



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2017**

ON THE FOLLOWING MEASURE:

S.B. NO. 0898, RELATING TO FIREARMS OWNED, POSSESSED, OR CONTROLLED BY PERSONS WHO POSE A SERIOUS RISK OF VIOLENCE OR HARM TO PUBLIC SAFETY.

BEFORE THE:

SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

DATE: Thursday, February 2, 2017 **TIME:** 1:15 p.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Karen A. Droscoski, Deputy Attorney General

Chair Nishihara and Members of the Committee:

The Department of the Attorney General supports this Administration bill.

The purpose of this bill is to allow law enforcement to seize and retain firearms or ammunition owned, possessed, or controlled by a person who poses a serious risk of violence or harm to public safety, pursuant to court order.

Currently, Hawaii law allows people in certain circumstances to be disqualified from gun ownership. According to section 134-7, Hawaii Revised Statutes, this includes fugitives from justice; persons under indictment or convicted of a felony, or any crime of violence or an illegal sale of any drug; persons under treatment for drug addiction; persons acquitted of a crime due to a mental disorder; and a person who is the subject of a restraining order.

However, sometimes law enforcement becomes aware of a person who poses serious risk of violence or harm to public safety, and who currently possesses firearms, who nevertheless does not fit into one of these categories. This measure will close that gap. Upon a showing of clear and convincing evidence and upon a court order, law enforcement could remove the firearms from that person and decrease the likelihood of mass shooting incidents.

This measure allows a judge to issue a warrant to search for and seize firearms upon application by a local, state, or federal prosecuting agency. Additionally, due process is protected by requiring the court to conduct a hearing no later than thirty days after issuance of the warrant, to determine whether the firearms owner poses a serious risk of violence or harm to public safety.

We respectfully ask the Committee to pass this bill. 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



KIRK CALDWELL
MAYOR

LOUIS M. KEALOHA
CHIEF

CARY OKIMOTO
JERRY INOUE
DEPUTY CHIEFS

OUR REFERENCE DN-DNK

February 2, 2017

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. 898, Relating to Firearms Owned, Possessed, or Controlled by Persons who Pose a Serious Risk of Violence or Harm to Public Safety

I am David Nilsen, Acting Major of the Records and Identification Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports Senate Bill No. 898, Relating to Firearms Owned, Possessed, or Controlled by Persons who Pose a Serious Risk of Violence or Harm to Public Safety.

This bill provides a mechanism where following a hearing before a judge, a person who is found to pose a serious risk of violence or harm to public safety may be disqualified from ownership, possession, or control of any firearms or ammunition. Also, this bill allows a judge to issue a warrant based on a sworn affidavit from a law enforcement officer to search for and seize firearms or ammunition from any person determined to pose a serious risk of violence or harm to public safety. Following the seizure of any firearms or weapons by a warrant, this bill provides for a hearing within 30 days to determine if the person named in the warrant does in fact pose a serious risk of violence or harm to public safety or if any firearms or weapons seized should be returned. Additionally, this bill provides that any person who has been found to pose a serious risk of violence or harm to public safety by the court and is then found to be in possession of any firearms or ammunition shall be guilty of a Class B felony.

This bill allows law enforcement to take preventive action in situations where information is obtained on possible attacks being planned that involve firearms. In today's environment of terrorism, particularly "lone wolf" terrorists and other active shooter situations, this is a powerful tool that law enforcement can use to protect our community from these attacks.


Serving and Protecting With Aloha

The Honorable Clarence K. Nishihara, Chair
and Members
Committee on Public Safety, Intergovernmental,
and Military Affairs
February 2, 2017
Page 2

The HPD urges you to support Senate Bill No. 898, Relating to Firearms Owned, Possessed, or Controlled by Persons who Pose a Serious Risk of Violence or Harm to Public Safety.

Thank you for the opportunity to testify.

Sincerely,


David P. Nilsen, Acting Major
Records and Identification Division

APPROVED:



Cary Okimoto
Acting Chief of Police

TESTIMONY OF THE HAWAII POLICE DEPARTMENT

SENATE BILL 898

**RELATING TO RELATING TO FIREARMS OWNED, POSSESSED, OR
CONTROLLED BY PERSONS WHO POSE A SERIOUS RISK OF VIOLENCE OR
HARM TO PUBLIC SAFETY**

BEFORE THE COMMITTEE ON FINANCE

DATE : Thursday, February 2, 2017

TIME : 1:15 P.M.

