

AMENDED IN SENATE JUNE 1, 2011
AMENDED IN ASSEMBLY MARCH 30, 2011
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1402

**Introduced by Committee on Public Safety (Assembly Members
Ammiano (Chair), Cedillo, Hagman, Hill, Mitchell, and Skinner)**

March 2, 2011

An act to amend Sections 527.6, 527.8, 527.85, and 527.9 of the Code of Civil Procedure, to amend Section 49330 of the Education Code, to amend Section 6389 of the Family Code, to amend Sections 6254 and 53071.5 of the Government Code, to amend Sections 166, 171c, 171.7, 186.22, 273.6, 626.95, 626.10, 629.52, 1203.4, 1203.4a, 2933.5, 2962, 11105, 11105.03, 11106, 12003, 23505, 25105, and 29510 of the Penal Code, and to amend Sections 8103 and 15657.03 of the Welfare and Institutions Code, relating to deadly weapons.

LEGISLATIVE COUNSEL'S DIGEST

AB 1402, as amended, Committee on Public Safety. Deadly weapons.

Existing law generally regulates deadly weapons. Existing law, operative January 1, 2012, reorganizes and renumbers sections of the Penal Code relating to deadly weapons.

This bill would make nonsubstantive cross-reference changes to provisions of law that reference various deadly weapons provisions in the Penal Code that have been reorganized and renumbered, to be operative January 1, 2012. The bill would make additional technical, nonsubstantive changes to some of those provisions.

Existing law, operative January 1, 2012, provides that the Legislature occupies the whole field of regulation of the manufacture, sale, or

possession of imitation firearms, as defined, including provisions making exceptions to the definition of an “imitation firearm.”

The bill would provide that the Legislature occupies the whole field of regulation of the manufacture, sale, or possession of imitation firearms, as defined. However, the bill would omit reference to the Legislature occupying the whole field of regulation regarding the exceptions to the definition of an “imitation firearm.”

This bill would incorporate additional changes to Section 1203.4a of the Penal Code proposed by SB 428, to be operative only if SB 428 and this bill both amend Section 1203.4a of the Penal Code, are both chaptered, and become effective on or before January 1, 2012.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 527.6 of the Code of Civil Procedure, as
2 amended by Section 1 of Chapter 572 of the Statutes of 2010, is
3 amended to read:

4 527.6. (a) (1) A person who has suffered harassment as
5 defined in subdivision (b) may seek a temporary restraining order
6 and an injunction prohibiting harassment as provided in this
7 section.

8 (2) A minor, under 12 years of age, accompanied by a duly
9 appointed and acting guardian ad litem, shall be permitted to appear
10 in court without counsel for the limited purpose of requesting or
11 opposing a request for a temporary restraining order or injunction,
12 or both, under this section as provided in Section 374.

13 (b) For the purposes of this section:

14 (1) “Course of conduct” is a pattern of conduct composed of a
15 series of acts over a period of time, however short, evidencing a
16 continuity of purpose, including following or stalking an individual,
17 making harassing telephone calls to an individual, or sending
18 harassing correspondence to an individual by any means, including,
19 but not limited to, the use of public or private mails, interoffice
20 mail, fax, or computer e-mail. Constitutionally protected activity
21 is not included within the meaning of “course of conduct.”

22 (2) “Credible threat of violence” is a knowing and willful
23 statement or course of conduct that would place a reasonable person

1 in fear for his or her safety, or the safety of his or her immediate
2 family, and that serves no legitimate purpose.

3 (3) “Harassment” is unlawful violence, a credible threat of
4 violence, or a knowing and willful course of conduct directed at
5 a specific person that seriously alarms, annoys, or harasses the
6 person, and that serves no legitimate purpose. The course of
7 conduct must be such as would cause a reasonable person to suffer
8 substantial emotional distress, and must actually cause substantial
9 emotional distress to the petitioner.

10 (4) “Petitioner” means the person to be protected by the
11 temporary restraining order and injunction and, if the court grants
12 the petition, the protected person.

13 (5) “Respondent” means the person against whom the temporary
14 restraining order and injunction are sought and, if the petition is
15 granted, the restrained person.

16 (6) “Temporary restraining order” and “injunction” mean orders
17 that include any of the following restraining orders, whether issued
18 ex parte or after notice and hearing:

19 (A) An order enjoining a party from harassing, intimidating,
20 molesting, attacking, striking, stalking, threatening, sexually
21 assaulting, battering, abusing, telephoning, including, but not
22 limited to, making annoying telephone calls, as described in Section
23 653m of the Penal Code, destroying personal property, contacting,
24 either directly or indirectly, by mail or otherwise, or coming within
25 a specified distance of, or disturbing the peace of the petitioner.

26 (B) An order enjoining a party from specified behavior that the
27 court determines is necessary to effectuate orders described in
28 subparagraph (A).

29 (7) “Unlawful violence” is any assault or battery, or stalking as
30 prohibited in Section 646.9 of the Penal Code, but shall not include
31 lawful acts of self-defense or defense of others.

32 (c) In the discretion of the court, on a showing of good cause,
33 a temporary restraining order or injunction issued under this section
34 may include other named family or household members.

35 (d) Upon filing a petition for an injunction under this section,
36 the petitioner may obtain a temporary restraining order in
37 accordance with Section 527, except to the extent this section
38 provides a rule that is inconsistent. The temporary restraining order
39 may include any of the restraining orders described in paragraph
40 (6) of subdivision (b). A temporary restraining order may be issued

1 with or without notice, based on a declaration that, to the
2 satisfaction of the court, shows reasonable proof of harassment of
3 the petitioner by the respondent, and that great or irreparable harm
4 would result to the petitioner.

5 (e) A request for the issuance of a temporary restraining order
6 without notice under this section shall be granted or denied on the
7 same day that the petition is submitted to the court, unless the
8 petition is filed too late in the day to permit effective review, in
9 which case the order shall be granted or denied on the next day of
10 judicial business in sufficient time for the order to be filed that day
11 with the clerk of the court.

12 (f) A temporary restraining order issued under this section shall
13 remain in effect, at the court's discretion, for a period not to exceed
14 21 days, or, if the court extends the time for hearing under
15 subdivision (g), not to exceed 25 days, unless otherwise modified
16 or terminated by the court.

