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Testimony of the Office of the Public Defender to House Committee on Judiciary and Hawaiian Affairs re:

HB 137 Relating to Firearms

Chair: Rep. David A. Tarnas, Vice Chair: Rep. Mahina Poepoe and Members of the Committee:

The Office of the Public Defender respectfully **opposes HB 137** for the following reasons:

HB 137 seeks to amend HRS section 134-7 (j) by adding the following language:

“and shall be sentenced to an indeterminate term of imprisonment as provided by law”.

With this added language any person convicted of this offense, will be sentenced to an indeterminate term of 10 years of imprisonment with no opportunity for probation. The OPD understands that this bill hopes to deter felons from possessing firearms or ammunition, but this would have persons that do not need to be incarcerated placed into prison. Persons that have been convicted of violent felony offenses may pose a danger to the community if they were to possess firearms, but this is not the case for all those with felony convictions. Felony convictions can be for Theft, Possession of Drugs (due to addiction), Driving While under the Influence of Alcohol, Habitual Property Crimes (which are usually repeat shoplifting petty misdemeanors or misdemeanors) Unauthorized Control of a Propelled Vehicle, Unauthorized Entry into a Motor Vehicle, Identity Theft, Unauthorized Possession of Confidential Personal Information, and other non-violent felony offenses. Persons convicted of these non-violent felonies are

usually not given indeterminate terms of incarceration, because they are not defendants for whom long term incarceration is necessary, and the mere possession of a firearm does not make them any more dangerous than anyone that does not have such a felony conviction. If the purpose of this bill is to deter or punish dangerous felons, then the language of the bill should be tailored to that purpose. A simple change to the proposed language of HB 137 regarding HRS 134-7 (j) could read: “and if said prior felony conviction is that of a crime of violence, as defined in HRS 134-1, the defendant shall be sentenced to an indeterminate term of imprisonment as provided by law”.

As written, this bill would invite costly litigation as does any law requiring mandatory sentencing. Furthermore, it will lead to added costs for the long-term incarceration of individuals that may not need such a punishment. Current law allows a trial judge well placed discretion in sentencing matters under HRS 134-7(j). This bill would remove that well placed discretion.

Thank you for the opportunity to comment upon this measure.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



MIKE LAMBERT
DIRECTOR

SYLVIA LUKE
LT GOVERNOR
KE KE'ENA

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LAW ENFORCEMENT
Ka 'Oihana Ho'okō Kānāwai
715 South King Street
Honolulu, Hawaii 96813

JARED K. REDULLA
Deputy Director
Law Enforcement

**TESTIMONY ON HOUSE BILL 137
RELATING TO FIREARMS**

Before the House Committee on
JUDICIARY & HAWAIIAN AFFAIRS

Tuesday, February 25, 2025, 2:00 p.m.

State Capitol Conference Room 325 & Videoconference

Testifiers: Mike Lambert or Jared Redulla

Chair Tarnas, Vice Chair Poepoe, and members of the Committee:

The Department of Law Enforcement (DLE) strongly supports House Bill 137. This bill establishes mandatory prison terms for felons who violate existing prohibitions against owning, possessing, or controlling firearms or ammunition. The proposed legislation strengthens current firearm regulations by implementing stricter penalties for convicted felons who unlawfully possess firearms, thereby enhancing public safety and deterring criminal activity.

The DLE recognizes that felons in possession of firearms pose a significant threat to public safety and law enforcement officers. By establishing mandatory prison terms, this legislation provides clear consequences for violations and eliminates potential sentencing inconsistencies. This enhancement to existing firearms laws will serve as a stronger deterrent and help prevent convicted felons from obtaining and possessing firearms.

The mandatory sentencing requirements proposed in this bill will also assist law enforcement efforts in removing illegal firearms from our communities and provide prosecutors with additional tools to address gun violence and related crimes. This measure aligns with the DLE's commitment to maintaining public safety and reducing gun-related crimes in Hawaii.

