



GOV. MSG. NO. 1119

EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

April 26, 2016

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Twenty-Eighth State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Joseph M. Souki,  
Speaker and Members of the  
House of Representatives  
Twenty-Eighth State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on April 26, 2016, the following bill was signed into law:

SB2813 SD1

RELATING TO GUARDIANSHIP  
**ACT 019 (16)**

Sincerely,

DAVID Y. IGE  
Governor, State of Hawai'i

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# A BILL FOR AN ACT

RELATING TO GUARDIANSHIP.

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

1           SECTION 1. Prior to a person purchasing a firearm in the  
2 State of Hawaii, a National Instant Criminal Background Check  
3 System (NICS) check is completed by the police department in the  
4 county in which the firearm is being purchased to determine  
5 whether the person is federally prohibited from possessing a  
6 firearm. NICS is a federal database to which states are asked  
7 to contribute data, in order to identify those who are federally  
8 prohibited from possessing a firearm. Recent events have  
9 resulted in some states being criticized for failing to provide  
10 sufficient information to NICS. This Act addresses an area that  
11 Hawaii is currently not reporting and closes the gap in being  
12 compliant with NICS reporting requirements.

13           Under the NICS Improvement Amendments Act of 2007, Public  
14 Law 110-180 (18 U.S.C. §922(d)(4) and (g)(4)), a person "who has  
15 been adjudicated as a mental defective or has been committed to  
16 any mental institution" may not possess firearms or ammunition.  
17 This prohibited category includes those who have been  
18 adjudicated as not guilty by reason of insanity, determined to



1 be incompetent to stand trial, involuntarily committed to a  
2 mental institution, or placed in legal guardianship status as an  
3 adult due to mental incapacitation.

4 Hawaii currently does not submit information on those that  
5 have been placed in legal guardianship status to NICS, nor does  
6 it share the information with local law enforcement agencies  
7 responsible for granting firearm permits and registering  
8 firearms. This Act amends section 560:5-311, Hawaii Revised  
9 Statutes, to require the courts to forward information about  
10 adult guardianship appointment orders to the Hawaii criminal  
11 justice data center, which in turn will forward the information  
12 to the Federal Bureau of Investigation for inclusion in the NICS  
13 database. It also requires the Hawaii criminal justice data  
14 center to maintain the information for disclosure to law  
15 enforcement for the purpose of firearms permitting and  
16 registration.

17 SECTION 2. Section 560:5-311, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "§560:5-311 Findings; order of appointment. (a) The  
20 court may:



1 (1) Appoint a limited or unlimited guardian for a  
2 respondent only if it finds by clear and convincing  
3 evidence that:

4 (A) The respondent is an incapacitated person; and

5 (B) The respondent's identified needs cannot be met  
6 by less restrictive means, including use of  
7 appropriate and reasonably available  
8 technological assistance; or

9 (2) With appropriate findings, treat the petition as one  
10 for a protective order under section 560:5-401, enter  
11 any other appropriate order, or dismiss the  
12 proceeding.

13 (b) The court, whenever feasible, shall grant to a  
14 guardian only those powers necessitated by the ward's  
15 limitations and demonstrated needs and make appointive and other  
16 orders that will encourage the development of the ward's maximum  
17 self-reliance and independence.

18 (c) Within fourteen days after an appointment, a guardian  
19 shall send or deliver to the ward and to all other persons given  
20 notice of the hearing on the petition a copy of the order of  
21 appointment, together with a notice of the right to request



1 termination or modification; provided that, for good cause  
2 shown, the court may extend time for the order and notice to be  
3 sent or delivered to the ward, or otherwise modify or waive that  
4 requirement.

5 (d) The court shall forward to the Hawaii criminal justice  
6 data center all orders of appointment or information from all  
7 orders of appointment as requested by the Hawaii criminal  
8 justice data center, which in turn shall forward the information  
9 to the Federal Bureau of Investigation, or its successor agency,  
10 for inclusion in the National Instant Criminal Background Check  
11 System database. The orders of appointment or information shall  
12 also be maintained by the Hawaii criminal justice data center  
13 for disclosure to and use by law enforcement officials for the  
14 purpose of firearms permitting or registration pursuant to  
15 chapter 134. This subsection shall apply to all orders  
16 appointing a guardian of an incapacitated person without regard  
17 to the date of the appointment."

18 SECTION 3. New statutory material is underscored.

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

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APPROVED this 26 day of APR, 2016



GOVERNOR OF THE STATE OF HAWAII