17 (g) Within 21 days, or, if good cause appears to the court, 25
18 days from the date that a petition for a temporary order is granted
19 or denied, a hearing shall be held on the petition for the injunction.
20 If no request for temporary orders is made, the hearing shall be
21 held within 21 days, or, if good cause appears to the court, 25 days,
22 from the date that the petition is filed.

23 (h) The respondent may file a response that explains, excuses,
24 justifies, or denies the alleged harassment or may file a
25 cross-petition under this section.

26 (i) At the hearing, the judge shall receive any testimony that is
27 relevant, and may make an independent inquiry. If the judge finds
28 by clear and convincing evidence that unlawful harassment exists,
29 an injunction shall issue prohibiting the harassment.

30 (j) (1) In the discretion of the court, an order issued after notice
31 and hearing under this section may have a duration of not more
32 than three years, subject to termination or modification by further
33 order of the court either on written stipulation filed with the court
34 or on the motion of a party. These orders may be renewed, upon
35 the request of a party, for a duration of not more than three years,
36 without a showing of any further harassment since the issuance of
37 the original order, subject to termination or modification by further
38 order of the court either on written stipulation filed with the court
39 or on the motion of a party. The request for renewal may be brought

1 at any time within the three months before the expiration of the
2 order.

3 (2) The failure to state the expiration date on the face of the
4 form creates an order with a duration of three years from the date
5 of issuance.

6 (k) This section does not preclude either party from
7 representation by private counsel or from appearing on the party's
8 own behalf.

9 (l) In a proceeding under this section if there are allegations of
10 unlawful violence or credible threats of violence, a support person
11 may accompany a party in court and, if the party is not represented
12 by an attorney, may sit with the party at the table that is generally
13 reserved for the party and the party's attorney. The support person
14 is present to provide moral and emotional support for a person
15 who alleges he or she is a victim of violence. The support person
16 is not present as a legal adviser and may not provide legal advice.
17 The support person may assist the person who alleges he or she is
18 a victim of violence in feeling more confident that he or she will
19 not be injured or threatened by the other party during the
20 proceedings if the person who alleges he or she is a victim of
21 violence and the other party are required to be present in close
22 proximity. This subdivision does not preclude the court from
23 exercising its discretion to remove the support person from the
24 courtroom if the court believes the support person is prompting,
25 swaying, or influencing the party assisted by the support person.

26 (m) Upon the filing of a petition for an injunction under this
27 section, the respondent shall be personally served with a copy of
28 the petition, temporary restraining order, if any, and notice of
29 hearing of the petition. Service shall be made at least five days
30 before the hearing. The court may for good cause, on motion of
31 the petitioner or on its own motion, shorten the time for service
32 on the respondent.

33 (n) A notice of hearing under this section shall notify the
34 respondent that if he or she does not attend the hearing, the court
35 may make orders against him or her that could last up to three
36 years.

37 (o) (1) The court may, upon the filing of a declaration by the
38 petitioner that the respondent could not be served within the time
39 required by statute, reissue an order previously issued and dissolved

1 by the court for failure to serve the respondent. The reissued order
2 shall remain in effect until the date set for the hearing.

3 (2) The reissued order shall state on its face the date of
4 expiration of the order.

5 (p) (1) If a respondent, named in a restraining order issued after
6 a hearing, has not been served personally with the order but has
7 received actual notice of the existence and substance of the order
8 through personal appearance in court to hear the terms of the order
9 from the court, no additional proof of service is required for
10 enforcement of the order.

11 (2) If the respondent named in a temporary restraining order is
12 personally served with the order and notice of hearing with respect
13 to a restraining order or protective order based on the temporary
14 restraining order, but the respondent does not appear at the hearing,
15 either personally or by an attorney, and the terms and conditions
16 of the restraining order or protective order issued at the hearing
17 are identical to the temporary restraining order, except for the
18 duration of the order, then the restraining order or protective order
19 issued at the hearing may be served on the respondent by first-class
20 mail sent to the respondent at the most current address for the
21 respondent available to the court.

22 (3) The Judicial Council form for temporary orders issued
23 pursuant to this subdivision shall contain a statement in
24 substantially the following form:

25
26 “If you have been personally served with this temporary
27 restraining order and notice of hearing, but you do not appear at
28 the hearing either in person or by a lawyer, and a restraining order
29 that is the same as this temporary restraining order except for the
30 expiration date is issued at the hearing, a copy of the restraining
31 order will be served on you by mail at the following address: ____.

32 If that address is not correct or you wish to verify that the
33 temporary restraining order was converted to a restraining order
34 at the hearing without substantive change and to find out the
35 duration of that order, contact the clerk of the court.”

36
37 (q) (1) Information on any temporary restraining order or
38 injunction relating to civil harassment issued by a court pursuant
39 to this section shall be transmitted to the Department of Justice in
40 accordance with either paragraph (2) or (3).

1 (2) The court shall order the petitioner or the attorney for the
2 petitioner to deliver a copy of an order issued under this section,
3 or reissuance, extension, modification, or termination of the order,
4 and any subsequent proof of service, by the close of the business
5 day on which the order, reissuance, extension, modification, or
6 termination was made, to a law enforcement agency having
7 jurisdiction over the residence of the petitioner and to any
8 additional law enforcement agencies within the court's discretion
9 as are requested by the petitioner.

10 (3) Alternatively, the court or its designee shall transmit, within
11 one business day, to law enforcement personnel all information
12 required under subdivision (b) of Section 6380 of the Family Code
13 regarding any order issued under this section, or a reissuance,
14 extension, modification, or termination of the order, and any
15 subsequent proof of service, by either one of the following
16 methods:

17 (A) Transmitting a physical copy of the order or proof of service
18 to a local law enforcement agency authorized by the Department
19 of Justice to enter orders into the California Law Enforcement
20 Telecommunications System (CLETS).

21 (B) With the approval of the Department of Justice, entering
22 the order or proof of service into CLETS directly.

23 (4) Each appropriate law enforcement agency shall make
24 available information as to the existence and current status of these
25 orders to law enforcement officers responding to the scene of
26 reported harassment.

