

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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THE HONORABLE KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY
Thirty-First State Legislature
Regular Session of 2022
State of Hawai'i

February 17, 2022

RE: S.B. 2094; RELATING TO FIREARMS.

Chair Rhoads, Vice-Chair Keohokalole and members of the Senate Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in strong support of S.B. 2094. This bill is part of the Department's 2022 legislative package, and we thank you for hearing it.

The purpose of S.B. 2094 is to update and clarify the language in section 134-7, Hawaii Revised Statutes ("HRS"), which establishes when defendants—who are charged with a felony offense or previously sentenced to certain criminal offenses—are prohibited from owning or possessing a firearm.

Currently, HRS §134-7(b), prohibits firearm ownership or possession for individuals who are under indictment, have waived indictment, are "bound over" to the circuit court, or have been convicted of a felony offense, crime of violence, or an illegal sale of drugs.¹ Notably, when HRS §134-7, was initially codified in 1988, one mechanism for charging offenses had not yet been established. In 2004, the Legislature passed Act 62 (2004), creating the procedure commonly known as "information charging," whereby criminal felony charges can be initiated by a written document submitted by the prosecutor and approved by the court. Unfortunately, when Act 62 (2004) was passed, it appears there was an oversight in not including information charging under

¹ See HRS §134-7. Ownership or possession prohibited, when; penalty. ... (b) no person who is under indictment for, or has waived indictment for, or has been bound over to the circuit court for, or has been convicted in this State or elsewhere of having committed a felony, or any crime of violence, or an illegal sale of any drug shall own, possess, or control any firearm or ammunition therefor."

HRS §137-4(b). There is no indication that this was done intentionally, as the plain language of HRS §137-4(b), as written, would arguably allow some individuals to own or possess a firearm, but prohibit others from owning or possessing a firearm—even if they are charged with the same felony offense—depending on whether that person was charged via information charging or one of the other methods originally listed under HRS §137-4(b).

Rather than adding-on to the list of procedures by which felonies are initiated—to include information charging by name—the Department believes that the approach taken by S.B. 2094 accomplishes the same goal, and avoids the risk that a similar oversight could occur in the future. Regardless of what procedure is used to charge a defendant with a felony offense, all should be equally prohibited from owning or possessing a firearm during the pendency of their criminal case.

For these reasons, the Department of the Prosecuting Attorney strongly supports the passage of S.B. 2094. Thank you for this opportunity to testify.

SB-2094

Submitted on: 2/13/2022 8:29:46 PM

Testimony for JDC on 2/17/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Gerard Silva	Individual	Oppose	No

Comments:

This would be a Violation of the 2nd Amendment. Witch would be a Felony for each Violation. Somethimes they can be charged with Treason!

SB-2094

Submitted on: 2/14/2022 11:41:28 AM

Testimony for JDC on 2/17/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Dara Carlin, M.A.	Individual	Support	No

Comments:

Stand in Support.

SB-2094

Submitted on: 2/14/2022 2:14:49 PM

Testimony for JDC on 2/17/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ellen Godbey Carson	Individual	Support	No

Comments:

Please pass SB2094, to strengthen our gun laws in this state. Firearms should be restricted to those who have shown their willingness to comply with our criminal code, so that we can help assure guns are used in law compliant ways. Those convicted of criminal offenses, or with felony charges, should be prohibited from acquiring firearms.

Thank you for your consideration and for helping create a safer community for all.

SB-2094

Submitted on: 2/14/2022 4:28:45 PM

Testimony for JDC on 2/17/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Deborah G. Nehmad	Individual	Support	No

Comments:

Aloha,

It's amazing that we need to clarify that anyone charged with a felony cannot own a firearm. This legislation is way past due.

PLease support and quickly!

Deborah Nehmad

Hawaii Kai

SB-2094

Submitted on: 2/15/2022 8:37:53 AM

Testimony for JDC on 2/17/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Sue Hornik	Individual	Support	No

Comments:

I'm writing in strong support of SB2094. For the safety of our citizens, it's vitally important to close the loophole allowing individuals charged with a felony offense or convicted of certain endangering crimes to carry guns. This shouldn't be controversial. As a community we should worry most about protecting potential victims, not satisfying mainland-directed organized lobbies.

SB-2094

Submitted on: 2/15/2022 5:00:41 PM

Testimony for JDC on 2/17/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
David Tipton	Individual	Oppose	No

Comments:

I would like to comment on SB2094. I understand and applaud the intent of this measure, which deals with the ability of constant repeat offenders to commit crimes. However, the danger of this potential law is not what is written in it, but what is not. In its current form, this measure does not protect members of the general public who may have an incident that could be considered a felony. (The due process of law is "innocent until proven guilty"). If an individual is charged with a potential felony incident, but is eventually found innocent, this individual would no longer be allowed to maintain personal possessions which he or she has spent good amounts of money for, including training and recreational use. Having lived on Molokai, I understand first hand that hunting is a staple for many and necessary for the provision of food; especially with today's economy. Perhaps the bill needs to clarify the "type of felony" and repetition of the same offense, specifically some form of aggravated assault, criminal activity etc. As it is written, this measure will directly impact and hurt the good citizens who may find themselves charged for something and then are later found innocent. If passed as is, this measure has the potential to open the door to a Orwellian-totalitarian government that could come in right behind you. Therefore, I stand in opposition of this measure in it's current form. Thank you for your time and consideration of this testimony.

Dr. David Tipton 76 Lumahai St., Honolulu, HI 96825

SB-2094

Submitted on: 2/15/2022 6:21:05 PM

Testimony for JDC on 2/17/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
karolle t. bidgood	Individual	Support	No

Comments:

Dear Judiciary Committee Members.

Please support the proposed amendment to SB2094 (aka HB 1464) that would prohibit persons charged with felons from being able to own a firearm.

Thank you for your consideration of this request.

Karolle T. (Josie) Bidgood

Kahaluu

SB-2094

Submitted on: 2/16/2022 8:42:54 AM

Testimony for JDC on 2/17/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Michael EKM Olderr	Individual	Support	No

Comments:

Dear members of the comitee,

I am in full support of this bill, and its attents however I do have some comments if you would care to listen. The bill would ban anyone who is convicted of a felony from owning and purchasing a firearm. While I am more critical of the modern interpreattions of the 2nd amendment, I belive that if you should only bar people convicted of violent felonys from purchasing a firearm. Non felony former criminals pose little to no public threat and should continue to express the rights granted to them. I hope you pass this bill with the amendment that I requested.

Sincerly,

Michael O