
A BILL FOR AN ACT

RELATING TO FIREARMS.

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

1 SECTION 1. The legislature finds that the State has one of
2 the strongest gun safety laws in the nation, receiving an
3 A-minus rating from the Giffords Law Center to Prevent Gun
4 Violence. However, the legislature also finds that the State
5 can strengthen its gun safety laws by completely prohibiting the
6 use of large capacity magazines for all firearms. Existing law
7 prohibits the use of these types of magazines with pistols but
8 not with long guns such as rifles or shotguns.

9 The legislature further finds that the involvement of large
10 capacity magazines increases the deadliness of violent
11 incidents. Large capacity magazines are capable of holding in
12 excess of ten rounds of ammunition. These magazines
13 significantly increase a shooter's ability to injure and kill
14 large numbers of people quickly before a shooter needs to
15 reload. In the 2019 mass shooting in Dayton, Ohio, the
16 assailant, using an assault weapon and a drum magazine that held
17 one hundred rounds, fired at least forty-one rounds of



1 ammunition in less than thirty seconds, killing nine people and
2 wounding twenty-six others. According to the Giffords Law
3 Center to Prevent Gun Violence, large capacity magazines have
4 been used in all ten of the deadliest mass shootings in the last
5 decade. According to Everytown for Gun Safety Support Fund,
6 mass shootings that involve large capacity magazines result in
7 five times as many people being shot with twice as many
8 fatalities compared to mass shootings that do not involve large
9 capacity magazines.

10 The time a shooter takes to reload his weapon can be
11 critical in enabling victims to escape and for law enforcement
12 or others to intervene. In the 2011 mass shooting in Tucson,
13 Arizona, the shooter was tackled by a bystander after stopping
14 to reload his weapon. In the 2018 mass shooting in Parkland,
15 Florida, students at Marjory Stoneman Douglas High School were
16 able to escape down a stairwell while the shooter paused to
17 reload his weapon.

18 The purpose of this Act is to reduce gun violence in the
19 State by:

20 (1) Eliminating the use of large capacity magazines in all
21 types of firearms, not just pistols;



- 1 (2) Prohibiting certain individuals who, as a minor, were
- 2 diagnosed with behavioral, emotional, or mental
- 3 disorders from owning firearms unless the person has
- 4 been medically documented to be no longer adversely
- 5 affected by the behavioral, emotional, or mental
- 6 disorder or deemed a danger to themselves or others;
- 7 (3) Prohibiting certain individuals who have been
- 8 adjudicated by the family court to have committed a
- 9 certain number of crimes of violence from owning
- 10 firearms; and
- 11 (4) Requiring records of these diagnoses or adjudications
- 12 to be made available to law enforcement officials.

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

15 "§134-7 Ownership [ex], possession, or control prohibited,
 16 **when; penalty.** (a) No person who is a fugitive from justice or
 17 is a person prohibited from possessing firearms or ammunition
 18 under federal law shall own, possess, or control any firearm or
 19 ammunition therefor.

20 (b) No person who is under indictment for, or has waived
 21 indictment for, or has been bound over to the circuit court for,



1 or has been convicted in this State or elsewhere of having
2 committed a felony, or any crime of violence, or an illegal sale
3 of any drug shall own, possess, or control any firearm or
4 ammunition therefor.

5 (c) No person who:

6 (1) Is or has been under treatment or counseling for
7 addiction to, abuse of, or dependence upon any
8 dangerous~~[,]~~ drugs, harmful~~[, or]~~ drug, detrimental
9 drug, intoxicating ~~[compound]~~ compounds, or
10 intoxicating liquor, as defined in section 712-1240~~[,~~
11 ~~or intoxicating liquor]~~;

12 (2) Has been acquitted of a crime on the grounds of mental
13 disease, disorder, or defect pursuant to section
14 704-411; or

15 (3) Is or has been diagnosed as having a significant
16 behavioral, emotional, or mental ~~[disorders]~~ disorder,
17 as defined by the most current diagnostic and
18 statistical manual of mental disorders of the American
19 Psychiatric Association; or ~~[for treatment]~~

20 (4) Is or has been treated for organic brain ~~[syndromes,]~~
21 syndrome;



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

5 (d) No person who is less than twenty-five years old and
6 has been adjudicated by the family court to have committed a
7 felony [~~two or more crimes of violence~~] or an illegal sale of
8 any drug shall own, possess, or control any firearm or
9 ammunition therefor.

