

Honolulu, Hawaii  
March 3, 2016

RE: H.B. No. 1813  
H.D. 1

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Eighth State Legislature  
Regular Session of 2016  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 1813 entitled:

"A BILL FOR AN ACT RELATING TO FIREARMS,"

begs leave to report as follows:

The purpose of this measure is to promote public safety by:

- (1) Prohibiting a person who is listed on the federal Terrorist Screening Database from owning, possessing, or controlling a firearm or ammunition;
- (2) Requiring the surrender or disposal of firearms and ammunition; and
- (3) Establishing a violation of the prohibition and surrender and disposal requirements as a class C felony.

The Honolulu Police Department, Americans for Democratic Action, IMUAlliance, Americans for Responsible Solutions, and several concerned individuals testified in support of this measure. The Department of the Attorney General testified in support of the intent of this measure and provided comments. The American Political Party, National Rifle Association of America, Valley Isle Sport Shooters, Institute for Rational and Evidence-based Legislation, Hawaii Rifle Association, and many concerned individuals testified in opposition.



Your Committee finds that the Terrorist Screening Database, informally referred to as the terrorist watchlist, was established under President George W. Bush in 2003 as a response to the September 11, 2001 terrorist attacks. Several different federal agencies can submit information to the watchlist, which is administered by the Federal Bureau of Investigation's Terrorist Screening Center. Individuals are placed on the watchlist when there is a reasonable suspicion that they are a known or suspected terrorist. According to the Federal Bureau of Investigation, to meet the reasonable suspicion standard, nominating agencies must rely upon articulable intelligence or information which, taken together with rational inferences from those facts, reasonably warrants a determination that an individual is known, or suspected to be, or have been knowingly engaged in conduct constituting, in preparation for, in aid of, or related to terrorism or terrorist activities. Based on the totality of the circumstances, a nominating agency must provide an objective factual basis to believe an individual is a known or suspected terrorist. Your Committee concludes that inclusion on the Federal Bureau of Investigation's Terrorist Screening Database indicates that an individual poses a serious and potentially threatening risk to public safety that warrants disqualification from firearms ownership, possession, or control under Hawaii law.

Currently, when an individual applies for a firearms permit, a background check is conducted through the Federal Bureau of Investigation's National Instant Criminal Background Check System (NICS) which searches the Federal Bureau of Investigation's files, including the watchlist, and informs the authority conducting the check if there is a match. However, a loophole exists because an individual listed on the watchlist is not prohibited from firearms ownership under federal or Hawaii law. This measure seeks to close that loophole. As with any denial, individuals who fail a background check may appeal to the Federal Bureau of Investigation for information.

The proposed disqualification from ownership, possession, or control of a firearm or ammunition due to inclusion on the watchlist is based on similar prohibitions in other jurisdictions. New Jersey imposed a disqualification in 2013. Connecticut did so in late 2015. Similar measures are under consideration in several other states, including Massachusetts, New York, Pennsylvania, and Illinois, and in the United States Congress. According to the United States Government Accountability Office, an audit, evaluation, and investigative arm of Congress, individuals on the watchlist have attempted to purchase firearms from firearms



dealers in the United States at least 2,233 times and succeeded in 91 percent of those attempts.

Your Committee acknowledges that an individual may be placed on the watchlist only for a short duration and, therefore, has amended this measure to impose the disqualification temporarily and only for the length of time that the individual is included on the watchlist. An individual who is subsequently removed from the watchlist or if the federal government otherwise indicates that there is no basis for disqualification from firearms ownership will no longer be subject to the disqualification.

Your Committee has amended this measure by:

- (1) Inserting a preamble that explains the watchlist and provides justification for this measure;
- (2) Establishing that a person's inclusion on the watchlist results in a temporary disqualification that will be removed when the individual is removed from the watchlist or the federal government otherwise indicates that there is no basis for disqualifying the individual from owning or possessing a firearm;
- (3) Deleting the class C felony penalties for a person on the watchlist who fails to surrender or dispose of all firearms and ammunition; and
- (4) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1813, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1813, H.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary,



---

KARL RHOADS, Chair



