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# 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 some  
2 of 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 improve its gun safety laws by completely prohibiting the  
6 use of large capacity magazines for all firearms. Existing  
7 state law prohibits the use of these types of magazines with  
8 pistols but 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. For example, in the 2019 mass shooting in Dayton, Ohio,  
16 the assailant, using an assault weapon and a drum magazine that  
17 held 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 either  
5 adversely affected by the behavioral, emotional, or  
6 mental disorder or deemed a danger to themselves or  
7 others;

8 (3) Prohibiting certain individuals who have been  
9 adjudicated by the family court to have committed a  
10 certain number of crimes of violence from owning  
11 firearms; and

12 (4) Requiring records of these diagnoses or adjudications  
13 to be made available to law enforcement officials.

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

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



1 (b) No person who is under indictment for, or has waived  
2 indictment for, or has been bound over to the circuit court for,  
3 or has been convicted in this State or elsewhere of having  
4 committed a felony, or any crime of violence, or an illegal sale  
5 of any drug shall own, possess, or control any firearm or  
6 ammunition therefor.

7 (c) No person who:

- 8 (1) Is or has been under treatment or counseling for  
9 addiction to, abuse of, or dependence upon any  
10 dangerous ~~[7]~~ drugs, harmful ~~[7-07]~~ drug, detrimental  
11 drug, intoxicating ~~[compound]~~ compounds, or  
12 intoxicating liquor, as defined in section 712-1240 ~~[7~~  
13 ~~or intoxicating liquor]~~;
- 14 (2) Has been acquitted of a crime on the grounds of mental  
15 disease, disorder, or defect pursuant to section  
16 704-411; or
- 17 (3) Is or has been diagnosed as having a significant  
18 behavioral, emotional, or mental ~~[disorders]~~ disorder,  
19 as defined by the most current diagnostic and  
20 statistical manual of mental disorders of the American  
21 Psychiatric Association; or ~~[for treatment]~~



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

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

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

12       (e) No minor who:

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

18       (2) Is a fugitive from justice; or

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



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

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

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



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

18 For the purposes of this subsection, good cause shall not  
19 be based solely upon the consideration that the person subject  
20 to restraint pursuant to an order of any court is required to  
21 possess or carry firearms or ammunition during the course of the



1 person's employment. Good cause consideration may include but  
2 not be limited to the protection and safety of the person to  
3 whom a restraining order is granted.

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

- 6 (1) As a minor, was diagnosed as having a significant  
7 behavioral, emotional, or mental disorder as defined  
8 by the most current diagnostic and statistical manual  
9 of mental disorders of the American Psychiatric  
10 Association, unless the person has been medically  
11 documented to be no longer either adversely affected  
12 by the behavioral, emotional, or mental disorder or  
13 deemed a danger to themselves or others;
- 14 (2) Is twenty-five years old or less and has been  
15 adjudicated by the family court to have committed not  
16 more than one crime of violence in this State or  
17 elsewhere; or
- 18 (3) Is more than twenty-five years old and has been  
19 adjudicated by the family court to have committed one  
20 or more crimes of violence in this State or elsewhere.





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

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

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

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

19        "**§134-8 Ownership, etc., of automatic firearms, silencers,**  
 20 **etc., prohibited; penalties.** (a) The manufacture, possession,  
 21 sale, barter, trade, gift, transfer, or acquisition of any of



1 the following is prohibited: assault pistols, except as  
2 provided by section 134-4(e); automatic firearms; rifles with  
3 barrel lengths less than sixteen inches; shotguns with barrel  
4 lengths less than eighteen inches; cannons; mufflers, silencers,  
5 or devices for deadening or muffling the sound of discharged  
6 firearms; hand grenades, dynamite, blasting caps, bombs, or  
7 bombshells, or other explosives; or any type of ammunition or  
8 any projectile component thereof coated with teflon or any other  
9 similar coating designed primarily to enhance its capability to  
10 penetrate metal or pierce protective armor; and any type of  
11 ammunition or any projectile component thereof designed or  
12 intended to explode or segment upon impact with its target.

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

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



1 apply to magazines originally designed to accept more than ten  
2 rounds of ammunition which have been modified to accept no more  
3 than ten rounds and which are not capable of being readily  
4 restored to a capacity of more than ten rounds.

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

9 [~~(d)~~] (e) Any person violating subsection (a) or (b)  
10 shall be guilty of a class C felony and shall be imprisoned for  
11 a term of five years without probation. Any person violating  
12 subsection (c) shall be guilty of a misdemeanor except when a  
13 detachable magazine prohibited under this section is possessed  
14 while inserted into a [~~pistol~~] firearm in which case the person  
15 shall be guilty of a class C felony."

