

A Bill for an Act Relating to Firearms.

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

SECTION 1. The legislature finds that keeping firearms out of the hands of people who are suffering from mental illness is critical to ensure the safety of those individuals and of the community. Tragic events caused by mass shootings that involve mental illness clearly demonstrate the need for legislative action. Under current law, if the owner of a firearm has been disqualified from owning, possessing, or controlling a firearm for a variety of reasons, including mental illness, the owner has thirty days after receiving notification of the disqualification to voluntarily surrender the firearm, after which the police chief may take possession of the firearm. There is no provision in the law that specifically addresses prompt dispossession of a person's firearms in situations that require immediate action, such as when a person is hospitalized by emergency admission due to a determination by a physician, advanced practice registered nurse, or psychologist that the person is mentally ill or suffering from substance abuse, is imminently dangerous to self or others, and is in need of care or treatment or both.

The legislature finds that the vast majority of firearm permit applicants will not be affected by this Act. Data from the crime prevention and justice assistance division of the department of the attorney general reflect that approximately one per cent of firearms permits are denied each year for any reason. Of those, only eighteen per cent are for mental health reasons. Over the last ten years, 133,000 permit applications have been granted and two hundred sixty-nine have been denied for mental health reasons.

The purpose of this Act is to:

- (1) Require the immediate surrender of a person's firearms and ammunition; or
- (2) If voluntary surrender is not effectuated, allow seizure of the same by the chief of police,

if a person has been disqualified from owning, possessing, or controlling firearms and ammunition due to a diagnosis of having a significant behavioral, emotional, or mental disorder, or due to emergency or involuntary admission to a psychiatric facility pursuant to part IV of chapter 334, Hawaii Revised Statutes. This Act also sets forth the notice requirements for such surrender or seizure of firearms and ammunition.

SECTION 2. Section 134-7.3, Hawaii Revised Statutes, is amended to read as follows:

“§134-7.3 Seizure of firearms upon disqualification. (a) If any applicant is denied a permit, the chiefs of police of the respective counties shall send, by certified mail, a notice setting forth the reasons for the denial and may require that the applicant voluntarily surrender all firearms and ammunition to the chief of police where the applicant resides or dispose of all firearms and ammunition. If an applicant fails to voluntarily surrender or dispose of all firearms and ammunition within thirty days from the date notice was mailed, the chief of police may seize all firearms and ammunition.

(b) Any person disqualified from ownership, possession, or control of firearms and ammunition under section 134-7 shall voluntarily surrender all firearms and ammunition to the chief of police where the person resides or dispose of all firearms and ammunition. If any person fails to voluntarily surrender or dispose of all firearms and ammunition within thirty days from the date of disqualification, the chief of police may seize all firearms and ammunition.

(c) For any person disqualified from ownership, possession, or control of firearms and ammunition under section 134-7(c), or because the person has been admitted to a psychiatric facility, whether for emergency or involuntary hospitalization, pursuant to part IV of chapter 334, once the chief of police is notified that the person is disqualified, the chief of police shall promptly issue a notice to the disqualified person to immediately surrender all firearms and ammunition. The notice shall be in writing, shall set forth the reasons for the disqualification, and shall state the requirement that the person immediately surrender all firearms and ammunition to the chief of police. If any person fails to voluntarily surrender all firearms and ammunition upon receiving notice, the chief of police may seize all firearms and ammunition. The firearms and ammunition shall be held in police custody until the person has been medically documented to be no longer adversely affected as provided in section 134-7 or until transferred or sold by the owner. Nothing in this subsection shall be construed to limit the duties imposed by subsection (b).

[(e)] (d) For the purposes of this section, “dispose” means selling the firearms to a gun dealer licensed under section 134-31, transferring ownership of the firearms to any person who meets the requirements of section 134-2, or surrendering all firearms to the chief of police where the person resides for storage or disposal; provided, for a person subject to section 134-7(f), “dispose” shall not include transferring ownership of the firearms to any person who meets the requirements of section 134-2.

[(d)] (e) The chief of police of the respective counties shall adopt procedures to implement and administer the provisions of this section by December 31, 2001.”

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 22, 2016.)