


I Mina'trentai Sais Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
264-36 (COR)	Committee on Air Transportation, Parks, Tourism, Higher Education, and the Advancement of Women, Youth and Senior Citizens by request of I Kongressun Manhoben Guåhan, the Guam Youth Congress, in accordance with 2 GCA § 7102.	AN ACT TO ADD A NEW CHAPTER 93 TO TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING FAMILY MEMBERS OF AN INDIVIDUAL WHO THEY FEAR IS A DANGER TO HIMSELF, HERSELF, OR OTHERS NEW TOOLS TO PREVENT GUN VIOLENCE; AND TO CITE THIS ACT AS THE "GUN VIOLENCE PREVENTION ORDER ACT OF 2021".	3/3/22 8:00 a.m.						

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2022 (SECOND) Regular Session

Bill No. 264-36 (COR)

Introduced by:

Committee on Air
Transportation, Parks, Tourism,
Higher Education, and the
Advancement of Women,
Youth and Senior Citizens. 
by request of I Kongressun
Manhoben Guåhan, the Guam
Youth Congress, in accordance
with 2 GCA § 7102.

**AN ACT TO *ADD* A NEW CHAPTER 93 TO TITLE 9,
GUAM CODE ANNOTATED, RELATIVE TO
PROVIDING FAMILY MEMBERS OF AN INDIVIDUAL
WHO THEY FEAR IS A DANGER TO HIMSELF,
HERSELF, OR OTHERS NEW TOOLS TO PREVENT
GUN VIOLENCE; AND TO CITE THIS ACT AS THE
“GUN VIOLENCE PREVENTION ORDER ACT OF 2021”.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Short Title.** This Act *shall* be cited as the “Gun Violence
3 Prevention Order Act of 2021”.

4 **Section 2. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that
5 the issue of gun control is one of great concern to the youth of Guam. On April 20,
6 2018, students from George Washington High School held an anti-gun violence rally
7 in conjunction with National School Walkout day in response to gun-related
8 tragedies at the time.

1 *I Liheslatura* further finds that the last mass shooting on Guam took place in
2 February 26, 2001, at the Seventh-day Adventist Clinic, which resulted in seven (7)
3 dead, including the shooter, who was fatally wounded by police. *I Kongresson*
4 *Manhoben* acknowledges that, despite the last mass shooting on Guam taking place
5 more than a decade ago, preemptive measures are necessary in combating future gun
6 violence.

7 *I Liheslatura* further finds that the issue of gun control is one that must be
8 balanced with gun rights. *I Kongresson Manhoben* acknowledges the reality that the
9 possession of a gun does not automatically lead to gun violence and that policy
10 proposals in regards to gun violence must not fly in the face of the people’s Second
11 Amendment rights, but rather gun violence, and violence at large, is caused in part
12 by other reasons, such as mental illness, poor living situations, and more.

13 *I Liheslatura* further finds that in one instance, as reported by CBS News in
14 2012, the shooter involved in the 2012 Aurora shooting had met with at least three
15 (3) mental health professionals at the University of Colorado before the massacre.
16 More recently, the shooter involved in the Stoneman Douglas High School shooting
17 was known to have a history of behavioral issues. State investigators reported he had
18 depression, autism, and attention deficit hyperactivity disorder (ADHD). He also
19 operated multiple online profiles and accounts which the Broward County Sheriff
20 described as “very, very disturbing,” as they contained numerous pictures and posts
21 of him with various weapons.

22 *I Liheslatura* finds that, as it should be noted, the shooter involved in the
23 Stoneman Douglas High School shooting acquired his firearms legally. He passed a
24 background check as well as various mental health questions. However, public
25 records show that the sheriff’s office received at least forty-five (45) calls made in
26 reference to the shooter between 2008 and 2017. Furthermore, the Public Access
27 Line of the Federal Bureau of Investigation (FBI) received a tip from someone close

1 to the shooter on January 5, 2018. The tip, according to a statement made to the FBI
2 a month later, provided information on the shooter’s gun ownership, desire to kill
3 people, erratic behavior, and disturbing social media posts, as well as the potential
4 of him conducting a school shooting. The lack of urgency and response to the
5 numerous warnings and events leading to the massacre on the part of the Broward
6 County Sheriff is a justified subject of scrutiny. Thus, it can be concluded that law
7 enforcement agencies all around the nation have a duty to act upon dangers to the
8 safety of the public if the evidence indicates a threat, and the withdrawal and denial
9 of that responsibility is a slight against the people.

