

ACT 297

S.B. NO. 889

A Bill for an Act Relating to the Judiciary.

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

PART I.

SECTION 1. Section 134-7, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) No person who has been restrained pursuant to an order of any court, including an ex parte order as provided [for herein,] in this subsection, 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. In the case of an ex parte order, the affidavit or statement under oath [which] that forms the basis for the order shall contain a statement of the facts [which] that support a finding that the person to be restrained owns, intends to obtain, or possesses a firearm, and that the firearm may be used to threaten, injure, or abuse any person. The ex parte order shall be effective upon service pursuant to section 586-6. At the time of service of a restraining order involving firearms and ammunition issued by any court, the police officer may take custody of any and all firearms and ammunition in plain sight, those discovered pursuant to a consensual search, and those firearms surrendered by the person restrained. If the person restrained is the registered owner of a firearm and knows the location of the firearm but refuses to surrender the firearm or refuses to disclose the location of the firearm, the person restrained shall be guilty of a misdemeanor. In any case, when a police officer is unable to locate the firearms and ammunition either registered under this chapter or known to the person granted protection by the court, the police officer shall apply to the court for a search warrant pursuant to chapter 803 for the limited purpose of seizing the firearm and ammunition.

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

SECTION 2. Section 134-11, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Sections 134-2 and 134-3 shall not apply to such firearms or ammunition that are a part of the official equipment of any federal agency. [Section 134-7(f) shall not apply when the persons described in subsection (a) are on duty if those duties require them to be armed.]”

Part II.

SECTION 3. Section 291C-161, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The court may assess a sum not to exceed [\$25] \$50 for the cost of issuing a penal summons upon any person who fails to appear at the place within the time specified in the citation issued to the person for any traffic violation.”

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved July 6, 1999.)