10 (e) No minor who:

11 (1) Is or has been under treatment for addiction to any
12 dangerous [~~]~~ drugs, harmful [~~or~~] drug, detrimental
13 drug, intoxicating [~~compound~~] compounds, or
14 intoxicating liquor, as defined in section 712-1240 [~~]~~
15 ~~or intoxicating liquor~~];

16 (2) Is a fugitive from justice; or

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

20 shall own, possess, or control any firearm or ammunition
21 therefor, unless the minor has been medically documented to be



1 no longer adversely affected by the addiction, mental disease,
2 disorder, or defect.

3 For the purposes of enforcing this section, and
4 notwithstanding section 571-84 or any other law to the contrary,
5 any agency within the State shall make its records relating to
6 family court adjudications available to law enforcement
7 officials.

8 (f) No person who has been restrained pursuant to an order
9 of any court, including a gun violence protective order issued
10 pursuant to part IV, from contacting, threatening, or physically
11 abusing any person, shall possess, control, or transfer
12 ownership of any firearm or ammunition therefor, so long as the
13 protective order, restraining order, or any extension is in
14 effect, unless the order, for good cause shown, specifically
15 permits the possession of a firearm and ammunition. The
16 protective order or restraining order shall specifically include
17 a statement that possession, control, or transfer of ownership
18 of a firearm or ammunition by the person named in the order is
19 prohibited. The person shall relinquish possession and control
20 of any firearm and ammunition owned by that person to the police
21 department of the appropriate county for safekeeping for the



1 duration of the order or extension thereof. At the time of
2 service of a protective order or restraining order involving
3 firearms and ammunition issued by any court, a police officer
4 may take custody of any and all firearms and ammunition in plain
5 sight, those discovered pursuant to a consensual search, and
6 those firearms surrendered by the person restrained. If the
7 person restrained is the registered owner of a firearm and knows
8 the location of the firearm, but refuses to surrender the
9 firearm or refuses to disclose the location of the firearm, the
10 person restrained shall be guilty of a misdemeanor. In any
11 case, when a police officer is unable to locate the firearms and
12 ammunition either registered under this chapter or known to the
13 person granted protection by the court, the police officer shall
14 apply to the court for a search warrant pursuant to chapter 803
15 for the limited purpose of seizing the firearm and ammunition.

16 For the purposes of this subsection, good cause shall not
17 be based solely upon the consideration that the person subject
18 to restraint pursuant to an order of any court is required to
19 possess or carry firearms or ammunition during the course of the
20 person's employment. Good cause consideration may include but



1 not be limited to the protection and safety of the person to
2 whom a restraining order is granted.

3 (g) No person shall own, possess, or control any firearm
4 or ammunition therefor who:

5 (1) As a minor, was diagnosed as having a significant
6 behavioral, emotional, or mental disorder as defined
7 by the most current diagnostic and statistical manual
8 of mental disorders of the American Psychiatric
9 Association, unless the person has been medically
10 documented to be no longer adversely affected by the
11 behavioral, emotional, or mental disorder or deemed a
12 danger to themselves or others;

13 (2) Is twenty-five years of age or less and has been
14 adjudicated by the family court to have committed not
15 more than one crime of violence in this State or
16 elsewhere; or

17 (3) Is more than twenty-five years of age and has been
18 adjudicated by the family court to have committed one
19 or more crimes of violence in this State or elsewhere.