10 *I Liheslatura* further finds that recently, on March 16, 2021, a white gunman
11 went to three spas in Metro Atlanta, Georgia claiming eight lives and one survivor.
12 Where majority of the victims are of Asian American descent. Furthermore, on
13 March 22, 2021, another mass shooting incident took place in a grocery store in
14 Boulder, Colorado. The shooter killed ten individuals including a police officer.

15 Therefore, it is the intent of *I Liheslatura* to provide, for the people of Guam,
16 a new “Gun Violence Prevention Order” for the purpose of providing family
17 members a method of depriving the right to purchase, receive, own, or otherwise
18 possess a firearm from an individual who they believe poses a danger to himself,
19 herself, or others by adding a new Chapter 93 to Title 9, Guam Code Annotated.

20 **Section 3.** A new Chapter 93 is hereby *added* to Title 9, Guam Code
21 Annotated, to read:

22 **“CHAPTER 93**

23 **Gun Violence Prevention Order Act of 2021**

24

25 § 93.01. Definitions.

26 § 93.02. Gun Violence Prevention Order and Warrant Law.

27 § 93.03. Gun Violence Prevention Order Database.

1 § 93.04. Law Enforcement Check of Firearm Database or Registry.

2 § 93.05. Confidentiality Protections.

3 § 93.06. Severability.

4
5 **§93.01. Definitions.**

6 For the purpose of this Chapter:

7 (a) *Family member* means, with respect to an individual, a spouse,
8 child, parent, legal guardian, sibling, grandchild, or grandparent of the
9 individual;

10 (b) *Firearm* means any weapon, the operating force of which is an
11 explosive. This definition includes pistols, revolvers, rifles, shotguns,
12 machine guns, automatic rifles, noxious gas projectors, mortars, bombs,
13 cannon and submachine guns. The specific mention of certain weapons does
14 not exclude from the definition other weapons operated by explosives.

15 (c) *Gun violence prevention order* means a written order, issued by
16 the Superior Court or signed by a magistrate (or other comparable judicial
17 officer)—

18 (1) prohibiting a named individual from having under the
19 custody or control of the individual, owning, purchasing, possessing, or
20 receiving any firearms; or

21 (2) having a firearm removed;

22 (d) *Gun violence prevention warrant* means a written order, issued
23 by the Superior Court or signed by a magistrate (or other comparable judicial
24 officer), regarding an individual who is subject to a gun violence prevention
25 order and who is known to own or possess one or more firearms, that directs
26 a law enforcement officer to temporarily seize and retain any firearm in the
27 possession of the individual;

1 (e) Law enforcement officer means a public servant authorized by
2 the law to engage in or supervise the prevention, detection, investigation, or
3 prosecution of an offense; and

4 (f) Wellness check means a visit conducted by a law enforcement
5 officer to the residence of an individual for the purpose of assessing whether
6 the individual poses a danger to the individual or others due to a mental,
7 behavioral, or physical condition.

8 **§ 93.02. Gun Violence Prevention Order and Warrant Law.**

9 (a) Application for Gun Violence Prevention Order. A family
10 member of an individual may submit an application to the Superior Court, on
11 a form designed by the Court, that—

12 (1) describes the facts and circumstances necessitating that a
13 gun violence prevention order be issued against the named individual;

14 (2) is signed by the applicant, under oath; and

15 (3) includes any additional information required by the
16 Superior Court or magistrate (or other comparable judicial officer) to
17 demonstrate that possession of a firearm by the named individual poses
18 a substantial risk or a higher standard of risk of personal injury to the
19 named individual or others.