27 (5) An order issued under this section shall, on request of the
28 petitioner, be served on the respondent, whether or not the
29 respondent has been taken into custody, by any law enforcement
30 officer who is present at the scene of reported harassment involving
31 the parties to the proceeding. The petitioner shall provide the
32 officer with an endorsed copy of the order and a proof of service
33 that the officer shall complete and send to the issuing court.

34 (6) Upon receiving information at the scene of an incident of
35 harassment that a protective order has been issued under this
36 section, or that a person who has been taken into custody is the
37 subject of an order, if the protected person cannot produce a
38 certified copy of the order, a law enforcement officer shall
39 immediately attempt to verify the existence of the order.

(7) If the law enforcement officer determines that a protective order has been issued, but not served, the officer shall immediately notify the respondent of the terms of the order and shall at that time also enforce the order. Verbal notice of the terms of the order shall constitute service of the order and is sufficient notice for the purposes of this section and for the purposes of Sections 273.6 and 29825 of the Penal Code.

(r) The prevailing party in any action brought under this section may be awarded court costs and attorney's fees, if any.

(s) Any willful disobedience of any temporary restraining order or injunction granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(t) (1) A person subject to a protective order issued under this section shall not own, possess, purchase, receive, or attempt to purchase or receive a firearm or ammunition while the protective order is in effect.

(2) The court shall order a person subject to a protective order issued under this section to relinquish any firearms he or she owns or possesses pursuant to Section 527.9.

(3) Every person who owns, possesses, purchases or receives, or attempts to purchase or receive a firearm or ammunition while the protective order is in effect is punishable pursuant to Section 29825 of the Penal Code.

(u) This section does not apply to any action or proceeding covered by Title 1.6C (commencing with Section 1788) of Part 4 of Division 3 of the Civil Code or by Division 10 (commencing with Section 6200) of the Family Code. This section does not preclude a petitioner from using other existing civil remedies.

(v) (1) The Judicial Council shall develop forms, instructions, and rules relating to matters governed by this section. The petition and response forms shall be simple and concise, and their use by parties in actions brought pursuant to this section shall be mandatory.

(2) A temporary restraining order or injunction relating to civil harassment issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by

1 the Department of Justice shall not, in and of itself, make the order
2 unenforceable.

3 (w) There is no filing fee for a petition that alleges that a person
4 has inflicted or threatened violence against the petitioner, or stalked
5 the petitioner, or acted or spoken in any other manner that has
6 placed the petitioner in reasonable fear of violence, and that seeks
7 a protective or restraining order or injunction restraining stalking
8 or future violence or threats of violence, in any action brought
9 pursuant to this section. No fee shall be paid for a subpoena filed
10 in connection with a petition alleging these acts. No fee shall be
11 paid for filing a response to a petition alleging these acts.

12 (x) (1) Subject to paragraph (4) of subdivision (b) of Section
13 6103.2 of the Government Code, there shall be no fee for the
14 service of process by a sheriff or marshal of a protective order,
15 restraining order, or injunction to be issued, if either of the
16 following conditions apply:

17 (A) The protective order, restraining order, or injunction issued
18 pursuant to this section is based upon stalking, as prohibited by
19 Section 646.9 of the Penal Code.

20 (B) The protective order, restraining order, or injunction issued
21 pursuant to this section is based upon unlawful violence or a
22 credible threat of violence.

23 (2) The Judicial Council shall prepare and develop forms for
24 persons who wish to avail themselves of the services described in
25 this subdivision.

26 SEC. 2. Section 527.8 of the Code of Civil Procedure, as
27 amended by Section 2 of Chapter 572 of the Statutes of 2010, is
28 amended to read:

29 527.8. (a) Any employer, whose employee has suffered
30 unlawful violence or a credible threat of violence from any
31 individual, that can reasonably be construed to be carried out or
32 to have been carried out at the workplace, may seek a temporary
33 restraining order and an injunction on behalf of the employee and,
34 at the discretion of the court, any number of other employees at
35 the workplace, and, if appropriate, other employees at other
36 workplaces of the employer.

37 (b) For the purposes of this section:

38 (1) "Course of conduct" is a pattern of conduct composed of a
39 series of acts over a period of time, however short, evidencing a
40 continuity of purpose, including following or stalking an employee

1 to or from the place of work; entering the workplace; following
2 an employee during hours of employment; making telephone calls
3 to an employee; or sending correspondence to an employee by any
4 means, including, but not limited to, the use of the public or private
5 mails, interoffice mail, fax, or computer e-mail.

6 (2) “Credible threat of violence” is a knowing and willful
7 statement or course of conduct that would place a reasonable person
8 in fear for his or her safety, or the safety of his or her immediate
9 family, and that serves no legitimate purpose.

10 (3) “Employer” and “employee” mean persons defined in
11 Section 350 of the Labor Code. “Employer” also includes a federal
12 agency, the state, a state agency, a city, county, or district, and a
13 private, public, or quasi-public corporation, or any public agency
14 thereof or therein. “Employee” also includes the members of boards
15 of directors of private, public, and quasi-public corporations and
16 elected and appointed public officers. For purposes of this section
17 only, “employee” also includes a volunteer or independent
18 contractor who performs services for the employer at the
19 employer’s worksite.

20 (4) “Petitioner” means the employer that petitions under
21 subdivision (a) for a temporary restraining order and injunction.

22 (5) “Respondent” means the person against whom the temporary
23 restraining order and injunction are sought and, if the petition is
24 granted, the restrained person.

25 (6) “Temporary restraining order” and “injunction” mean orders
26 that include any of the following restraining orders, whether issued
27 ex parte or after notice and hearing:

28 (A) An order enjoining a party from harassing, intimidating,
29 molesting, attacking, striking, stalking, threatening, sexually
30 assaulting, battering, abusing, telephoning, including, but not
31 limited to, making annoying telephone calls as described in Section
32 653m of the Penal Code, destroying personal property, contacting,
33 either directly or indirectly, by mail or otherwise, or coming within
34 a specified distance of, or disturbing the peace of the employee.