20 For the purposes of enforcing this section, and
21 notwithstanding section 571-84 or any other law to the contrary,



1 any agency within the State shall make its records relating to
2 behavioral, emotional, or mental disorders diagnoses or family
3 court adjudications, or both, available to law enforcement
4 officials.

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

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

15 SECTION 3. Section 134-8, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§134-8 Ownership, etc., of automatic firearms, silencers,**
18 **etc., prohibited; penalties.** (a) ~~[The]~~ Except as provided in
19 subsection (e), the manufacture, possession, sale, barter,
20 trade, gift, transfer, or acquisition of any of the following is
21 prohibited: assault pistols, except as provided by section 134-



1 4(e); automatic firearms; rifles with barrel lengths less than
2 sixteen inches; shotguns with barrel lengths less than eighteen
3 inches; cannons; mufflers, silencers, or devices for deadening
4 or muffling the sound of discharged firearms; hand grenades,
5 dynamite, blasting caps, bombs, or bombshells, or other
6 explosives; or any type of ammunition or any projectile
7 component thereof coated with teflon or any other similar
8 coating designed primarily to enhance its capability to
9 penetrate metal or pierce protective armor; and any type of
10 ammunition or any projectile component thereof designed or
11 intended to explode or segment upon impact with its target.

12 (b) Any person who installs, removes, or alters a firearm
13 part with the intent to convert the firearm to an automatic
14 firearm shall be deemed to have manufactured an automatic
15 firearm in violation of subsection (a).

16 (c) [The] Except as provided in subsections (d) and (e),
17 the manufacture, possession, sale, barter, trade, gift,
18 transfer, or acquisition of detachable ammunition magazines with
19 a capacity in excess of ten rounds [~~which are designed for or~~
20 ~~capable of use with a pistol]~~ is prohibited. This subsection
21 shall not apply to magazines originally designed to accept more



1 than ten rounds of ammunition [~~which~~] that have been modified to
2 accept no more than ten rounds and [~~which~~] that are not capable
3 of being readily restored to a capacity of more than ten rounds.

4 (d) Detachable ammunition magazines with a capacity in
5 excess of ten rounds may be possessed and used by a law
6 enforcement agency or duly authorized law enforcement officer
7 for official use.

8 (e) This section shall not apply to the manufacture,
9 transportation, possession, sale, or rental of blank-firing
10 assault weapons and the weapon's respective attachments to
11 persons authorized or permitted to acquire and possess these
12 weapons or attachments for the purpose of rental for use solely
13 as props for a motion picture, television, or digital video
14 production or entertainment event.

15 [~~(d)~~] (f) Any person violating subsection (a) or (b) shall
16 be guilty of a class C felony and shall be imprisoned for a term
17 of five years without probation. Any person violating
18 subsection (c) shall be guilty of a misdemeanor except when a
19 detachable magazine prohibited under this section is possessed
20 while inserted into a [~~pistol~~] firearm in which case the person
21 shall be guilty of a class C felony."



1 SECTION 4. Section 571-84, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§571-84 Records. (a) The court shall maintain records
4 of all cases brought before it. Except as provided in section
5 571-84.6, in proceedings under section 571-11 and in paternity
6 proceedings under chapter 584, the following records shall be
7 withheld from public inspection: the court docket, petitions,
8 complaints, motions, and other papers filed in any case;
9 transcripts of testimony taken by the court; and findings,
10 judgments, orders, decrees, and other papers other than social
11 records filed in proceedings before the court. The records
12 other than social records shall be open to inspection: by the
13 parties and their attorneys, by an institution or agency to
14 which custody of a minor has been transferred, and by an
15 individual who has been appointed guardian; with consent of the
16 judge, by persons having a legitimate interest in the
17 proceedings from the standpoint of the welfare of the minor;
18 and, pursuant to order of the court or the rules of court, by
19 persons conducting pertinent research studies, and by persons,
20 institutions, and agencies having a legitimate interest in the
21 protection, welfare, treatment, or disposition of the minor.