20 (b) Examination of Applicant and Witnesses. The Superior Court or
21 magistrate (or other comparable judicial officer) shall, before issuing a gun
22 violence prevention order—

23 (1) examine, under oath, the individual who applied for the
24 order under § 93.02(a) and any witnesses the individual produces; and

25 (2) examine, under oath, the individual who may be subject to
26 the order under § 93.02(a) and any witnesses the individual produces;

27 and

1 (3)(i) require that the individual or any witness submit a signed
2 affidavit, which describes the facts the applicant or witness believes
3 establish the grounds of the application; or

4 (ii) take an oral statement from the individual or witness
5 under oath.

6 (c) Standard for Issuance of Order.

7 (1) In General. The Superior Court or magistrate (or other
8 comparable judicial officer) may issue a gun violence prevention order
9 upon a finding that there is a reasonable suspicion that possession of a
10 firearm by the named individual poses a significant risk of personal
11 injury to the named individual or others.

12 (2) Notification.

13 (i) In General. The Superior Court shall notify the
14 Office of the Attorney General of the gun violence prevention
15 order no later than two (2) court days after issuing the order. The
16 Court shall also notify the Office of the Attorney General of any
17 order restoring the ability of the individual to own or possess
18 firearms no later than two (2) court days after issuing the order
19 to restore the individual's right to own or possess any type of
20 firearms that may be lawfully owned and possessed. Such notice
21 shall be submitted in an electronic format, in a manner prescribed
22 by the Office of the Attorney General.

23 (ii) Update of Database. As soon as practicable after
24 receiving a notification under § 93002(c)(2)(i), the Attorney
25 General shall update the Gun Violence Prevention Order
26 Database, as prescribed in § 93.03 of this Chapter, to reflect the
27 prohibitions articulated in the gun violence prevention order.

1 (d) Issuance of Gun Violence Prevention Warrant.

2 (1) In General. After issuing a gun violence prevention order,
3 the Superior Court or magistrate (or other comparable judicial officer)
4 shall, upon a finding of probable cause to believe that the named
5 individual subject to the order has a firearm in his custody or control,
6 issue a gun violence prevention warrant ordering the temporary seizure
7 of all firearms specified in the warrant.

8 (2) Requirement. Subject to § 93.02(f), a gun violence
9 prevention warrant issued under § 93.02(d)(1) shall require that any
10 firearm described in the warrant be taken from any place, or from any
11 individual in whose possession, the firearm may be.

12 (e) Service of Gun Violence Prevention Order. When serving a gun
13 violence prevention order or warrant, a law enforcement officer or process
14 server shall provide the individual with a form to request a hearing in
15 accordance with § 93.02(f)(6).

16 (f) Temporary Seizure of Firearms.

17 (1) In General. When a law enforcement officer takes property
18 under a gun violence prevention warrant or a gun violence prevention
19 order, the law enforcement officer shall give a receipt for the property
20 taken, specifying the property in detail, to the individual from whom it
21 was taken. In the absence of a person, the law enforcement officer shall
22 leave the receipt in the place where the law enforcement officer found
23 the property, if such information is available.

24 (2) Temporary Custody of Seized Firearms. All firearms
25 seized pursuant to a gun violence prevention warrant shall be retained
26 by the law enforcement officer or the law enforcement agency in

1 custody, subject to the order of the court that issued the warrant or to
2 any other court in which an offense with respect to the firearm is triable.

3 (3) Limitation on Seizure of Firearms. If the location to be
4 searched during the execution of a gun violence prevention warrant is
5 jointly occupied by multiple parties and a firearm is located during the
6 execution of the seizure warrant, and it is determined that the firearm is
7 owned by an individual other than the individual named in the gun
8 violence prevention warrant, the firearm may not be seized if—

9 (i) the firearm is stored in a manner that the individual
10 named in the gun violence prevention warrant does not have
11 access to or control of the firearm; and

12 (ii) there is no evidence of unlawful possession of the
13 firearm by the owner.