35 (B) An order enjoining a party from specified behavior that the
36 court determines is necessary to effectuate orders described in
37 subparagraph (A).

38 (7) “Unlawful violence” is any assault or battery, or stalking as
39 prohibited in Section 646.9 of the Penal Code, but shall not include
40 lawful acts of self-defense or defense of others.

1 (c) This section does not permit a court to issue a temporary
2 restraining order or injunction prohibiting speech or other activities
3 that are constitutionally protected, or otherwise protected by
4 Section 527.3 or any other provision of law.

5 (d) In the discretion of the court, on a showing of good cause,
6 a temporary restraining order or injunction issued under this section
7 may include other named family or household members, or other
8 persons employed at the employee's workplace or workplaces.

9 (e) Upon filing a petition for an injunction under this section,
10 the petitioner may obtain a temporary restraining order in
11 accordance with subdivision (a) of Section 527, if the petitioner
12 also files a declaration that, to the satisfaction of the court, shows
13 reasonable proof that an employee has suffered unlawful violence
14 or a credible threat of violence by the respondent, and that great
15 or irreparable harm would result to an employee. The temporary
16 restraining order may include any of the protective orders described
17 in paragraph (6) of subdivision (b).

18 (f) A request for the issuance of a temporary restraining order
19 without notice under this section shall be granted or denied on the
20 same day that the petition is submitted to the court, unless the
21 petition is filed too late in the day to permit effective review, in
22 which case the order shall be granted or denied on the next day of
23 judicial business in sufficient time for the order to be filed that day
24 with the clerk of the court.

25 (g) A temporary restraining order granted under this section
26 shall remain in effect, at the court's discretion, for a period not to
27 exceed 21 days, or if the court extends the time for hearing under
28 subdivision (h), not to exceed 25 days, unless otherwise modified
29 or terminated by the court.

30 (h) Within 21 days, or if good cause appears to the court, 25
31 days from the date that a petition for a temporary order is granted
32 or denied, a hearing shall be held on the petition for the injunction.
33 If no request for temporary orders is made, the hearing shall be
34 held within 21 days, or, if good cause appears to the court, 25 days,
35 from the date that the petition is filed.

36 (i) The respondent may file a response that explains, excuses,
37 justifies, or denies the alleged unlawful violence or credible threats
38 of violence.

39 (j) At the hearing, the judge shall receive any testimony that is
40 relevant and may make an independent inquiry. Moreover, if the

1 respondent is a current employee of the entity requesting the
2 injunction, the judge shall receive evidence concerning the
3 employer's decision to retain, terminate, or otherwise discipline
4 the respondent. If the judge finds by clear and convincing evidence
5 that the respondent engaged in unlawful violence or made a
6 credible threat of violence, an injunction shall issue prohibiting
7 further unlawful violence or threats of violence.

8 (k) (1) In the discretion of the court, an order issued after notice
9 and hearing under this section may have a duration of not more
10 than three years, subject to termination or modification by further
11 order of the court either on written stipulation filed with the court
12 or on the motion of a party. These orders may be renewed, upon
13 the request of a party, for a duration of not more than three years,
14 without a showing of any further violence or threats of violence
15 since the issuance of the original order, subject to termination or
16 modification by further order of the court either on written
17 stipulation filed with the court or on the motion of a party. The
18 request for renewal may be brought at any time within the three
19 months before the expiration of the order.

20 (2) The failure to state the expiration date on the face of the
21 form creates an order with a duration of three years from the date
22 of issuance.

23 (l) This section does not preclude either party from
24 representation by private counsel or from appearing on his or her
25 own behalf.

26 (m) Upon filing of a petition for an injunction under this section,
27 the respondent shall be personally served with a copy of the
28 petition, temporary restraining order, if any, and notice of hearing
29 of the petition. Service shall be made at least five days before the
30 hearing. The court may, for good cause, on motion of the petitioner
31 or on its own motion, shorten the time for service on the
32 respondent.

33 (n) A notice of hearing under this section shall notify the
34 respondent that, if he or she does not attend the hearing, the court
35 may make orders against him or her that could last up to three
36 years.

37 (o) (1) The court may, upon the filing of a declaration by the
38 petitioner that the respondent could not be served within the time
39 required by statute, reissue an order previously issued and dissolved

1 by the court for failure to serve the respondent. The reissued order
2 shall remain in effect until the date set for the hearing.

3 (2) The reissued order shall state on its face the date of
4 expiration of the order.

5 (p) (1) If a respondent, named in a restraining order issued
6 under this section after a hearing, has not been served personally
7 with the order but has received actual notice of the existence and
8 substance of the order through personal appearance in court to
9 hear the terms of the order from the court, no additional proof of
10 service is required for enforcement of the order.

11 (2) If the respondent named in a temporary restraining order is
12 personally served with the order and notice of hearing with respect
13 to a restraining order or protective order based on the temporary
14 restraining order, but the person does not appear at the hearing,
15 either personally or by an attorney, and the terms and conditions
16 of the restraining order or protective order issued at the hearing
17 are identical to the temporary restraining order, except for the
18 duration of the order, then the restraining order or protective order
19 issued at the hearing may be served on the person by first-class
20 mail sent to that person at the most current address for the person
21 available to the court.

22 (3) The Judicial Council form for temporary orders issued
23 pursuant to this subdivision shall contain a statement in
24 substantially the following form:

25
26 “If you have been personally served with this temporary
27 restraining order and notice of hearing, but you do not appear at
28 the hearing either in person or by a lawyer, and a restraining order
29 that is the same as this restraining order except for the expiration
30 date is issued at the hearing, a copy of the order will be served on
31 you by mail at the following address: ____.

32 If that address is not correct or you wish to verify that the
33 temporary restraining order was converted to a restraining order
34 at the hearing without substantive change and to find out the
35 duration of that order, contact the clerk of the court.”
36

37 (q) (1) Information on any temporary restraining order or
38 injunction relating to workplace violence issued by a court pursuant
39 to this section shall be transmitted to the Department of Justice in
40 accordance with either paragraph (2) or (3).