Thank you for the opportunity to testify in support of this bill.

COUNTY COUNCIL

Mel Rapozo, Chair
KipuKai Kualii, Vice Chair
Addison Bulosan
Bernard P. Carvalho, Jr.
Felicia Cowden
Fern Holland
Arryl Kaneshiro



OFFICE OF THE COUNTY CLERK

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Council Services Division
4396 Rice Street, Suite 209
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February 21, 2025

**TESTIMONY OF ADDISON BULOSAN
COUNCILMEMBER, KAUAI COUNTY COUNCIL
ON
HB 137, RELATING TO FIREARMS
AND
HB 403, RELATING TO THE SUNSHINE LAW
House Committee on Judiciary & Hawaiian Affairs
Tuesday, February 25, 2025
2:00 p.m.
Conference Room 325
Via Videoconference**

Dear Chair Tarnas and Members of the Committee:

Thank you for this opportunity to provide testimony in SUPPORT of HB 137, Relating to Firearms and HB 403, Relating to the Sunshine Law. My testimony is submitted in my individual capacity as a member of the Kauai County Council.

I wholeheartedly support the intent of HB 137 and HB 403, which would greatly affect the Kauai community.

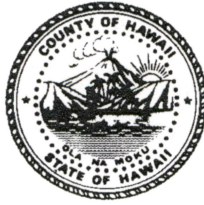
Thank you again for this opportunity to provide testimony in support of HB 137 and HB 403. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188 or via email to cokcouncil@kauai.gov.

Sincerely,

ADDISON BULOSAN
Councilmember, Kauai County Council

AAO:slr

C. Kimo Alameda, Ph.D.
Mayor



Benjamin T. Moszkowicz
Police Chief

William V. Brilhante Jr.
Managing Director

Reed K. Mahuna
Deputy Police Chief

County of Hawai'i

POLICE DEPARTMENT

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February 24, 2025

Representative David Tarnas, Chair
Committee on Judiciary and Hawaiian Affairs
State Capitol
415 South Beretania Street, Room 325
Honolulu, Hawai'i 96813

Dear Representative Tarnas:

RE: HOUSE BILL 137, RELATING TO FIREARMS
HEARING DATE: FEBRUARY 25, 2025
TIME: 2:00 P.M.
PLACE: CONFERENCE ROOM 325 & VIDEOCONFERENCE

The Hawai'i Police Department (HPD) is in strong support of House Bill 137, which provides that felons in violation of the prohibition against owning, possessing, or controlling a firearm or ammunition are subject to a mandatory prison term.

It is common for firearms offenses to be perpetrated by individuals who are convicted felons. It is uncommon for those same perpetrators to face penalties, such as prison sentences, that commensurate with the crime(s). Oftentimes the perpetrators continue to utilize firearms and/or ammunition in furtherance of criminal behavior, and it is imperative that the imposed penalties fit the crime. Implementing a mandatory prison term sends the message that violation of firearms statutes will not be tolerated.

It is for these reasons, that we urge this committee to approve this legislation. Thank you for allowing the Hawai'i Police Department to provide comments relating to House Bill 137.

Sincerely,


BENJAMIN T. MOSZKOWICZ
POLICE CHIEF

KELDEN B.A. WALTJEN
PROSECUTING ATTORNEY

STEPHEN L. FRYE
FIRST DEPUTY
PROSECUTING ATTORNEY



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OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT OF HOUSE BILL NO. 137

A BILL FOR AN ACT RELATING TO FIREARMS

**COMMITTEE ON
JUDICIARY & HAWAIIAN AFFAIRS**
Representative David Tarnas, Chair
Representative Mahina Poepoe, Vice Chair

Tuesday, February 25, 2025 at 2:05 p.m.
Via Videoconference and
State Capitol Conference Room 325
415 South Beretania Street

Honorable Chair Tarnas, Vice-Chair Poepoe, and Members of the Committee on Judiciary & Hawaiian Affairs: The County of Hawai'i, Office of the Prosecuting Attorney submits the following testimony in support of House Bill No. 137.