14 (4) Gun Safe. If the location to be searched during the
15 execution of a gun violence prevention warrant is jointly occupied by
16 multiple parties and a gun safe is located, and it is determined that the
17 gun safe is owned by an individual other than the individual named in
18 the gun violence prevention warrant, the contents of the gun safe shall
19 not be searched except in the owner's presence, or with the owner's
20 consent, or unless a valid search warrant has been obtained.

21 (5) Return of Firearm to Rightful Owner. If any individual
22 who is not a named individual in a gun violence prevention warrant
23 claims title to a firearm seized pursuant to a gun violence prevention
24 warrant, the firearm shall be returned to the lawful owner no later than
25 thirty (30) days after the date on which the title is claimed.

26 (6) Right to Request a Hearing. A named individual may
27 submit one (1) written request at any time during the effective period

1 of a gun violence prevention order issued against the individual for a
2 hearing for an order allowing the individual to own, possess, purchase,
3 or receive a firearm.

4 (g) *Hearing on Gun Violence Prevention Order and Gun Violence*
5 *Prevention Warrant.*

6 (1) In General. Except as provided in § 93.02(g)(5), no later
7 than thirty (30) days after the date on which a gun violence prevention
8 order and, when applicable, a gun violence prevention warrant, is
9 issued, the Court that issued the order and, when applicable, the
10 warrant, or another court in that same jurisdiction, shall hold a hearing
11 to determine whether the individual who is the subject of the order may
12 have under the custody or control of the individual, own, purchase,
13 possess, or receive firearms and, when applicable, whether any seized
14 firearms should be returned to the individual named in the warrant.

15 (2) Notice. The individual named in a gun violence prevention
16 order requested to be renewed under § 93.02(g)(1) shall be given
17 written notice and an opportunity to be heard on the matter.

18 (3) Burden of Proof.

19 (i) In General. Except as provided in § 93.02(g)(3)(ii),
20 at any hearing conducted under § 93.02(g)(1), the Attorney
21 General shall have the burden of establishing probable or
22 reasonable cause that the individual poses a significant risk of
23 personal injury to the individual or others by owning or
24 possessing the firearm.

25 (ii) Higher Burden of Proof. The Superior Court may
26 establish a burden of proof for hearings conducted under §

1 93.02(g)(1) that is higher than the burden of proof required under
2 § 93.02(g)(3)(i).

3 (4) Requirements Upon Finding of Significant Risk or a
4 Higher Standard of Risk. If the named individual is found at the hearing
5 to pose a substantial risk or a higher standard of risk of personal injury
6 to the named individual or others by owning or possessing a firearm,
7 the following shall apply:

8 (i) The firearm or firearms seized pursuant to the
9 warrant shall be retained by the law enforcement agency for a
10 period not to exceed three (3) years.

11 (ii) The named individual shall be prohibited from
12 owning or possessing, purchasing or receiving, or attempting to
13 purchase or receive a firearm for a period not to exceed one (1)
14 year, a violation of which shall be considered a misdemeanor
15 offense.

16 (iii) The Court shall notify the Office Attorney General
17 of the gun violence prevention order no later than ten (10) court
18 days after issuing the order. The Court shall also notify the Office
19 of the Attorney General of any order restoring the ability of the
20 individual to own or possess firearms no later than ten (10) court
21 days after issuing the order to restore the individual's right to own
22 or possess any type of firearms that may be lawfully owned and
23 possessed. Such notice shall be submitted in an electronic
24 format, in a manner prescribed by the Office of the Attorney
25 General.

26 (iv) As soon as practicable after receiving a notification
27 under § 93.02(g)(4)(iii), the Attorney General shall update the

1 Gun Violence Prevention Order Database, as prescribed in §
2 93.03 of this Chapter, to reflect—

3 (A) the prohibitions articulated in the gun
4 violence prevention order; or

5 (B) an order issued to restore an individual's right
6 to own or possess a firearm.

7 (5) Return of Firearms. If the Court finds that the Attorney
8 General has not met the required standard of proof, any firearm seized
9 pursuant to the warrant shall be returned to the named individual in a
10 timely manner.