1 (2) The court shall order the petitioner or the attorney for the
2 petitioner to deliver a copy of any order issued under this section,
3 or a reissuance, extension, modification, or termination of the
4 order, and any subsequent proof of service, by the close of the
5 business day on which the order, reissuance, extension,
6 modification, or termination was made, to each law enforcement
7 agency having jurisdiction over the residence of the petitioner and
8 to any additional law enforcement agencies within the court's
9 discretion as are requested by the petitioner.

10 (3) Alternatively, the court or its designee shall transmit, within
11 one business day, to law enforcement personnel all information
12 required under subdivision (b) of Section 6380 of the Family Code
13 regarding any order issued under this section, or a reissuance,
14 extension, modification, or termination of the order, and any
15 subsequent proof of service, by either one of the following
16 methods:

17 (A) Transmitting a physical copy of the order or proof of service
18 to a local law enforcement agency authorized by the Department
19 of Justice to enter orders into the California Law Enforcement
20 Telecommunications System (CLETS).

21 (B) With the approval of the Department of Justice, entering
22 the order or proof of service into CLETS directly.

23 (4) Each appropriate law enforcement agency shall make
24 available information as to the existence and current status of these
25 orders to law enforcement officers responding to the scene of
26 reported unlawful violence or a credible threat of violence.

27 (5) At the request of the petitioner, an order issued under this
28 section shall be served on the respondent, regardless of whether
29 the respondent has been taken into custody, by any law
30 enforcement officer who is present at the scene of reported
31 unlawful violence or a credible threat of violence involving the
32 parties to the proceedings. The petitioner shall provide the officer
33 with an endorsed copy of the order and proof of service that the
34 officer shall complete and send to the issuing court.

35 (6) Upon receiving information at the scene of an incident of
36 unlawful violence or a credible threat of violence that a protective
37 order has been issued under this section, or that a person who has
38 been taken into custody is the subject of an order, if the petitioner
39 or the protected person cannot produce an endorsed copy of the

1 order, a law enforcement officer shall immediately attempt to
2 verify the existence of the order.

3 (7) If the law enforcement officer determines that a protective
4 order has been issued, but not served, the officer shall immediately
5 notify the respondent of the terms of the order and obtain the
6 respondent's address. The law enforcement officer shall at that
7 time also enforce the order, but may not arrest or take the
8 respondent into custody for acts in violation of the order that were
9 committed prior to the verbal notice of the terms and conditions
10 of the order. The law enforcement officer's verbal notice of the
11 terms of the order shall constitute service of the order and
12 constitutes sufficient notice for the purposes of this section and
13 for the purposes of Sections 273.6 and 29825 of the Penal Code.
14 The petitioner shall mail an endorsed copy of the order to the
15 respondent's mailing address provided to the law enforcement
16 officer within one business day of the reported incident of unlawful
17 violence or a credible threat of violence at which a verbal notice
18 of the terms of the order was provided by a law enforcement
19 officer.

20 (r) (1) A person subject to a protective order issued under this
21 section shall not own, possess, purchase, receive, or attempt to
22 purchase or receive a firearm or ammunition while the protective
23 order is in effect.

24 (2) The court shall order a person subject to a protective order
25 issued under this section to relinquish any firearms he or she owns
26 or possesses pursuant to Section 527.9.

27 (3) Every person who owns, possesses, purchases or receives,
28 or attempts to purchase or receive a firearm or ammunition while
29 the protective order is in effect is punishable pursuant to Section
30 29825 of the Penal Code.

31 (s) Any intentional disobedience of any temporary restraining
32 order or injunction granted under this section is punishable pursuant
33 to Section 273.6 of the Penal Code.

34 (t) Nothing in this section may be construed as expanding,
35 diminishing, altering, or modifying the duty, if any, of an employer
36 to provide a safe workplace for employees and other persons.

37 (u) (1) The Judicial Council shall develop forms, instructions,
38 and rules for relating to matters governed by this section. The
39 forms for the petition and response shall be simple and concise,

1 and their use by parties in actions brought pursuant to this section
2 shall be mandatory.

3 (2) A temporary restraining order or injunction relating to
4 unlawful violence or a credible threat of violence issued by a court
5 pursuant to this section shall be issued on forms adopted by the
6 Judicial Council of California and that have been approved by the
7 Department of Justice pursuant to subdivision (i) of Section 6380
8 of the Family Code. However, the fact that an order issued by a
9 court pursuant to this section was not issued on forms adopted by
10 the Judicial Council and approved by the Department of Justice
11 shall not, in and of itself, make the order unenforceable.

12 (v) There is no filing fee for a petition that alleges that a person
13 has inflicted or threatened violence against an employee of the
14 petitioner, or stalked the employee, or acted or spoken in any other
15 manner that has placed the employee in reasonable fear of violence,
16 and that seeks a protective or restraining order or injunction
17 restraining stalking or future violence or threats of violence, in
18 any action brought pursuant to this section. No fee shall be paid
19 for a subpoena filed in connection with a petition alleging these
20 acts. No fee shall be paid for filing a response to a petition alleging
21 these acts.

22 (w) (1) Subject to paragraph (4) of subdivision (b) of Section
23 6103.2 of the Government Code, there shall be no fee for the
24 service of process by a sheriff or marshal of a temporary restraining
25 order or injunction to be issued pursuant to this section if either
26 of the following conditions apply:

27 (A) The temporary restraining order or injunction issued
28 pursuant to this section is based upon stalking, as prohibited by
29 Section 646.9 of the Penal Code.

30 (B) The temporary restraining order or injunction issued
31 pursuant to this section is based on unlawful violence or a credible
32 threat of violence.

33 (2) The Judicial Council shall prepare and develop forms for
34 persons who wish to avail themselves of the services described in
35 this subdivision.

36 SEC. 3. Section 527.85 of the Code of Civil Procedure, as
37 amended by Section 4 of Chapter 572 of the Statutes of 2010, is
38 amended to read:

39 527.85. (a) Any chief administrative officer of a postsecondary
40 educational institution, or an officer or employee designated by

1 the chief administrative officer to maintain order on the school
2 campus or facility, a student of which has suffered a credible threat
3 of violence made off the school campus or facility from any
4 individual, which can reasonably be construed to be carried out or
5 to have been carried out at the school campus or facility, may, with
6 the written consent of the student, seek a temporary restraining
7 order and an injunction, on behalf of the student and, at the
8 discretion of the court, any number of other students at the campus
9 or facility who are similarly situated.