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

4 (1) May be furnished, in a manner determined by the judge,
5 to persons and governmental and private agencies and
6 institutions conducting pertinent research studies or
7 having a legitimate interest in the protection,
8 welfare, treatment, or disposition of the minor[-];
9 and

10 (2) Shall be furnished to law enforcement officials if the
11 minor has been diagnosed with having a significant
12 behavioral, emotional, or mental disorder as defined
13 by the most current diagnostic and statistical manual
14 of mental disorders published by the American
15 Psychiatric Association; or has been adjudicated by
16 the court to have committed a crime of violence.

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



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

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

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

20 (g) In all proceedings concerning violations other than
21 traffic violations, in which a minor coming within section



1 571-11(1) is involved and after the termination of any
2 proceeding under section 571-11(1) arising out of the violation,
3 the court may disclose to a party directly concerned the
4 disposition of a case involving an offense against a person or
5 property. This disclosure shall be made only upon written
6 request of the party directly concerned. If the minor has been
7 adjudicated a law violator, the name and address of the minor,
8 and, when practicable, the name of the parent or guardian shall
9 be disclosed, pursuant to the order of the court or the Hawaii
10 family court rules, to the parties directly concerned with the
11 alleged violation or their duly licensed attorneys acting under
12 written authority signed by either party. For the purpose of
13 this section, "parties directly concerned" means any person who
14 may sue because of death, injury, or damage resulting from any
15 violation, other than a traffic violation, in which a minor
16 coming within section 571-11(1) is involved.

17 The minor, and, when practicable, the minor's parents or
18 custodian, and the attorney of the minor shall be notified when
19 the minor's name and address have been released.

20 (h) Evidence given in proceedings under section 571-11(1)
21 or (2) shall not in any civil, criminal, or other cause be



1 lawful or proper evidence against the minor therein involved for
2 any purpose [~~whatever~~], except in subsequent proceedings
3 involving the same minor under section 571-11(1) or (2).

4 (i) All information in the records except reports of
5 social studies and clinical studies or examinations shall be
6 recorded in the juvenile justice information system.

7 Information about the dates, length, preparer, and subject of
8 social studies may be included in the juvenile justice
9 information system.

10 (j) All records shall be made available to the appropriate
11 law enforcement officials for any minor who has a recorded
12 diagnosis of having a significant behavioral, emotional, or
13 mental disorder as defined by the most current diagnostic and
14 statistical manual of mental disorders published by the American
15 Psychiatric Association; or who has been adjudicated by the
16 court to have committed a crime of violence."

17 SECTION 5. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.

20 SECTION 6. If any provision of this Act, or the
21 application thereof to any person or circumstance, is held



1 invalid, the invalidity does not affect other provisions or
2 applications of the Act that can be given effect without the
3 invalid provision or application, and to this end the provisions
4 of this Act are severable.

5 SECTION 7. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 8. This Act shall take effect on July 1, 2050;
8 provided that the amendments made to section 571-84(a), Hawaii
9 Revised Statutes, by section 2 of Act 225, Session Laws of
10 Hawaii 2019, shall not be affected by section 4 of this Act when
11 Act 225, Session Laws of Hawaii 2019, becomes effective on
12 January 1, 2021.



Report Title:

Firearms; Large Capacity Magazine; Prohibition; Mental Health;
Red Flags; Restrictions; Family Court Records

Description:

Extends the prohibition for large capacity magazines to all firearms, rather than just pistols. Provides an exception to the prohibition for law enforcement agencies and duly authorized officers. Prohibits certain individuals from owning firearms who: (1) as a minor, were diagnosed with behavioral, emotional, or mental disorders, 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; or (2) were adjudicated by the family court to have committed a certain number of crimes of violence. Requires records of these diagnoses or adjudications to be made available to law enforcement officials. Provides an exemption for blank-firing weapons used as props for theatrical purposes. Effective 7/1/2050. (SD1)

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

