is removed from the
5 Terrorist Screening Database or the federal government otherwise
6 indicates that there is no basis for disqualifying the person
7 from owning, possessing, or controlling a firearm or ammunition.

8 ~~[(g)]~~ (h) Any person disqualified from ownership,
9 possession, control, or the right to transfer ownership of
10 firearms and ammunition under this section shall surrender or
11 dispose of all firearms and ammunition in compliance with
12 section 134-7.3.

13 ~~[(h)]~~ (i) Any person violating subsection (a) ~~[e]~~, (b),
14 or (g) shall be guilty of a class C felony; provided that any
15 felon violating subsection (b) shall be guilty of a class B
16 felony. Any person violating subsection (c), (d), (e), (f), or
17 ~~[(g)]~~ (h) shall be guilty of a misdemeanor~~[-]~~; provided that if
18 a person to whom subsection (g) applies violates subsection (h),
19 then that person shall be guilty of a class C felony."

20 SECTION 3. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



S.B. NO. 280

1 SECTION 4. This Act shall take effect on July 1, 2017.

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S.B. NO. 280

Report Title:

Firearms; Terrorist Watchlist; Terrorist Screening Database

Description:

Prohibits a person listed in the federal Terrorist Screening Database from owning, possessing, or controlling a firearm or ammunition. Allows for removal of the disqualification. Requires surrender or disposal of firearms and ammunition.

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