10 (b) For the purposes of this section, the following definitions
11 shall apply:

12 (1) "Chief administrative officer" means the principal, president,
13 or highest ranking official of the postsecondary educational
14 institution.

15 (2) "Course of conduct" means a pattern of conduct composed
16 of a series of acts over a period of time, however short, evidencing
17 a continuity of purpose, including any of the following:

18 (A) Following or stalking a student to or from school.

19 (B) Entering the school campus or facility.

20 (C) Following a student during school hours.

21 (D) Making telephone calls to a student.

22 (E) Sending correspondence to a student by any means,
23 including, but not limited to, the use of the public or private mails,
24 interoffice mail, fax, or computer e-mail.

25 (3) "Credible threat of violence" means a knowing and willful
26 statement or course of conduct that would place a reasonable person
27 in fear for his or her safety, or the safety of his or her immediate
28 family, and that serves no legitimate purpose.

29 (4) "Petitioner" means the chief administrative officer, or his
30 or her designee, who petitions under subdivision (a) for a temporary
31 restraining order and injunction.

32 (5) "Postsecondary educational institution" means a private
33 institution of vocational, professional, or postsecondary education.

34 (6) "Respondent" means the person against whom the temporary
35 restraining order and injunction are sought and, if the petition is
36 granted, the restrained person.

37 (7) "Student" means an adult currently enrolled in or applying
38 for admission to a postsecondary educational institution.

(8) “Temporary restraining order” and “injunction” mean orders that include any of the following restraining orders, whether issued ex parte, or after notice and hearing:

(A) An order enjoining a party from harassing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, abusing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, or coming within a specified distance of, or disturbing the peace of the student.

(B) An order enjoining a party from specified behavior that the court determines is necessary to effectuate orders described in subparagraph (A).

(9) “Unlawful violence” means any assault or battery, or stalking as prohibited in Section 646.9 of the Penal Code, but shall not include lawful acts of self-defense or defense of others.

(c) This section does not permit a court to issue a temporary restraining order or injunction prohibiting speech or other activities that are constitutionally protected, or otherwise protected by Section 527.3 or any other provision of law.

(d) In the discretion of the court, on a showing of good cause, a temporary restraining order or injunction issued under this section may include other named family or household members of the student, or other students at the campus or facility.

(e) Upon filing a petition for an injunction under this section, the petitioner may obtain a temporary restraining order in accordance with subdivision (a) of Section 527, if the petitioner also files a declaration that, to the satisfaction of the court, shows reasonable proof that a student has suffered a credible threat of violence made off the school campus or facility by the respondent, and that great or irreparable harm would result to the student. The temporary restraining order may include any of the protective orders described in paragraph (8) of subdivision (b).

(f) A request for the issuance of a temporary restraining order without notice under this section shall be granted or denied on the same day that the petition is submitted to the court, unless the petition is filed too late in the day to permit effective review, in which case the order shall be granted or denied on the next day of judicial business in sufficient time for the order to be filed that day with the clerk of the court.

1 (g) A temporary restraining order granted under this section
2 shall remain in effect, at the court's discretion, for a period not to
3 exceed 21 days, or if the court extends the time for hearing under
4 subdivision (h), not to exceed 25 days, unless otherwise modified
5 or terminated by the court.

6 (h) Within 21 days, or if good cause appears to the court, within
7 25 days, from the date that a petition for a temporary order is
8 granted or denied, a hearing shall be held on the petition for the
9 injunction. If no request for temporary orders is made, the hearing
10 shall be held within 21 days, or if good cause appears to the court,
11 25 days, from the date the petition is filed.

12 (i) The respondent may file a response that explains, excuses,
13 justifies, or denies the alleged credible threats of violence.

14 (j) At the hearing, the judge shall receive any testimony that is
15 relevant and may make an independent inquiry. Moreover, if the
16 respondent is a current student of the entity requesting the
17 injunction, the judge shall receive evidence concerning the decision
18 of the postsecondary educational institution decision to retain,
19 terminate, or otherwise discipline the respondent. If the judge finds
20 by clear and convincing evidence that the respondent made a
21 credible threat of violence off the school campus or facility, an
22 injunction shall be issued prohibiting further threats of violence.

23 (k) (1) In the discretion of the court, an order issued after notice
24 and hearing under this section may have a duration of not more
25 than three years, subject to termination or modification by further
26 order of the court either on written stipulation filed with the court
27 or on the motion of a party. These orders may be renewed, upon
28 the request of a party, for a duration of not more than three years,
29 without a showing of any further violence or threats of violence
30 since the issuance of the original order, subject to termination or
31 modification by further order of the court either on written
32 stipulation filed with the court or on the motion of a party. The
33 request for renewal may be brought at any time within the three
34 months before the expiration of the order.

35 (2) The failure to state the expiration date on the face of the
36 form creates an order with a duration of three years from the date
37 of issuance.

38 (l) This section does not preclude either party from
39 representation by private counsel or from appearing on his or her
40 own behalf.

(m) Upon filing of a petition for an injunction under this section, the respondent shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition. Service shall be made at least five days before the hearing. The court may, for good cause, on motion of the petitioner or on its own motion, shorten the time for service on the respondent.

(n) A notice of hearing under this section shall notify the respondent that if he or she does not attend the hearing, the court may make orders against him or her that could last up to three years.

(o) (1) The court may, upon the filing of a declaration by the petitioner that the respondent could not be served within the time required by statute, reissue an order previously issued and dissolved by the court for failure to serve the respondent. The reissued order shall remain in effect until the date set for the hearing.

(2) The reissued order shall state on its face the date of expiration of the order.

(p) (1) If a respondent, named in an order issued under this section after a hearing, has not been served personally with the order but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, no additional proof of service is required for enforcement of the order.

