

ACT 215

S.B. NO. 525

A Bill for an Act Relating to Firearms and Dangerous Weapons.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 134-7¹ is amended to read as follows:

“§134-7 Ownership or possession prohibited, when; penalty. (a) No person who is a fugitive from justice shall own, possess, or control any firearm or ammunition therefor.

(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.

(c) No person who:

- (1) Is or has been under treatment for addiction to any dangerous, harmful, or detrimental drug, intoxicating compound as defined in section 712-1240, or intoxicating liquor;
- (2) Has been committed pursuant to section 333F-9 or 333F-10;
- (3) Has been acquitted of a crime on the grounds of mental disease, disorder, or defect pursuant to section 704-411; or
- (4) Is or has been under treatment for significant behavioral, emotional, or mental disorders as defined by the most current diagnostic manual of the American Psychiatric Association or for treatment for organic brain syndromes;

shall own, possess, or control any firearm or ammunition therefor, unless the person has been medically documented to [have been cured of] be no longer adversely affected by the addiction, mental disease, disorder, or defect.

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

(e) No minor who:

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

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

shall own, possess, or control any firearm or ammunition therefor, unless the minor has been medically documented to [have been cured of] be no longer adversely affected by the addiction, mental disease, disorder, or defect.

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

(f) No person who has been restrained pursuant to an order of any court, other than an order issued ex parte, from contacting, threatening, or physically abusing any person, shall possess or control any firearm or ammunition therefor, so long as the protective order or any extension thereof is in effect, unless the order, for good cause shown, specifically permits the possession of a firearm and ammunition. The restraining order or order of protection shall specifically include a statement that possession or control of a firearm or ammunition by the person named in the order is prohibited. Such person shall relinquish possession and control of any firearm and ammunition owned by that person to the police department of the appropriate county for safekeeping for the duration of the order or extension thereof.

[(f)] (g) Any person disqualified from ownership, possession, or control of firearms and ammunition by this chapter shall dispose of all firearms and ammunition in compliance with this chapter.

[(g)] (h) Any person violating subsection (a) or (b) shall be guilty of a class C felony; provided that any felon violating subsection (b) shall be guilty of a class B felony. Any person violating subsection (c), (d), (e), [or] (f), or (g) shall be guilty of a misdemeanor.”

SECTION 2. Section 586-6, Hawaii Revised Statutes, is amended to read as follows:

“§586-6 Service of order. Any order issued under this chapter shall either be personally served upon the respondent, or served by certified mail, unless the respondent was present at the hearing in which case the respondent may be served by handing the respondent a filed copy of the order after the hearing. A filed copy of each order issued under this chapter shall be served by regular mail upon the chief of police of each county.”

SECTION 3. Section 604-10.5, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) A hearing on the petition to enjoin harassment shall be held within fifteen days after it is filed. The parties named in the petition may file responses explaining, excusing, justifying, or denying the alleged act or acts of harassment. The court shall receive such evidence as is relevant at the hearing, and may make independent inquiry.

If the court finds by clear and convincing evidence that harassment exists, it shall enjoin for no more than three years further harassment of the petitioner; provided that this paragraph shall not prohibit the court from issuing other injunctions against the named parties even if the time to which the injunction applies exceeds a total of three years.

Any order issued under this subsection shall be served by regular mail upon the chief of police of each county.”

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SECTION 4. Chapter 806, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§806- Disposal of firearms. At the time of arraignment, the court shall order a defendant who is under indictment for, or who has waived indictment for, or who has been bound over to the circuit court for a felony, or any crime of violence, or an illegal sale of any drug, to dispose of all firearms and ammunition within the defendant’s possession in a manner in compliance with the provisions of chapter 134 and shall inform the defendant of the provisions of section 134-7(b) and section 134-12.5. The defendant shall comply with an order issued pursuant to this section within forty-eight hours of the issuance of such order. A defendant’s compliance with the forty-eight hour requirement of this section shall not give rise to a prosecution for violations of sections 134-2, 134-3 or 134-4.”

SECTION 5. Section 706-602, Hawaii Revised Statutes, is amended to read as follows:

“§706-602 Pre-sentence diagnosis, notice to victims, and report. (1) The pre-sentence diagnosis and report shall be made by personnel assigned to the court, intake service center or other agency designated by the court and shall include:

- (a) An analysis of the circumstances attending the commission of the crime;
- (b) The defendant’s history of delinquency or criminality, physical and mental condition, family situation and background, economic status and capacity to make restitution or to make reparation to the victim or victims of the defendant’s crimes for loss or damage caused thereby, education, occupation, and personal habits;
- (c) Information made available by the victim or other source concerning the effect that the crime committed by the defendant has had upon said victim, including but not limited to, any physical or psychological harm or financial loss suffered; [and]
- (d) Information concerning defendant’s compliance or non-compliance with any order issued under section 806- ; and
- [(d)] (e) Any other matters that the reporting person or agency deems relevant or the court directs to be included.

(2) The court personnel, service center, or agency shall give notice of the Criminal Injuries Compensation Act, the application for compensation procedure, and the possibility of restitution by the defendant to all victims of the convicted defendant’s criminal acts.”

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.²

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

(Approved June 10, 1993.)

Notes

- 1. So in original.
- 2. Edited pursuant to HRS §23G-16.5.