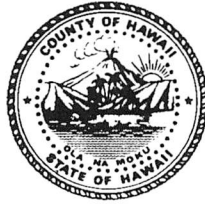
PLACE : Conference Room 229
State Capitol
415 South Beretania Street

PERSON TESTIFYING:

Police Chief Paul K. Ferreira
Hawaii Police Department
County of Hawaii

(Written Testimony Only)

Harry Kim
Mayor



Paul K. Ferreira
Police Chief

Kenneth Bugado Jr.
Deputy Police Chief

County of Hawai'i

POLICE DEPARTMENT

349 Kapi'olani Street • Hilo, Hawai'i 96720-3998
(808) 935-3311 • Fax (808) 961-2389

February 1, 2017

Senator Clarence K. Nishihara, Chair
Chairman and Committee Members
Committee on Public Safety, Intergovernmental and Military Affairs
415 South Beretania Street, Room 308
Honolulu, Hawai'i 96813

Re: SENATE BILL 898 RELATING TO FIREARMS OWNED, POSSESSED, OR CONTROLLED BY PERSONS WHO POSE A SERIOUS RISK OF VIOLENCE OR HARM TO PUBLIC SAFETY

Dear Senator Nishihara:

The Hawai'i Police Department supports Senate Bill 898, with its primary purpose being to allow the appropriate county, state, and federal officers, upon a showing of clear and convincing evidence and pursuant to a court order, to remove firearms from someone who poses a serious risk of violence or harm to public safety.

Currently, Hawaii law allows people in certain circumstances to be disqualified from gun ownership. People who are convicted or under indictment for a felony, a crime of violence, drug trafficking, the subject of a Restraining Order or who have documented mental disorders are examples of such disqualifications.

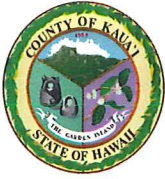
There have been times in our department's history where we have become aware of a person who poses serious risk of violence or harm to public safety to in possession of firearms and who was outside of the aforementioned categories. It is for that type of "Exclusion" that we believe this bill will serve for the protection of the community. This bill will not take lightly the removal of said firearms but instead will require a showing of clear and convincing evidence and will require a court order for law enforcement to remove the firearms from that person and decrease the likelihood of mass shooting incidents.

This measure allows a judge to issue a warrant to search for and seize firearms upon application by a local, state or federal prosecuting agency. The owner of the firearms will have their rights protected in that the Bill also requires the court to conduct a hearing no later than 30 days after issuance of the warrant, to determine whether the firearms owner poses a serious risk of violence or harm to public safety.

It is for these reasons we fully support Senate Bill 898.

Sincerely,


PAUL K. FERREIRA
POLICE CHIEF



BERNARD P. CARVALHO, JR.
Mayor

WALLACE G. REZENTES, JR.
Managing Director

POLICE DEPARTMENT COUNTY OF KAUAI

3990 KAANA STREET, SUITE 200
LIHUE, HAWAII 96766-1268
TELEPHONE (808) 241-1600
FAX (808) 241-1604
www.kauai.gov/police



DARRYL D. PERRY
Chief of Police
dperry@kauai.gov

MICHAEL M. CONTRADES
Deputy Chief of Police
mcontrades@kauai.gov

February 1, 2017

Committee On Public Safety, Intergovernmental, and Military Affairs
Senator Clarence K. Nishihara, Chair
Senator Glenn Wakai, Vice Chair
Honorable Committee Members

**RE: WRITTEN TESTIMONY SB-898 RELATING TO FIREARMS OWNED, POSSESSED, OR
CONTROLLED BY PERSONS WHO POSE A SERIOUS RISK OF VIOLENCE OR HARM TO PUBLIC
SAFETY**

Dear Chair Nishihara and Vice Chair Wakai:

The Kauai Police Department supports Senate Bill 898 and recognizes its need to further safety measures in order to protect our community and visitors from further harm through the violent use of firearms.

This bill would allow law enforcement, through proper and legal processes, to be proactive in the removal and detention of firearms from a person who is a danger to himself and others.

Thank you for this opportunity to provide our input with respect to this important bill.

Sincerely,


DARRYL D. PERRY
Chief of Police



Institute for Rational and Evidence-based Legislation

P. O. Box 41

Mountain View, Hawaii 96771

January 31, 2017

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

Please vote against SB898.