(2) If the respondent named in a temporary restraining order is personally served with the order and notice of hearing with respect to a restraining order or protective order based on the temporary restraining order, but the respondent does not appear at the hearing, either personally or by an attorney, and the terms and conditions of the restraining order or protective order issued at the hearing are identical to the temporary restraining order, except for the duration of the order, then the restraining order or protective order issued at the hearing may be served on the respondent by first-class mail sent to that person at the most current address for the respondent available to the court.

(3) The Judicial Council form for temporary orders issued pursuant to this subdivision shall contain a statement in substantially the following form:

1 “If you have been personally served with a temporary restraining
2 order and notice of hearing, but you do not appear at the hearing
3 either in person or by a lawyer, and a restraining order that is the
4 same as this temporary restraining order except for the expiration
5 date is issued at the hearing, a copy of the order will be served on
6 you by mail at the following address:_____.

7 If that address is not correct or you wish to verify that the
8 temporary restraining order was converted to a restraining order
9 at the hearing without substantive change and to find out the
10 duration of that order, contact the clerk of the court.”

11
12 (q) (1) Information on any temporary restraining order or
13 injunction relating to school site violence issued by a court pursuant
14 to this section shall be transmitted to the Department of Justice in
15 accordance with either paragraph (2) or (3).

16 (2) The court shall order the petitioner or the attorney for the
17 petitioner to deliver a copy of any order issued under this section,
18 or a reissuance, extension, modification, or termination of the
19 order, and any subsequent proof of service, by the close of the
20 business day on which the order, reissuance, or termination of the
21 order, and any proof of service, was made, to each law enforcement
22 agency having jurisdiction over the residence of the petition and
23 to any additional law enforcement agencies within the court’s
24 discretion as are requested by the petitioner.

25 (3) Alternatively, the court or its designee shall transmit, within
26 one business day, to law enforcement personnel all information
27 required under subdivision (b) of Section 6380 of the Family Code
28 regarding any order issued under this section, or a reissuance,
29 extension, modification, or termination of the order, and any
30 subsequent proof of service, by either one of the following
31 methods:

32 (A) Transmitting a physical copy of the order or proof of service
33 to a local law enforcement agency authorized by the Department
34 of Justice to enter orders into the California Law Enforcement
35 Telecommunications System (CLETS).

36 (B) With the approval of the Department of Justice, entering
37 the order of proof of service into CLETS directly.

38 (4) Each appropriate law enforcement agency shall make
39 available information as to the existence and current status of these

1 orders to law enforcement officers responding to the scene of
2 reported unlawful violence or a credible threat of violence.

3 (5) At the request of the petitioner, an order issued under this
4 section shall be served on the respondent, regardless of whether
5 the respondent has been taken into custody, by any law
6 enforcement officer who is present at the scene of reported
7 unlawful violence or a credible threat of violence involving the
8 parties to the proceedings. The petitioner shall provide the officer
9 with an endorsed copy of the order and proof of service that the
10 officer shall complete and send to the issuing court.

11 (6) Upon receiving information at the scene of an incident of
12 unlawful violence or a credible threat of violence that a protective
13 order has been issued under this section, or that a person who has
14 been taken into custody is the subject of an order, if the petitioner
15 or the protected person cannot produce an endorsed copy of the
16 order, a law enforcement officer shall immediately attempt to
17 verify the existence of the order.

18 (7) If the law enforcement officer determines that a protective
19 order has been issued, but not served, the officer shall immediately
20 notify the respondent of the terms of the order and obtain the
21 respondent's address. The law enforcement officer shall at that
22 time also enforce the order, but may not arrest or take the
23 respondent into custody for acts in violation of the order that were
24 committed prior to the verbal notice of the terms and conditions
25 of the order. The law enforcement officer's verbal notice of the
26 terms of the order shall constitute service of the order and
27 constitutes sufficient notice for the purposes of this section and
28 Sections 273.6 and 29825 of the Penal Code. The petitioner shall
29 mail an endorsed copy of the order to the respondent's mailing
30 address provided to the law enforcement officer within one
31 business day of the reported incident of unlawful violence or a
32 credible threat of violence at which a verbal notice of the terms of
33 the order was provided by a law enforcement officer.

34 (r) (1) A person subject to a protective order issued under this
35 section shall not own, possess, purchase, receive, or attempt to
36 purchase or receive a firearm or ammunition while the protective
37 order is in effect.

38 (2) The court shall order a person subject to a protective order
39 issued under this section to relinquish any firearms he or she owns
40 or possesses pursuant to Section 527.9.

1 (3) Every person who owns, possesses, purchases, or receives,
2 or attempts to purchase or receive a firearm or ammunition while
3 the protective order is in effect is punishable pursuant to Section
4 29825 of the Penal Code.

5 (s) Any intentional disobedience of any temporary restraining
6 order or injunction granted under this section is punishable pursuant
7 to Section 273.6 of the Penal Code.

8 (t) Nothing in this section may be construed as expanding,
9 diminishing, altering, or modifying the duty, if any, of a
10 postsecondary educational institution to provide a safe environment
11 for students and other persons.

12 (u) (1) The Judicial Council shall develop forms, instructions,
13 and rules relating to matters governed by this section. The forms
14 for the petition and response shall be simple and concise, and their
15 use by parties in actions brought pursuant to this section shall be
16 mandatory.

17 (2) A temporary restraining order or injunction relating to
18 unlawful violence or a credible threat of violence issued by a court
19 pursuant to this section shall be issued on forms adopted by the
20 Judicial Council and that have been approved by the Department
21 of Justice pursuant to subdivision (i) of Section 6380 of the Family
22 Code. However, the fact that an order issued by a court pursuant
23 to this section was not issued on forms adopted by the Judicial
24 Council and approved by the Department of Justice shall not, in
25 and of itself, make the order unenforceable.

26 (v) There is no filing fee for a petition that alleges that a person
27 has threatened violence against a student of the petitioner, or
28 stalked the student, or acted or spoken in any other manner that
29 has placed the student in reasonable fear of violence, and that seeks
30 a protective or restraining order or injunction restraining stalking
31 or future threats of violence, in any action brought pursuant to this
32 section. No fee shall be paid for a subpoena filed in connection
33 with a petition alleging these acts. No fee shall be paid for filing
34 a response to a petition alleging these acts.

