



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2016**

LATE TESTIMONY

**ON THE FOLLOWING MEASURE:
S.B. NO. 2956, RELATING TO FIREARMS.**

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Tuesday, March 1, 2016 **TIME:** 9:05 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Vince Kanemoto, Deputy Attorney General

Chair Keith-Agaran and Members of the Committee:

The Department of the Attorney General (Department) supports the intent of the measure and provides the following comments and suggested amendments to provide additional clarity.

The purpose of this measure is to require firearm owners who are disqualified from owning, possessing, or controlling firearms and ammunition due to mental illness or other mental health conditions to immediately surrender their firearms or ammunition to the chief of police upon written notice from the chief of police.

We recommend an amendment to clarify that under subsection (b) there remains an affirmative duty on the part of the firearm owner to surrender the firearm when they become aware they are prohibited from possessing the firearm for those reasons listed under subsection (c) without any written notice from the Chief of Police. This is accomplished by removing the amendments in subsection (b) and amending the new subsection (c) so that it provides as follows:

(c) In addition to the requirements of subsection (b), once the chief of police discovers a firearm owner is disqualified from ownership, possession, or control of firearms and ammunition under section 134-7(c), or who underwent an emergency hospitalization under section 334-59, the chief of police shall promptly issue a notice to the disqualified person to immediately surrender all firearms and ammunition. Notification shall be in writing and shall set forth the reasons for the disqualification and shall state the requirement that the applicant immediately surrender all firearms and ammunition to the chief of police. If any person fails to voluntarily surrender all firearms

and ammunition, the chief of police may seize all firearms and ammunition. Nothing in this subsection shall affect the independent duties imposed by subsection (b).

Thank you for the opportunity to testify.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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

LATE TESTIMONY

KIRK CALDWELL
MAYOR



LOUIS M KEALOHA
CHIEF

MARIE A McCAULEY
CARY OKIMOTO
DEPUTY CHIEFS

OUR REFERENCE RR-DNK

March 1, 2016

The Honorable Gilbert S. C. 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: Senate Bill No. 2956, 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 Senate Bill No. 2956, Relating to Firearms.

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. Under current law, the owner of the firearm has to be sent a notification to surrender their firearm via registered mail. The owner then has 30 days to voluntarily surrender or transfer the firearm.

The proposed change does not provide any additional authority to the police; it merely allows them to take the protective action of recovering the firearm immediately instead of having to wait 30 days. The recovery would only be allowed upon notification by the owner's treating physician or upon an emergency mental health hospitalization under Section 334-59 of the Hawaii Revised Statutes.

This change will allow for an evaluation to be conducted on the firearm owner to determine his or her fitness to own and/or possess a firearm. Once the firearm owner is medically cleared, the firearm could be returned to its owner.

The Honorable Gilbert S. C. Keith-Agaran,
Chair and Members
Committee on Judiciary and Labor
March 1, 2016
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To clarify the duration of the recovery and to establish that the owner of the firearms may transfer or sell them while he or she is in police custody, we suggest that the following language be added to the bill:

Page 3, Line 8: recover all firearms and ammunition. The firearms and ammunition shall be held in police custody until the person has been medically documented to be no longer adversely affected as provided in Section 134-7 or until disposed of by the owner.

The HPD urges you to support Senate Bill No. 2956.

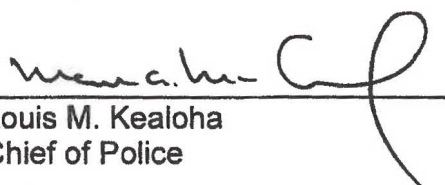
Thank you for the opportunity to testify.

