



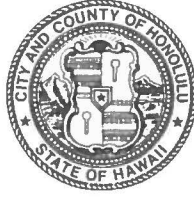
LATE

SB2956

Measure Title:	RELATING TO FIREARMS.
Report Title:	Firearms; Mental Illness; Surrender of Firearms
Description:	Requires firearm owners who have been disqualified from owning a firearm due to mental illness to immediately surrender their firearms to the chief of police upon notification and authorizes the chief of police to seize the firearms if the owner fails to comply.
Companion:	
Package:	None
Current Referral:	PSM, JDL
Introducer(s):	ESPERO, Baker, Inouye, Nishihara

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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OUR REFERENCE RR-DNK

February 11, 2016

The Honorable Clarence K. Nishihara, Chair
and Members
Committee on Public Safety, Intergovernmental,
and Military Affairs
State Senate
Hawaii State Capitol
415 South Beretania Street, Room 229
Honolulu, Hawaii 96813

Dear Chair Nishihara 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 strongly supports Senate Bill No. 2956, Relating to Firearms.

Currently, county police officers are prohibited from immediately seizing a firearm from an owner who is suffering from mental illness even in the most volatile situation. Under current law, the owner of the firearm must 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 changes would allow a police officer to immediately seize the firearm of an owner who is suffering from a mental health issue. The seizure would 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 also allow time for an evaluation to be conducted on the firearm owner to determine his or her fitness to own and possess a firearm. Once the firearm owner is medically cleared, their firearm could be returned to them.

The Honorable Clarence K. Nishihara, Chair
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Page 2

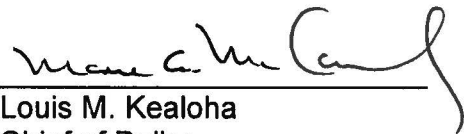
The HPD urges you to support Senate Bill No. 2956, Relating to Firearms.

Thank you for the opportunity to testify.

Sincerely,


Richard C. Robinson, Major
Records and Identification Division

APPROVED:



Louis M. Kealoha
Chief of Police

This bill, like so many other firearm-related bills that have been introduced to this body, is far too broad in scope and ambiguous in nature. It would provide too much opportunity for abuse of authority with little recourse for the affected citizen.

If this bill becomes law, any law-abiding, firearm owning resident of Hawaii could be stripped of a fundamental human right (the right to self-defense) with only the merest nod to due process, and with essentially no avenue to get that right reinstated. Given the wording of HRS 134-7(c) (the referenced section for reasons for disqualification to possess firearms/ammunition), someone could seek a no-contact order against another individual out of vengeance or spite with no real supporting evidence, and the subject of that order would be required to IMMEDIATELY surrender all firearms and ammunition with no chance to dispute the order whatsoever, and the process to have lawfully owned firearms returned once seized is murky at best.

This legislation is yet another misguided attempt to strip law abiding citizens of fundamental rights protected by both the U.S. Constitution and the Constitution of the State of Hawaii, and it must be defeated.

In reference to SB29586/HB2632:

In regards to this proposed law that would take guns away from mentally unfit persons, I have a few questions in how it will be written up. First of all, I do believe violent crazy people should not own guns. But there will be cases of non violent people losing some mental control of their actions, such as in alzheimers and senility. There will be cases where these folks may own a valuable collection of firearms that cannot be sold off so quickly as in 30 days. I do not wish to see them lose their collections to a gun seizure by the police just because of a new law requiring it be done.

I also do not think it is a good idea to give the Chief of Police the power to seize guns on his own decision in a case of "emergency situation" that has not been defined yet. There will always be cases where in a domestic dispute, someone will be calling another person "crazy" when it is actually anger being tossed about. Will the Chief take someone's words of that being true without doing a thorough check? Will he act on impulse and have the person's home searched and guns seized without court order? It would be illegal to do so. It would be like the Gestapo coming into your home.

Sincerely,

Mike Saito

From: mailinglist@capitol.hawaii.gov
To: [PSMTestimony](#)
Cc: eyeeatingfish@hotmail.com
Subject: Submitted testimony for SB2956 on Feb 11, 2016 13:15PM
Date: Thursday, February 11, 2016 11:22:03 PM

SB2956

Submitted on: 2/11/2016

Testimony for PSM on Feb 11, 2016 13:15PM in Conference Room CR229

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

Comments: I am a law enforcement officer in the state of Hawaii and I wish to voice my opposition to this new law. As a law enforcement officer, sworn to uphold the state and US constitution, the problem in the proposed law make me hesitant to enforce this proposed law change. There are issues with this law that are too vague and that do not offer the right of due process. The way it is written, the revocation of gun rightist too broad and could affect a wide swath of firearm owners instead of the target. When incomes to the revocation of individuals rights, the government has to be specific and narrow, not broad. Secondly is the lack of any appeals process in this law. It says the chief may immediately seize the individuals firearms but it fails to provide any process for the individual challenge the revocation of his/her rights. On top of that, it does not specify what happens to the firearms once seized. Are they held till the individual is treated, are they held for a time so the individual can appeal the action, or can they immediately be disposed of? Even the revocation of someone's driver's license has an appeals process first. You could not deny the 1st or 4th amendment rights without a chance to appeal. These issues make the proposed change to this law questionable in terms of whether it can pass constitutional muster. Since I, as a law enforcement officer, can be held responsible for enforcing a law that is unconstitutional I am indicating that I may refrain from enforcing this change to the law if passed.

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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