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OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT OF HOUSE BILL 2632, HD1, SD1

A BILL FOR AN ACT RELATING TO FIREARMS

COMMITTEE ON JUDICIARY AND LABOR

Sen. Gilbert S.C. Keith-Agaran, Chair
Sen. Maile S.L. Shimabukuro, Vice Chair

Wednesday, March 30, 2016, 9:30 a.m.
State Capitol, House Conference Room 016

Honorable Chair Keith-Agaran, Honorable Vice-Chair Shimabukuro, and Members of the Committee on Judiciary and Labor, the Office of the Prosecuting Attorney, County of Hawai'i submits the following testimony in support of House Bill No. 2632, HD1, SD1.

This measure requires firearms owners who have been disqualified from owning a firearm and ammunition due to mental illness to immediately surrender their firearm to the Chief of Police.

While this office recognizes and supports the rights of individuals to own firearms, most rational advocates would agree that certain individuals should be considered prohibited possessors. This Bill closes a serious loophole in the current firearms laws that allows mentally ill individuals to own, possess and control firearms for 30 days even after they have been deemed to be mentally ill. Passage of this measure will promote individual and public safety by keeping firearms out of the hands of individuals suffering from mental illness.

The Office of the Prosecuting Attorney, County of Hawai'i supports the passage of House Bill No. 2632, HD1, SD1. Thank you for the opportunity to testify on this matter.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE (808) 529-3111 · INTERNET: www.honolulu-pd.org



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MAYOR

LOUIS M. KEALOHA
CHIEF

MARIE A. McCAULEY
CARY OKIMOTO
DEPUTY CHIEFS

OUR REFERENCE RR-DNK

March 30, 2016

The Honorable Gilbert Keith-Agaran, Chair
and Members
Committee on Judiciary and Labor
State Senate
Hawaii State Capitol
415 South Beretania Street, Room 016
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran and Members:

SUBJECT: House Bill No. 2632, H.D. 2, S.D. 1, Relating to Firearms

I am Richard C. Robinson, Major of the Records and Identification Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports House Bill No. 2632, H.D. 2, S.D. 1, Relating to Firearms.

Pursuant to Section 334-59 of the Hawaii Revised Statutes (HRS), the police are allowed to recover a gun owner's firearms upon notification by a gun owner's treating physician or upon an emergency mental health hospitalization.

The proposed change does not provide any additional authority to the police; it merely allows the police to take protective action by recovering the firearm immediately instead of having to wait thirty days.

Currently, even in the most volatile situations, county police officers are prohibited from immediately recovering a firearm from an owner who is suffering from mental illness. The owner of the firearm has to be sent a notification to surrender their firearm via registered mail. The owner then has thirty days to voluntarily surrender or transfer the firearm.

The Honolulu Police Department urges you to support House Bill No. 2632, H.D. 2, S.D. 1, Relating to Firearms.

Thank you for the opportunity to testify.

APPROVED:

Sincerely,



Louis M. Kealoha
Chief of Police


Richard C. Robinson, Major
Records and Identification Division

Serving and Protecting With Aloha



NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION
(916) 446-2455 voice ▪ (703) 267-3976 fax
www.nraila.org

STATE & LOCAL AFFAIRS DIVISION
DANIEL REID, HAWAII STATE LIAISON

March 29, 2016

The Honorable Gilbert Keith-Agaran
Chair, Senate Committee on Judiciary and Labor
Sent Via Email

Re: House Bill 2632 – OPPOSE

Dear Mr. Chairman:

On behalf of the Hawaii members of the National Rifle Association, I oppose House Bill 2632.

HB 2632 ignores due process and removes an individual's second amendment rights in the event they have undergone or are undergoing emergency hospitalization. This permanent disability does not require a judicial order or finding, and instead casts a broad prohibition for anyone who has received care.

HB 2632 not only deprives an individual their rights without due process, but mandates confiscation of all firearms upon the issuance of notice.

Thank you for your attention and I ask that you oppose this bill.