House Bill No. 137 requires that felons who are convicted of illegally owning, possessing, or controlling a firearm or ammunition must be sentenced to a mandatory prison term. Currently, a felon convicted of illegally possessing a firearm or ammunition is often eligible for probation, unless his or her prior felony conviction was an enumerated offense within a limited, defined look-back period for the repeat offender enhancement under Section 706-606.5, Hawai'i Revised Statutes ("HRS").

Consistent crime trends indicate that a significant number of firearms-related offenses are committed by individuals who are prohibited from legally owning and possessing firearms and ammunition. According to the Hawai'i Police Department ("HPD"), a total of 196 criminal investigations were initiated under violations of HRS Section 134-7 (Ownership, possession, control prohibited) between 2022 and 2024, resulting in 315 offenses charged.

There is substantial support for this legislation. In December 2021, our Office conducted a 14-question online survey, including relevant background information, which discussed proposed legislative initiatives. A total of 1,422 individuals participated and 86.34% (1,226) indicated that they supported legislation for harsher penalties for persons convicted of being a felon in possession of firearms or ammunition, including being subject to a mandatory prison term. In December 2022, we conducted another online survey. A total of 674 individuals

participated and 79.97% (535) indicated that persons convicted of being a felon in possession of firearms should be sentenced to a mandatory prison term and not eligible for probation.

Currently, felons who have been convicted of serious crimes are legally prohibited from owning or possessing firearms due to their past offenses. However, despite our existing laws, too many individuals with a serious criminal history continue to access firearms and engage in dangerous, unlawful activities, placing both themselves and society at risk. A mandatory prison term for felons in possession of firearms would help address this alarming trend.

A firearm in the hands of a convicted felon is a recipe for disaster for the safety of our communities. Felons, especially those convicted of violent crimes, have already demonstrated disregard for the law and are at an increased likelihood of reoffending. Each felon was told by a judge at sentencing that they were prohibited from possessing firearms or ammunition, and there is no excuse for those who choose to ignore this simple order and seek out a firearm anyway.

One of the strongest arguments for the passage of HB 137 is the deterrent effect. When felons understand that possessing a firearm will result in a significant and unavoidable sentence, they will be less likely to do so. HB 137 makes it clear that society will not tolerate reckless actions and that there are real, serious consequences for breaking this rule. A mandatory prison term would deter felons from attempting to carry or use a weapon, knowing the inevitable punishment.

A mandatory prison term would also enhance the consistency and fairness of the criminal justice system. We cannot afford disparities in sentencing for the same crime, especially for a crime that directly impacts public safety. A mandatory prison term ensures that offenders will be held accountable, regardless of their background or circumstances, and removes the possibility of leniency based on bias or other factors that may unduly influence sentencing.

Critics often argue that mandatory prison terms result in overly harsh sentences or reduce the ability for judges to exercise discretion. There is a place for discretion, and judges play an important role in ensuring justice, but the reality is that felons with firearms pose a serious risk to society and are a menace to public safety. Those convicted of this offense have shown repeatedly that they will not follow our laws. A mandatory prison term strikes the appropriate balance, by setting clear guidelines for a felony crime that directly impacts public safety. HB 137 does not entirely remove discretion in sentencing, as the Hawai'i paroling authority would still set the minimum length of imprisonment in accordance with Section 706-669, HRS. The bill simply ensures that those who commit the specific offense of felon in possession of a firearm face the consequences of their actions.

The need for HB 137 is clear. By implementing such a law, we can better protect our communities, deter violent crime, and enhance the consistency of our criminal justice system. It is imperative that we take decisive steps to address this issue for the safety of all citizens. For the foregoing reasons, the County of Hawai'i, Office of the Prosecuting Attorney supports the passage of House Bill No. 137. Thank you for the opportunity to testify on this matter.



STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS

Robert Cavaco
State Board President

" A Police Organization for Police Officers Only "
Founded 1971

Term of Office
1-2022 to 12-2025

February 21, 2025

The Honorable David A. Tarnas, Chair
The Honorable Mahina Poepoe, Vice Chair
House Committee on Judiciary & Hawaiian Affairs
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

Re: **HB 137 – Relating to Firearms**

Dear Chair Tarnas, Vice-Chair Poepoe, and Honorable Committee members:

I serve as the President of the State of Hawaii Organization of Police Officers ("SHOPO") and write to you on behalf of our Union in support of HB 137, which seeks to amend Hawaii Revised Statutes § 134-7 such that any felon found in violation of the prohibition against owning, possessing, or controlling a firearm or ammunition shall be guilty of a class B felony and subject to a mandatory prison term. SHOPO is dedicated to advocating for policies that protect our officers and the communities they serve. HB 137 aligns with our mission by addressing a critical issue that directly impacts the safety and well-being of both law enforcement personnel and the public. It is our sincere hope that the passage of this bill will significantly contribute to reducing gun-related incidents and enhancing the overall security of our state.

HB 137 underscores the seriousness of firearm-related offenses and aligns with our commitment to reducing gun violence. By imposing stricter penalties on felons who unlawfully possess firearms, HB 137 serves as a deterrent to potential offenders. The mandatory prison term acts as a significant disincentive for felons considering the illegal possession of firearms. The proposed legislation also enhances the safety of county law enforcement officers and the general public by reducing the likelihood of firearms being in the hands of those with a proven history of criminal behavior. This is particularly crucial for our officers who face the daily risk of encountering armed felons. By targeting the illegal possession of firearms by felons, HB 137 ensures that individuals who have demonstrated a disregard for the law are held accountable, thereby promoting a safer environment for all residents of Hawaii. For these reasons, SHOPO is in support of this proposed legislation.

Thank you for considering this testimony. We are committed to working with the legislature to ensure the successful implementation of HB 137.

Respectfully submitted,
ROBERT CAVACO
SHOPO President

RC: ja

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HB-137

Submitted on: 2/21/2025 7:13:08 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michael I Rice	Individual	Comments	Remotely Via Zoom

Comments:

I have mixed feelings on this bill. On the one hand I myself complain when convicted felons caught with firearms get a slap on the wrist. While I believe that non-violent and reformed convicted felons should have a pathway to have their gun rights restored, this bill is not the vehicle for that.

I would point to the high profile new years shooting, where a convicted felon shot his wife, and two officers before leading the entire island on a goose chase before ending his life. Two months after this individual was released on probation, and six months before his shooting spree, he was caught with an illegal machine gun by the police. Which seems like a massive screwup on someone's part that he wasn't back in prison.

My main concern with this bill is the vague wording, and that simply being charged with a crime, not convicted, would be a crime in and of itself.

HB-137

Submitted on: 2/21/2025 9:05:35 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Bronson Teixeira	Individual	Oppose	Written Testimony Only

Comments:

As much as I would like to support this bill I stand in opposition. Currently there is a case at the Supreme Court level that pertains to non violent felons having their 2nd amendment rights restored. If this bill could be clarified towards violent felons then I would give my support.

HB-137

Submitted on: 2/23/2025 9:56:19 AM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ryan Willis	Individual	Oppose	Written Testimony Only

Comments:

I strongly Oppose

HB-137

Submitted on: 2/24/2025 4:57:39 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michael EKM Olderr	Individual	Support	Written Testimony Only

Comments:

I support this bill. Firearms are not toys, and they are not a joke. If people don't understand that, there must be strict consequences for not doing the bare minimum to keep them and their neighbors safe. Do not defer this bill. Pass it!