11 (6) Limitation on Hearing Requirement. If an individual
12 named in a gun violence prevention warrant is prohibited from owning
13 or possessing a firearm for a period of one (1) year or more by another
14 provision of law, a hearing pursuant to § 93.02(g)(1) is not required and
15 the Court shall issue an order to hold the firearm until either the
16 individual is no longer prohibited from owning a firearm or the
17 individual sells or transfers ownership of the firearm to a licensed
18 firearm dealer.

19 (h) Renewing Gun Violence Prevention Order and Gun Violence
20 Prevention Warrant.

21 (1) In General. Except as provided in § 93.02(h)(5), if a law
22 enforcement agency has probable cause to believe that an individual
23 who is subject to a gun violence prevention order continues to pose a
24 significant risk of personal injury to the named individual or others by
25 possessing a firearm, the agency may initiate a request for a renewal of
26 the order, on a form designed by the Court, describing the facts and
27 circumstances necessitating the request.

1 (2) Notice. The individual named in the gun violence
2 prevention order requested to be renewed under § 93.02(h)(1) shall be
3 given written notice and an opportunity to be heard on the matter.

4 (3) Hearing. After notice is given under § 93.02(h)(3), a
5 hearing shall be held to determine if a request for renewal of the order
6 shall be issued.

7 (4) Issuance of Renewal. Except as provided in § 93.02(h)(5),
8 the Superior Court may issue a renewal of a gun violence prevention
9 order if there is probable cause to believe that the individual who is
10 subject to the order continues to pose a significant risk of personal
11 injury to the named individual or others by possessing a firearm.

12 (5) Higher Burden of Proof. The Attorney General may
13 establish a burden of proof for initiating a request for or issuing a
14 renewal of a gun violence prevention order that is higher than the
15 burden of proof required under § 93.02(h)(1) or § 93.02(h)(4).

16 (6) Notification.

17 (i) In General. The Court shall notify the Office of the
18 Attorney General of a renewal of the gun violence prevention
19 order no later than two (2) court days after renewing the order.
20 The Court shall also notify the Office of the Attorney General of
21 any order restoring the ability of the individual to own or possess
22 firearms no later than two (2) court days after issuing the order
23 to restore the individual's right to own or possess any type of
24 firearms that may be lawfully owned and possessed. Such notice
25 shall be submitted in an electronic format, in a manner prescribed
26 by the Office of the Attorney General.

1 (ii) Update of Databases. As soon as practicable after
2 receiving a notification under § 93.02(h)(6)(i), the Office of the
3 Attorney General shall update the Gun Violence Prevention
4 Order Database to reflect—

5 (A) the prohibitions articulated in the gun
6 violence prevention order; or

7 (B) an order issued to restore an individual's right
8 to own or possess a firearm.

9 **§ 93.03. Gun Violence Prevention Order Database.**

10 The Office of the Attorney General shall maintain a confidential and
11 computerized database of all orders for gun violence protection orders issued
12 by the Superior Court, or issued by a court from another state, tribe, territory
13 or commonwealth of the United States and registered in this Court and
14 pertinent information, and such information shall be available, upon request,
15 at all times to a court of law and all law enforcement agencies.

16 **§ 93.04. Law Enforcement Check of Firearm Database or Registry.**

17 The Guam Police Department shall establish a procedure that requires
18 a law enforcement officer to, in conjunction with performing a wellness check
19 on an individual, check whether the individual is listed on the firearm database
20 or registry of Guam.

21 **§ 93.05. Confidentiality Protections.**

22 All information provided to the Office of the Attorney General pursuant
23 to this Chapter shall be kept confidential, separate, and apart from all other
24 records maintained by the Office of the Attorney General.

25 **§ 93.06. Severability.**

26 If any provision of this Act, or an amendment made by this Act, or the
27 application of such provision to any person or circumstance, is held to be

1 invalid, the remainder of this Act, or an amendment made by this Act, or the
2 application of such provision to other persons or circumstances, *shall* not be
3 affected.”

4 **Section 4. Effective Date.** The provisions of this Act *shall* become effective
5 upon enactment.