Sincerely,



Richard C. Robinson, Major
Records and Identification Division

APPROVED:



Louis M. Kealoha
Chief of Police

Keith Agaran6 - Sara

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 01, 2016 7:10 AM
To: JDLTestimony
Cc: [REDACTED]
Subject: Submitted testimony for SB2956 on Mar 1, 2016 09:05AM

LATE TESTIMONY

SB2956

Submitted on: 3/1/2016

Testimony for JDL on Mar 1, 2016 09:05AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
David Bearden	BradyHawaii	Support	Yes

Comments: We at BradyHawaii, the local chapter of the Brady Campaign to Prevent Gun Violence in Amercia, support SB2956.

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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Keith Agaran6 - Sara

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 29, 2016 8:48 PM
To: JDLTestimony
Cc: [REDACTED]
Subject: Submitted testimony for SB2956 on Mar 1, 2016 09:05AM

LATE TESTIMONY

SB2956

Submitted on: 2/29/2016

Testimony for JDL on Mar 1, 2016 09:05AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
shanna-lynn	Individual	Support	No

Comments: I support this bill as it would help the community be a little safer. There are so many stories on the news claiming that the person who shot someone has mental illness. When selling a firearm, it is critical to not miss any steps in the process of doing a full check on a person. If they're later diagnosed with this illness, they shouldn't have the privilege of owning a gun anymore.

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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Keith Agaran6 - Sara

From: Sen. Gilbert Keith-Agaran
Sent: Monday, February 29, 2016 6:12 PM
To: Keith Agaran2 - Danielle
Subject: Fwd: SB2956

Please include in testimony

LATE TESTIMONY

Sent from my iPhone

GIL S C KEITH-AGARAN

Begin forwarded message:

From: Malcolm Higa [REDACTED]
Date: February 29, 2016 at 5:42:02 PM HST
To: senkeithagaran@capitol.hawaii.gov
Subject: SB2956

Dear Senator Keith-Agaran,

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.*

Very respectfully,

Malcolm Higa

Keith Agaran6 - Sara

From: Keith Agaran2 - Danielle
Sent: Tuesday, March 01, 2016 8:15 AM
To: Keith Agaran6 - Sara
Subject: FW: SB2956

From: Sen. Gilbert Keith-Agaran
Sent: Monday, February 29, 2016 11:37 PM
To: Keith Agaran2 - Danielle
Subject: Fwd: SB2956

Please include with written testimony.

Sent from my iPad

Begin forwarded message:

From: Kimi [REDACTED]
Date: February 29, 2016 at 10:11:42 PM HST
To: senkeithagaran@capitol.hawaii.gov
Subject: SB2956

Dear Senator Keith-Agaran,

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.

Very respectfully,

Kimi Valdez

Sent from my iPhone

Keith Agaran6 - Sara

From: Sen. Gilbert Keith-Agaran
Sent: Monday, February 29, 2016 6:11 PM
To: Keith Agaran2 - Danielle
Subject: Fwd: SB2956

LATE TESTIMONY

Please include in testimony

Sent from my iPhone

GIL S C KEITH-AGARAN

Begin forwarded message:

From: "Gener \"Mac\" Macaraeg" [REDACTED]
Date: February 29, 2016 at 5:07:25 PM HST
To: senkeithagaran@capitol.hawaii.gov
Subject: SB2956

Dear Senator Keith-Agaran,
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.*
Very respectfully,

Gener Macaraeg
Wailuku, Hawaii

Keith Agaran6 - Sara

From: Sen. Gilbert Keith-Agaran
Sent: Monday, February 29, 2016 6:11 PM
To: Keith Agaran2 - Danielle
Subject: Fwd: SB25956

LATE TESTIMONY

Please include in testimony

Sent from my iPhone

GIL S C KEITH-AGARAN

Begin forwarded message:

From: ROBERT NADAI [REDACTED]
Date: February 29, 2016 at 4:57:36 PM HST
To: "senkeithagaran@capitol.hawaii.gov" <senkeithagaran@capitol.hawaii.gov>, mac macarang [REDACTED]
Subject: SB25956

Dear Senator Keith-Agaran,
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.*
Very respectfully,

Robert Nadai
Kihei, Hawaii