No one, obviously, wants anyone who can be legally proven to be a “serious risk of violence or harm to public safety” to be controlling any object capable of harming others, including automobiles. This bill has numerous flaws, some which include the revocation of the Constitutional rights without due process. If it could be made to conform to the Constitution, it should include banning the possession or control of any instrument or tool that could result in “violence or harm to public safety” (automobiles, knives, machetes, hammers, baseball bats, pipes, rocks, etc.). Rather than confiscating all such objects from a “proven” dangerous person, that person should be removed from society and placed in a secure facility where they cannot harm the public until they have become no longer a danger.

There are numerous other problems with the bill. Here are just a few:

Section (2)(C) would allow a police officer, based solely upon a second-hand report of an individual he “believes...is credible and reliable” to initiate the confiscation of firearms and ammunition of the individual who was observed by the third party. That doesn't seem a high enough standard. How would the police officer know if the third party was “credible and reliable”. It's pure guesswork, unless that third party has some kind of recording of the behavior. There needs to be a higher standard of proof than that before revoking a person's rights.

Section (3)(f)(1) repeats the same unconstitutional lack of due process error by instating the error-prone Terrorist Screening Database as sufficient criteria to confiscate a persons firearms. Please see my testimony to this committee re SB280 re the numerous problems with that whole concept.

Section (3)(f)(2) violates the First Amendment right to Free Speech. Since when is making a statement of a political nature a criminal act? Obviously unconstitutional. If you can legally stomp on, tear up and/or burn the flag of the United States one should surely be allowed to vocalize support for some foreign orgnaization.

Section (3)(f)(3) “Whether the person has expressed a credible desire to kill or commit other criminal acts of violence against others.” So this bill would apply to all those people protesting against the newly inaugurated President of the United States who have made all kinds of statements regarding “violence against others”, correct? They seem “credible” to me. I'm not sure how many of them have firearms, but as this bill should be expanded to include any and all intruments that could possibly inflict

“harm”, you might find law enforcement running low on “custodial space”.

Confiscating a persons firearms, based possibly on second-hand information, THEN after 30 days holding a hearing where “clear and convincing evidence” must be presented, seem to have things backwards. The correct order of events *should* be 1. detention of person based upon direct credible observation by law enforcement of credible threat, 2. *immediate* hearing wherein all evidence is presented to confirm or deny the accusation, 3. if the accusation if proven correct, THEN the firerarms at the guilty party's firearms storage location could be searched and the firearms confiscated with a warrant. I thought that was how America worked: innocent until proven guilty.

Please vote against SB898.

Thank you,
George Pace

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, January 31, 2017 12:07 PM
To: PSMTestimony
Cc: djf991960@hotmail.com
Subject: Submitted testimony for SB898 on Feb 2, 2017 13:15PM

SB898

Submitted on: 1/31/2017

Testimony for PSM on Feb 2, 2017 13:15PM in Conference Room 229

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

Comments: I am opposed to this law as this is unnecessary since a Judge can already issue a warrant under present and current statues in the state of Hawaii for the same. It is not necessary since any time some one is deemed to be a threat to public safety, the AG can always get a judge to issue a warrant for search and seizure in this case. If not from the state then they can go to the feds under the Homeland Security Act.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 1, 2017 10:49 AM
To: PSMTestimony
Cc: da808rock@yahoo.com
Subject: *Submitted testimony for SB898 on Feb 2, 2017 13:15PM*

SB898

Submitted on: 2/1/2017

Testimony for PSM on Feb 2, 2017 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Jake Hanawahine	Individual	Oppose	No

Comments:

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 1, 2017 9:55 AM
To: PSMTestimony
Cc: jonagustine_lim@yahoo.com
Subject: Submitted testimony for SB898 on Feb 2, 2017 13:15PM

SB898

Submitted on: 2/1/2017

Testimony for PSM on Feb 2, 2017 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Jonagustine Lim	Individual	Oppose	No

Comments: Thank you for the intention of this bill and following due process (obtaining a court order) of removing access to firearms from a person who poses a danger to others. However, I OPPOSE this bill as written and believe that it needs to be amended. I am mostly concerned about the way the last portion (j) of this bill is written, specifically: "(j) Any person who owns, possesses, or controls a firearm or ammunition after having been found to pose a serious risk of violence or harm to public safety after a hearing described in subsection (f) shall be guilty of a class B felony." This portion of the bill seems to make someone a felon even if the person has not actually committed any crime. Please remove this from the bill.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov