

**STATE OF HAWAII**  
**DEPARTMENT OF THE ATTORNEY GENERAL**



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**Fiscal Year 2001**  
**VIOLENT FIREARM**  
**CRIME COALITION REPORT**  
**Pursuant to Act 127, SLH 2000**

**Submitted to**  
**The Twenty-First State Legislature**  
**Regular Session of 2002**

## I.

### INTRODUCTION

The Violent Firearm Crime Coalition was created in 2000 by the Legislature and was composed of:

1. the attorney general or a designated representative;
2. the director of public safety or a designated representative;
3. one of the prosecuting attorneys selected by the prosecuting attorneys of the respective counties or a designated representative;
4. one of the chiefs of police selected by the chiefs of police of the respective counties or a designated representative;
5. the director of the department of health or a designated representative;
6. the chairperson of the Hawaii paroling authority or a designated representative; and
7. the administrator of the adult probation administration or a designated representative.

The purpose of the coalition was to clarify and articulate the best process to seize firearms from those individuals who are no longer qualified to own or possess firearms, and who do not voluntarily relinquish firearms or transfer ownership of firearms. In addition, the coalition has been asked to determine the best process to keep firearms from individuals who are no longer qualified to own or possess firearms for mental health reasons.

### 2001 COALITION MEETING

The Coalition met on November 9, 2001, at the Department of the Attorney General. Deputy Attorney General Dwight K. Nadamoto was the designated representative for the Attorney General. Sydney Hayakawa, Deputy Director of Public Safety, represented the Department of Public Safety. The Honorable Michael Soong, the Prosecuting Attorney for the County of Kauai, represented the county prosecutors. Laurie Nishimoto of the Honolulu Prosecutor's Office also attended. Major Karl Godsey of the Honolulu Police Department represented the chiefs of police of the respective counties. Tom Johnson represented the Hawaii

paroling authority, and Liesje Cattaneo represented the administrator of the adult probation administration. Dan Galanis, who was to represent the Department of Health, did not appear.

## II.

### ***A. The Best Way to Seize Firearms From Individuals Who Are No Longer Qualified To Own Or Possess Them And Who Do Not Voluntarily Relinquish Or Transfer Ownership Of Them.***

#### **1. Reregistration of Firearms**

The Coalition recommends the reregistration of all firearms. Individuals who are convicted of a felony or a crime of violence are prohibited from possessing a firearm. Previously individuals who were convicted of a felony or a crime of violence were prohibited from possessing a firearm. Coalition members noted that it is only within the last five to six years that circuit court judges have been informing defendants convicted of felonies that they are prohibited from possessing a firearm. It was also noted that over time an individual may become disqualified from possessing a firearm. For instance, an individual who suffers from a degenerative disease such as Alzheimer's although currently qualified to own a firearm may later become unqualified as his condition worsens. Moreover, individuals convicted of a felony or a crime of violence may not be informed they are disqualified from owning or possessing a firearm and/or may not have turned it in. Requiring reregistration of firearms would enable the police to reassess an individual's qualification and seize firearms from disqualified individuals.

The Coalition further recommends that reregistration be done annually and be phased in over a ten-year period. The phase-in can be done by requiring those born in a year ending in "0" to register first followed by those born in years ending in "1", "2", "3", "4", "5", "6", "7", "8", and "9", respectively.

If reregistration is required the Coalition also recommends that individuals be allowed to reregister annually by mail and require in-person registration every five years. The problem of

false identification makes it important to require in-person registration initially and in-person reregistration thereafter every five years to ensure that the person registering the firearm is who he/she claims to be.

Major Karl Godsey of the Honolulu Police Department (HPD) also noted that there were approximately 1,000,000 registered firearms in the City and County of Honolulu and HPD had no way of confirming the accuracy of these records. For instance, it did not know how many of these firearms were actually in the State of Hawaii and who the actual owners were. Members of the military, who owned firearms, could have left Hawaii, without informing the police department of their departure. Furthermore, the original owners of the firearms could have died and their heirs may have failed to account for the firearm or reregister the new owner with the police department. Reregistration would enable HPD to update its records, and thereby improve its ability to enforce the firearms law.

**2. Requiring Proof Of A Lawfully Registered Firearm For Purchase Of Ammunition And/Or Reloading Equipment.**

The Coalition also recommends that proof of a lawfully registered firearm be required for purchase of ammunition and/or reloading equipment. Although this would not directly result in the removal of firearms from those no longer qualified to own or possess them it would prevent them from using them.

***B. The Best Way To Keep Firearms From Individuals Who Are No Longer Qualified To Own Or Possess Them For Mental Health Reasons.***

**1. Requiring A Mental Health Certificate To Obtain A Permit To Acquire A Firearm And When Reregistering An Existing Firearm**

The Coalition recommends that when an individual obtains a permit to acquire a firearm or reregisters an existing firearm a mental health certificate of fitness be required from a qualified mental health professional.

Section 134-7(c), H.R.S., states:

No person who:

- (1) Is or has been under treatment or counseling for addiction to, abuse of, or dependence upon any dangerous, harmful, or detrimental drug, intoxicating compound as defined in section 712-1240, or intoxicating liquor;
  - (2) Has been acquitted of a crime on the grounds of mental disease, disorder, or defect pursuant to section 704-411; or
  - (3) Is or has been diagnosed as having a significant behavioral, emotional, or mental disorders as defined by the most current diagnostic manual of the American Psychiatric Association or for treatment for organic brain syndromes;
- shall own, possess, or control any firearm or ammunition therefore, unless the person has been medically documented to be no longer adversely affected by the addiction, abuse, dependence, mental disease, disorder or defect.

Section 134-2(b) and (c), H.R.S., states:

- (b) The permit application form shall include the applicant's name, address, sex, height, weight, date of birth, place of birth, social security number, and information regarding the applicant's mental health history and shall require the fingerprinting and photographing of the applicant by the police department of the county of registration; provided that where fingerprints and photographs are already on file with the department, these may be waived.
- (c) An applicant for a permit shall sign a waiver at the time of application, allowing the chief of police of the county issuing the permit access to any records that have a bearing on the mental health of the applicant. The permit application form and the waiver form shall be prescribed by the attorney general and shall be uniform throughout the state.

Finally Act 252, "Relating to Firearms", effective June 19, 2001, section 1 (2001)

states:

Disclosure for firearm permit and registration purposes. A health care provider or public health authority shall disclose health information, including protected health care information, relating to an individual's mental health history, to the appropriate county chief of police in response to a request for the information from the chief of police; provided that:

- (1) The information shall be used only for the purpose of evaluating he individual's fitness to acquire or own a firearm; and
- (2) The individual has signed a waiver permitting release of the health information for that purpose.

Present law only requires that an individual provide information regarding his/her mental health and sign a waiver. It is too dependent on the individual informing the police if he has had any problems and the names of any mental health professionals he has seen. There is little that can

be done to ensure an individual gives the police accurate information. It also is too dependent upon individuals, who are in need of psychiatric or psychological help, seeking and obtaining that help.

The best way to keep firearms from individuals who are no longer qualified to own or possess them for mental health reasons is for the proper authorities to immediately become aware of a disqualifying condition under Section 134-7(c), H.R.S. Events and conditions can adversely affect an individual's mental health. Thus, an individual who is qualified to possess a firearm may later become unqualified for mental health reasons. Thus, it is important that an individual, who possesses a firearm, provide proof of mental health annually.

**2. Requiring Proof Of A Lawfully Registered Firearm for Purchase Of Ammunition And/Or Reloading Equipment.**

The Coalition also recommends that proof of a lawfully registered firearm be required for purchase of ammunition and/or reloading equipment. Although this would not directly result in the removal of firearms from those not qualified to own or possess firearms for mental health reasons it would prevent them from using them.