
A BILL FOR AN ACT

RELATING TO FIREARMS.

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

1 SECTION 1. Section 134-7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§134-7 Ownership or possession prohibited, when; penalty.**

4 (a) No person who is a fugitive from justice or is a person
5 prohibited from possessing firearms or ammunition under federal
6 law shall own, possess, or control any firearm or ammunition
7 therefor.

8 (b) No person who is under indictment for, or has waived
9 indictment for, or has been bound over to the circuit court for,
10 or has been convicted in this State or elsewhere of having
11 committed a felony, or any crime of violence, or an illegal sale
12 of any drug shall own, possess, or control any firearm or
13 ammunition therefor.

14 (c) No person who:

15 (1) Is or has been under treatment or counseling for
16 addiction to, abuse of, or dependence upon any
17 dangerous, harmful, or detrimental drug, intoxicating



1 compound as defined in section 712-1240, or
2 intoxicating liquor;

3 (2) Has been acquitted of a crime on the grounds of mental
4 disease, disorder, or defect pursuant to section
5 704-411; or

6 (3) Is or has been diagnosed as having a significant
7 behavioral, emotional, or mental disorders as defined
8 by the most current diagnostic manual of the American
9 Psychiatric Association or for treatment for organic
10 brain syndromes;

11 shall own, possess, or control any firearm or ammunition
12 therefor, unless the person has been medically documented to be
13 no longer adversely affected by the addiction, abuse,
14 dependence, mental disease, disorder, or defect.

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

20 (e) No minor who:



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

5 (2) Is a fugitive from justice; or

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

9 shall own, possess, or control any firearm or ammunition
10 therefor, unless the minor has been medically documented to be
11 no longer adversely affected by the addiction, mental disease,
12 disorder, or defect.

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

18 (f) No person who has been restrained pursuant to an order
19 of any court, including an ex parte order as provided in this
20 subsection, from contacting, threatening, or physically abusing
21 any person, shall possess, control, or transfer ownership of any



1 firearm or ammunition therefor, so long as the protective order,
2 restraining order, or any extension is in effect, unless the
3 order, for good cause shown, specifically permits the possession
4 of a firearm and ammunition. The restraining order or order of
5 protection shall specifically include a statement that
6 possession, control, or transfer of ownership of a firearm or
7 ammunition by the person named in the order is prohibited.
8 [~~Such~~] The person shall relinquish possession and control of any
9 firearm and ammunition owned by that person to the police
10 department of the appropriate county for safekeeping for the
11 duration of the order or extension thereof. In the case of an
12 ex parte order, the affidavit or statement under oath that forms
13 the basis for the order shall contain a statement of the facts
14 that support a finding that the person to be restrained owns,
15 intends to obtain or to transfer ownership of, or possesses a
16 firearm, and that the firearm may be used to threaten, injure,
17 or abuse any person. The ex parte order shall be effective upon
18 service pursuant to section 586-6. At the time of service of a
19 restraining order involving firearms and ammunition issued by
20 any court, the police officer may take custody of any and all
21 firearms and ammunition in plain sight, those discovered



1 pursuant to a consensual search, and those firearms surrendered
2 by the person restrained. If the person restrained is the
3 registered owner of a firearm and knows the location of the
4 firearm, but refuses to surrender the firearm or refuses to
5 disclose the location of the firearm, the person restrained
6 shall be guilty of a misdemeanor. In any case, when a police
7 officer is unable to locate the firearms and ammunition either
8 registered under this chapter or known to the person granted
9 protection by the court, the police officer shall apply to the
10 court for a search warrant pursuant to chapter 803 for the
11 limited purpose of seizing the firearm and ammunition.

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

20 (g) No person who:



- 1 (1) As a minor, was diagnosed as having a significant
2 behavioral, emotional, or mental disorder as defined
3 by the most current diagnostic manual of the American
4 Psychiatric Association;
- 5 (2) Is less than twenty-five years old and has been
6 adjudicated by the family court to have committed not
7 more than one crime of violence in this State or
8 elsewhere; or
- 9 (3) Is more than twenty-five years old and has been
10 adjudicated by the family court to have committed one
11 or more crimes of violence in this State or elsewhere;
12 shall own, possess, or control any firearm or ammunition
13 therefor, unless the person has been medically documented to be
14 no longer either adversely affected by the behavioral,
15 emotional, or mental disorder or deemed a danger to themselves
16 or others.
- 17 For the purposes of enforcing this section, and
18 notwithstanding section 571-84 or any other law to the contrary,
19 any agency within the State shall make its records relating to
20 behavioral, emotional, or mental disorders diagnoses or family



1 court adjudications, or both, available to law enforcement
2 officials.

3 [~~g~~] (h) Any person disqualified from ownership,
4 possession, control, or the right to transfer ownership of
5 firearms and ammunition under this section shall surrender or
6 dispose of all firearms and ammunition in compliance with
7 section 134-7.3.

8 [~~h~~] (i) Any person violating subsection (a) or (b) shall
9 be guilty of a class C felony; provided that any felon violating
10 subsection (b) shall be guilty of a class B felony. Any person
11 violating subsection (c), (d), (e), (f), or [~~g~~] (h) shall be
12 guilty of a misdemeanor."

13 SECTION 2. Section 571-84, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§571-84 Records.** (a) The court shall maintain records
16 of all cases brought before it. Except as provided in section
17 571-84.6, in proceedings under section 571-11 and in paternity
18 proceedings under chapter 584, the following records shall be
19 withheld from public inspection: the court docket, petitions,
20 complaints, motions, and other papers filed in any case;
21 transcripts of testimony taken by the court; and findings,



1 judgments, orders, decrees, and other papers other than social
2 records filed in proceedings before the court. The records
3 other than social records shall be open to inspection: by the
4 parties and their attorneys, by an institution or agency to
5 which custody of a minor has been transferred, and by an
6 individual who has been appointed guardian; with consent of the
7 judge, by persons having a legitimate interest in the
8 proceedings from the standpoint of the welfare of the minor;
9 and, pursuant to order of the court or the rules of court, by
10 persons conducting pertinent research studies, and by persons,
11 institutions, and agencies having a legitimate interest in the
12 protection, welfare, treatment, or disposition of the minor.

13 (b) Reports of social and clinical studies or examinations
14 made pursuant to this chapter shall be withheld from public
15 inspection, except that information from these reports [~~may~~]:

16 (1) May be furnished, in a manner determined by the judge,
17 to persons and governmental and private agencies and
18 institutions conducting pertinent research studies or
19 having a legitimate interest in the protection,
20 welfare, treatment, or disposition of the minor[~~-~~];
21 and



1 (2) Shall be furnished to law enforcement officials if the
2 minor has been diagnosed with having a significant
3 behavioral, emotional, or mental disorder as defined
4 by the most current diagnostic manual of the American
5 Psychiatric Association; or has been adjudicated by
6 the court to have committed a crime of violence.

7 (c) No information obtained or social records prepared in
8 the discharge of official duty by an employee of the court shall
9 be disclosed directly or indirectly to anyone other than the
10 judge or others entitled under this chapter to receive the
11 information, unless and until otherwise ordered by the judge.

12 (d) Any photograph or fingerprint taken of any minor may
13 be used or circulated only as permitted by section 571-74.

14 (e) The records of any police department and of any
15 juvenile division or section thereof, relating to any
16 proceedings authorized under section 571-11 shall be
17 confidential and shall be open to inspection and use only by
18 persons whose official duties are concerned with this chapter,
19 except as provided in subsections (b), (d) [~~and~~], (f), and (j);
20 sections 571-88 and 571-72(b) [7]; or as otherwise ordered by the
21 court.



1 (f) Any police records concerning traffic accidents in
2 which a minor coming within section 571-11(1) is involved, after
3 the termination of any proceeding under section 571-11(1)
4 arising out of any accident, or in any event after six months
5 from the date of the accident, shall be available for inspection
6 by the parties directly concerned in the accident or their duly
7 licensed attorneys acting under written authority signed by
8 either party. Any person who may sue because of death resulting
9 from any traffic accident shall be deemed a party concerned.

10 (g) In all proceedings concerning violations other than
11 traffic violations, in which a minor coming within section
12 571-11(1) is involved and after the termination of any
13 proceeding under section 571-11(1) arising out of the violation,
14 the court may disclose to a party directly concerned the
15 disposition of a case involving an offense against a person or
16 property. This disclosure shall be made only upon written
17 request of the party directly concerned. If the minor has been
18 adjudicated a law violator, the name and address of the minor,
19 and, when practicable, the name of the parent or guardian shall
20 be disclosed, pursuant to the order of the court or the Hawaii
21 family court rules, to the parties directly concerned with the



1 alleged violation or their duly licensed attorneys acting under
2 written authority signed by either party. For the purpose of
3 this section, "parties directly concerned" means any person who
4 may sue because of death, injury, or damage resulting from any
5 violation, other than a traffic violation, in which a minor
6 coming within section 571-11(1) is involved.

7 The minor, and, when practicable, the minor's parents or
8 custodian, and the attorney of the minor shall be notified when
9 the minor's name and address have been released.

10 (h) Evidence given in proceedings under section 571-11(1)
11 or (2) shall not in any civil, criminal, or other cause be
12 lawful or proper evidence against the minor therein involved for
13 any purpose whatever, except in subsequent proceedings involving
14 the same minor under section 571-11(1) or (2).

15 (i) All information in the records except reports of
16 social studies and clinical studies or examinations shall be
17 recorded in the juvenile justice information system.
18 Information about the dates, length, preparer, and subject of
19 social studies may be included in the juvenile justice
20 information system.



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1 (j) All records shall be made available to the appropriate
2 law enforcement officials for any minor who has a recorded
3 diagnosis of having a significant behavioral, emotional, or
4 mental disorder as defined by the most current diagnostic manual
5 of the American Psychiatric Association; or who has been
6 adjudicated by the court to have committed a crime of violence."

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

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

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

13

INTRODUCED BY: 

JAN 21 2020

H.B. NO. 2232

Report Title:

Firearms; Mental Health; Red Flags; Restrictions; Family Court Records

Description:

Prohibits certain individuals who, as a minor, were diagnosed with behavioral, emotional, or mental disorders or adjudicated by the family court to have committed a certain number of crimes of violence from owning firearms unless the person has been medically documented to be no longer either adversely affected by the behavioral, emotional, or mental disorder or deemed a danger to themselves or others. Requires records of these diagnoses or adjudications to be made available to law enforcement officials.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