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

18 "§571-84 **Records.** (a) The court shall maintain records  
19 of all cases brought before it. Except as provided in section  
20 571-84.6, in proceedings under section 571-11 and in paternity  
21 proceedings under chapter 584, the following records shall be



1 withheld from public inspection: the court docket, petitions,  
 2 complaints, motions, and other papers filed in any case;  
 3 transcripts of testimony taken by the court; and findings,  
 4 judgments, orders, decrees, and other papers other than social  
 5 records filed in proceedings before the court. The records  
 6 other than social records shall be open to inspection: by the  
 7 parties and their attorneys, by an institution or agency to  
 8 which custody of a minor has been transferred, and by an  
 9 individual who has been appointed guardian; with consent of the  
 10 judge, by persons having a legitimate interest in the  
 11 proceedings from the standpoint of the welfare of the minor;  
 12 and, pursuant to order of the court or the rules of court, by  
 13 persons conducting pertinent research studies, and by persons,  
 14 institutions, and agencies having a legitimate interest in the  
 15 protection, welfare, treatment, or disposition of the minor.

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

19 (1) May be furnished, in a manner determined by the judge,  
 20 to persons and governmental and private agencies and  
 21 institutions conducting pertinent research studies or



1           having a legitimate interest in the protection,  
2           welfare, treatment, or disposition of the minor[-];  
3           and

4           (2) Shall be furnished to law enforcement officials if the  
5           minor has been diagnosed with having a significant  
6           behavioral, emotional, or mental disorder as defined  
7           by the most current diagnostic manual of the American  
8           Psychiatric Association; or has been adjudicated by  
9           the court to have committed a crime of violence.

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

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

17           (e) The records of any police department and of any  
18 juvenile division or section thereof, relating to any  
19 proceedings authorized under section 571-11 shall be  
20 confidential and shall be open to inspection and use only by  
21 persons whose official duties are concerned with this chapter,



1 except as provided in subsections (b), (d) [~~and~~], (f), and (j);  
2 sections 571-88 and 571-72(b) [~~7~~]; or as otherwise ordered by the  
3 court.

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

13 (g) In all proceedings concerning violations other than  
14 traffic violations, in which a minor coming within section  
15 571-11(1) is involved and after the termination of any  
16 proceeding under section 571-11(1) arising out of the violation,  
17 the court may disclose to a party directly concerned the  
18 disposition of a case involving an offense against a person or  
19 property. This disclosure shall be made only upon written  
20 request of the party directly concerned. If the minor has been  
21 adjudicated a law violator, the name and address of the minor,



1 and, when practicable, the name of the parent or guardian shall  
2 be disclosed, pursuant to the order of the court or the Hawaii  
3 family court rules, to the parties directly concerned with the  
4 alleged violation or their duly licensed attorneys acting under  
5 written authority signed by either party. For the purpose of  
6 this section, "parties directly concerned" means any person who  
7 may sue because of death, injury, or damage resulting from any  
8 violation, other than a traffic violation, in which a minor  
9 coming within section 571-11(1) is involved.

10 The minor, and, when practicable, the minor's parents or  
11 custodian, and the attorney of the minor shall be notified when  
12 the minor's name and address have been released.

13 (h) Evidence given in proceedings under section 571-11(1)  
14 or (2) shall not in any civil, criminal, or other cause be  
15 lawful or proper evidence against the minor therein involved for  
16 any purpose [~~whatever~~], except in subsequent proceedings  
17 involving the same minor under section 571-11(1) or (2).

18 (i) All information in the records except reports of  
19 social studies and clinical studies or examinations shall be  
20 recorded in the juvenile justice information system.  
21 Information about the dates, length, preparer, and subject of



1 social studies may be included in the juvenile justice  
2 information system.

3 (j) All records shall be made available to the appropriate  
4 law enforcement officials for any minor who has a recorded  
5 diagnosis of having a significant behavioral, emotional, or  
6 mental disorder as defined by the most current diagnostic manual  
7 of the American Psychiatric Association; or who has been  
8 adjudicated by the court to have committed a crime of violence."

9 SECTION 5. This Act does not affect rights and duties that  
10 matured, penalties that were incurred, and proceedings that were  
11 begun before its effective date.

12 SECTION 6. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 7. This Act shall take effect upon its approval;  
15 provided that the amendments made to section 571-84(a), Hawaii  
16 Revised Statutes, by section 2 of Act 225, Session Laws of  
17 Hawaii 2019, shall not be affected by section 4 of this Act when  
18 Act 225, Session Laws of Hawaii 2019, becomes effective on  
19 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. (HD1)

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