Cordially,

Daniel S. Reid
State Liaison

HAWAII RIFLE ASSOCIATION

P.O. BOX 543 KAILUA, HAWAII 96734

Phone: (808) 306-7194

Established in 1857

March 28, 2016

Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S. L. Shimabukuro, Vice Chair
Committee on Judiciary and Labor

Honorable Chair, Vice Chair and Committee Members:

The Hawaii Rifle Association is **STRONGLY OPPOSED** to **HB 2632**, for the following reasons:

- * This bill attempts to deprive a citizen of his or her right to DUE PROCESS prior to a Core Constitutional Right is denied.
- * This bill is unconstitutional on its face, as it seeks to declare a patient taken in for emergency hospitalization as mentally defective without the benefit of a hearing or adjudication regarding their mental stability.
- * HPD cannot get a diagnosis regarding a patient taken in on an (MH1) due to the HIPPA regulations forbidding such a release of personal medical information, and yet they want to confiscate firearms without any such diagnosis.
- * Existing Hawaii Presumption Statutes forbid the government from assuming that a person is mentally defective without a proper evaluation and diagnosis from a qualified doctor, which requires a judge's order to achieve.

PLEASE KILL THIS BILL.

Submitted by,

Harvey F. Gerwig, President
Hawaii Rifle Association
Cell: (808) 306-7194
Email: (hghawaii@gmail.com)



Institute for Rational and Evidence-based Legislation

P. O. Box 41

Mountain View, Hawaii 96771

March 14, 2016

Chair, Vice Chair, and Members of the COMMITTEE ON PUBLIC SAFETY,
INTERGOVERNMENTAL, AND MILITARY AFFAIRS,

Please permanently defer and defeat HB2632.

As much of the other testimony makes clear, one significant problem with this proposed law is that citizens' rights to due process are not adequately protected. There is no provision that a person is rendered a "prohibited person" via a process that includes the right to legal representation or the determination that a person is "prohibited" "beyond a reasonable doubt". What other rights may be denied law-abiding citizens by such a lack of Constitutional protections? This proposed law fails on those considerations alone.

Further, looking into just a few of the details of the proposed law, one discovers that a person could be denied their Constitutionally-guaranteed rights based solely upon the "oral application of... any state or county employee in the course of employment". Haw. Rev. Stat. § 334-59 as referenced in HB2632. Really? Since when does the county employee at the transfer station telling someone they have to take their old bed frame to the metal recycling bin rather than placing it in the general trash bin have the expertise or requisite training to determine that someone is "obviously ill"? That's preposterous. You may think I am joking or being facetious, but I'm not. I witnessed such an incident at the transfer station just a few days ago, and the "discussion" between the county employee in the course of employment" turned into a rather high volume "argument". Perhaps that "county employee in the course of employment" may have believed at that moment that the citizen was "obviously ill" or perhaps "dangerous to self or others". Would that be sufficient grounds to have a law-abiding citizens firearms confiscated by the government? With no right to legal counsel a judge could issue such a confiscation order based solely upon the county employee's oral recommendation. That would be possible if HB2632 were enacted.

This bill also does not provide for any assurance that once a false or incorrect or mistaken or outdated accusation has resulted in the confiscation of a citizen's firearms and/or ammunition, that upon clearance of the charge that the firearms/ammunition will be returned at all, nor in a timely manner. I refer you to the testimony of the Honolulu Police Department itself submitted to this committee. Note that the language used by Honolulu PD is "Once the firearm owner is medically cleared, their firearm *could* be returned to them [my emphasis]." Why wouldn't the Honolulu PD write "would be" or "shall be" returned to them? Or better yet "would be returned to them within 24 hours"? One has to wonder about the choice of words given the Honolulu PD's long history of denying law-abiding citizens other rights regarding firearms (zero CCW licenses issued in 16 years, illegal revocation of permit and confiscation of firearm by legal resident alien, etc.).

Finally, please also note that this bill states that "(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**." "

Given the above, and all the other reasons mentioned in other testimony, please permanently defer and/or defeat HB2632.

Thank you,
George Pace

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB2632 on Mar 30, 2016 09:30AM
Date: Tuesday, March 29, 2016 10:00:29 AM

HB2632

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Jerry Ilo	Babooze Bowstrings	Oppose	No

Comments: While I applaud te intent, Where is the due process? Are we to do away with every other "right" an American citizen is entitled to?

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Date: Monday, March 28, 2016 5:17:17 PM

HB2632

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Isaacson	Individual	Oppose	No

Comments: Everyone is entitled to due process, according to the Constitution. Why write legislation that can be challenged on that basis? Please amend SB2956 to require court action before seizing guns as required under state mental health law: §334-61 Presumption; civil rights. No presumption of insanity or legal incompetency shall exist with respect to any patient by reason of the patient's admission to a psychiatric facility under this chapter. The fact of the admission shall not in itself modify or vary any civil right of any such person, including but not limited to civil service statutes or rights relating to the granting, forfeiture, or denial of a license, permit, privilege, or benefit pursuant to any law, or the right to dispose of property, execute instruments, make purchases, enter into contractual relationships, and to vote. If the administrator of a psychiatric facility or the deputy is of the opinion that a patient should not exercise any civil right, application for a show cause order shall be made to the court under the above proceedings after notice pursuant to section 334-60.4.

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HB2632

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Carlo Barbasa	Individual	Oppose	No

Comments:

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HB2632

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Dara Carlin, M.A.	Individual	Support	No

Comments:

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HB2632

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
David Brilliant	Individual	Oppose	No

Comments:

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Date: Tuesday, March 29, 2016 12:41:36 PM

HB2632

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
David Soon	Individual	Oppose	No

Comments:

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HB2632

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Edward Hampton	Individual	Oppose	No

Comments:

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Subject: *Submitted testimony for HB2632 on Mar 30, 2016 09:30AM*
Date: Tuesday, March 29, 2016 10:53:49 AM

HB2632

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Eric Ako DVM	Individual	Oppose	No

Comments:

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Date: Tuesday, March 29, 2016 1:57:31 PM

HB2632

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
G Asi	Individual	Oppose	No

Comments: I oppose this bill. One significant problem with this proposed law is that citizens' rights to due process are not adequately protected. There is no provision that a person is rendered a "prohibited person" via a process that includes the right to legal representation or the determination that a person is "prohibited" "beyond a reasonable doubt". This bill also does not provide for any assurance that once a false or incorrect or mistaken or outdated accusation has resulted in the confiscation of a citizen's firearms and/or ammunition, that upon clearance of the charge that the firearms/ammunition will be returned at all, nor in a timely manner.

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Subject: Submitted testimony for HB625 on Mar 30, 2016 09:30AM
Date: Monday, March 28, 2016 2:41:20 PM

HB625

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Henry Bennett	Individual	Oppose	No

Comments: RE: Firearms bills--HB 625, 626, 2629, and 2632 As currently presented, all four of these bills should be stopped. HB 625 and 626 are simply WRONG to allow possibly minor infractions to eliminate a significant constitutional right. HB 2629 would allow infraction charges, rather than only convictions, to eliminate a significant constitutional right--and we should NOT be financially charged to exercise a constitutional right. HB 2632 would allow the loss of a constitutional right without due process, possibly for some basic medical issues. I have seen comments indicating this could allow the loss of a constitutional right simply on the opinion of a police officer--if this is true this should NEVER be acceptable. None of the above should be acceptable. Mahalo, Henry Bennett

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HB2632

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Keola	Individual	Oppose	No

Comments:

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HB2632

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Mark Genovese	Individual	Oppose	No

Comments: Please no more anti gun bills, spend your time building parks.

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HB2632

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Mark Plischke	Individual	Oppose	No

Comments: I oppose the bill as drafted. As I write this testimony, I am healing from a bypass surgery following a voluntary check-up. As I read this bill, I would have expected to wake up from bypass surgery to find that my firearms were confiscated without my knowledge or consent. The doctors had me walking around the very day after surgery. Why would I lose a constitutionally protected right due to this unforeseen circumstance. Please OPPOSE this bill.

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HB2632

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Matt	Individual	Oppose	No

Comments: This bill takes away someone's rights without due process. What other constitutionally guaranteed right can be taken away without court intervention? A hospitalization for a mental health issue certainly warrants attention to the individual but I don't think it can summarily justify taking their firearms. Instead the doctors assessment should be taken to the courts who can then have a hearing and decide whether to take away the individual's right to own firearms. Perhaps require a follow up visit to This is the way sound legal process works. The intentions are good but the process is flawed. As a law enforcement officer, sworn to uphold the constitution, I would have difficulty enforcing this law.

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HB2632

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Michael A. Wee	Individual	Oppose	No

Comments: This measure will actually have the opposite effect of its intention. A gun owner who truly wants mental help/counseling will not risk the unintended consequences in seeking such help.

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HB2632

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Moran	Individual	Support	No

Comments: Remove firearms from those who are able to be responsible for themselves for what ever reason. Mahalo, Mike Moran Kihei

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HB2632

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Mr. Sosta	Individual	Oppose	No

Comments: I do not support this bill and opposite it as written in its current form. If some one is deemed a risk due to the listed conditions and reasons I am all for thier firearms being safe guarded until such a point that a conclusion of thier mental condition is determined. I fell that the chief of police or the police department in genral should be the last resort for surrender or confiscation the owner should have a reasonable about of time to transfer thier firearms to a friend, family member of a licensed dealer first. Please keep in mind that it takes a person 2 weeks from date of aplication for a permit to aqcuire until you can pick up that permit and then you'd still have to return to the police department to legally register the firearms.

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HB2632

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Pablo Wegesend	Individual	Oppose	No

Comments: HB 2632 would expand the list of possible prohibited possessors to include anyone who has undergone or is undergoing emergency hospitalization. This expansion for emergency hospitalization is vague and could entrap a person who has suffered something as common as diabetic shock to suddenly lose their Second Amendment rights, without due process of the law, simply for receiving care. Additionally under this bill, individuals are required to surrender firearms immediately, or else law enforcement will seize firearms, all without due process. Please ensure that due process is implemented for every legal procedure. Due process shouldn't be eliminated just because you want to be seen as someone "who does something about gun violence". Doing "something about gun violence" doesn't make it OK to take someone's gun possessions rights away without due process!

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HB2632

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Phil Yoneshige	Individual	Oppose	No

Comments:

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HB2632

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Philip Pearson	Individual	Oppose	No

Comments:

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HB2632

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Frey	Individual	Oppose	No

Comments:

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Attachments: [HB 2632.txt](#)

HB2632

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Daniel MD	Individual	Oppose	No

Comments:

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HB 2632

without a court order this should never be passed.

From: mailinglist@capitol.hawaii.gov
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Cc:
Subject: Submitted testimony for HB2632 on Mar 30, 2016 09:30AM
Date: Tuesday, March 29, 2016 12:11:19 PM

HB2632

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
ROBERT KAY	Individual	Oppose	No

Comments: I understand the notion of keeping firearms away from unbalanced individuals but the mechanism of doing so with a court order already exists. Who makes the diagnosis on this this? The HPD? What if a person is hospitalized for depression or diabetic shock. This smacks of police state behavior. Let's follow existing protocol.

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HB2632

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
scott shimoda	Individual	Oppose	No

Comments:

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HB2632

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Todd Yukutake	Individual	Oppose	No

Comments: I oppose this bill as it is removing a constitutional right from a person without a judicial order.

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HB2632

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
WILLIAM MURPHY	Individual	Oppose	No

Comments: This measure removes due process protections from citizens and opens the options for capricious and arbitrary seizure of property by law enforcement personnel in an administrative action. Absent the requirement for a court decision prior to any action I oppose this measure and encourage you to vote against it. Thank you, William Murphy, Wahiawa,HI.

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