35 (w) (1) Subject to paragraph (4) of subdivision (b) of Section
36 6103.2 of the Government Code, there shall be no fee for the
37 service of process by a sheriff or marshal of a temporary restraining
38 order or injunction to be issued pursuant to this section if either
39 of the following conditions apply:

1 (A) The temporary restraining order or injunction issued
2 pursuant to this section is based upon stalking, as prohibited by
3 Section 646.9 of the Penal Code.

4 (B) The temporary restraining order or injunction issued
5 pursuant to this section is based upon a credible threat of violence.

6 (2) The Judicial Council shall prepare and develop forms for
7 persons who wish to avail themselves of the services described in
8 this subdivision.

9 SEC. 4. Section 527.9 of the Code of Civil Procedure, as
10 amended by Section 5 of Chapter 572 of the Statutes of 2010, is
11 amended to read:

12 527.9. (a) A person subject to a temporary restraining order
13 or injunction issued pursuant to Section 527.6, 527.8, or 527.85
14 or subject to a restraining order issued pursuant to Section 136.2
15 of the Penal Code, or Section 15657.03 of the Welfare and
16 Institutions Code, shall relinquish the firearm pursuant to this
17 section.

18 (b) Upon the issuance of a protective order against a person
19 pursuant to subdivision (a), the court shall order that person to
20 relinquish any firearm in that person's immediate possession or
21 control, or subject to that person's immediate possession or control,
22 within 24 hours of being served with the order, either by
23 surrendering the firearm to the control of local law enforcement
24 officials, or by selling the firearm to a licensed gun dealer, as
25 specified in Article 1 (commencing with Section 26700) and Article
26 2 (commencing with Section 26800) of Chapter 2 of Division 6
27 of Title 4 of Part 6 of the Penal Code. A person ordered to
28 relinquish any firearm pursuant to this subdivision shall file with
29 the court a receipt showing the firearm was surrendered to the local
30 law enforcement agency or sold to a licensed gun dealer within
31 48 hours after receiving the order. In the event that it is necessary
32 to continue the date of any hearing due to a request for a
33 relinquishment order pursuant to this section, the court shall ensure
34 that all applicable protective orders described in Section 6218 of
35 the Family Code remain in effect or bifurcate the issues and grant
36 the permanent restraining order pending the date of the hearing.

37 (c) A local law enforcement agency may charge the person
38 subject to the order or injunction a fee for the storage of any firearm
39 relinquished pursuant to this section. The fee shall not exceed the
40 actual cost incurred by the local law enforcement agency for the

1 storage of the firearm. For purposes of this subdivision, “actual
2 cost” means expenses directly related to taking possession of a
3 firearm, storing the firearm, and surrendering possession of the
4 firearm to a licensed dealer as defined in Section 26700 of the
5 Penal Code or to the person relinquishing the firearm.

6 (d) The restraining order requiring a person to relinquish a
7 firearm pursuant to subdivision (b) shall state on its face that the
8 respondent is prohibited from owning, possessing, purchasing, or
9 receiving a firearm while the protective order is in effect and that
10 the firearm shall be relinquished to the local law enforcement
11 agency for that jurisdiction or sold to a licensed gun dealer, and
12 that proof of surrender or sale shall be filed with the court within
13 a specified period of receipt of the order. The order shall also state
14 on its face the expiration date for relinquishment. Nothing in this
15 section shall limit a respondent’s right under existing law to petition
16 the court at a later date for modification of the order.

17 (e) The restraining order requiring a person to relinquish a
18 firearm pursuant to subdivision (b) shall prohibit the person from
19 possessing or controlling any firearm for the duration of the order.
20 At the expiration of the order, the local law enforcement agency
21 shall return possession of any surrendered firearm to the
22 respondent, within five days after the expiration of the
23 relinquishment order, unless the local law enforcement agency
24 determines that (1) the firearm has been stolen, (2) the respondent
25 is prohibited from possessing a firearm because the respondent is
26 in any prohibited class for the possession of firearms, as defined
27 in Chapter 2 (commencing with Section 29800) and Chapter 3
28 (commencing with Section 29900) of Division 9 of Title 4 of Part
29 6 of the Penal Code and Sections 8100 and 8103 of the Welfare
30 and Institutions Code, or (3) another successive restraining order
31 is issued against the respondent under this section. If the local law
32 enforcement agency determines that the respondent is the legal
33 owner of any firearm deposited with the local law enforcement
34 agency and is prohibited from possessing any firearm, the
35 respondent shall be entitled to sell or transfer the firearm to a
36 licensed dealer as defined in Section 26700 of the Penal Code. If
37 the firearm has been stolen, the firearm shall be restored to the
38 lawful owner upon his or her identification of the firearm and proof
39 of ownership.

(f) The court may, as part of the relinquishment order, grant an exemption from the relinquishment requirements of this section for a particular firearm if the respondent can show that a particular firearm is necessary as a condition of continued employment and that the current employer is unable to reassign the respondent to another position where a firearm is unnecessary. If an exemption is granted pursuant to this subdivision, the order shall provide that the firearm shall be in the physical possession of the respondent only during scheduled work hours and during travel to and from his or her place of employment. In any case involving a peace officer who as a condition of employment and whose personal safety depends on the ability to carry a firearm, a court may allow the peace officer to continue to carry a firearm, either on duty or off duty, if the court finds by a preponderance of the evidence that the officer does not pose a threat of harm. Prior to making this finding, the court shall require a mandatory psychological evaluation of the peace officer and may require the peace officer to enter into counseling or other remedial treatment program to deal with any propensity for domestic violence.

(g) During the period of the relinquishment order, a respondent is entitled to make one sale of all firearms that are in the possession of a local law enforcement agency pursuant to this section. A licensed gun dealer, who presents a local law enforcement agency with a bill of sale indicating that all firearms owned by the respondent that are in the possession of the local law enforcement agency have been sold by the respondent to the licensed gun dealer, shall be given possession of those firearms, at the location where a respondent's firearms are stored, within five days of presenting the local law enforcement agency with a bill of sale.

SEC. 5. Section 49330 of the Education Code is amended to read:

49330. (a) (1) As used in this article "injurious object" shall mean those objects specified in the following sections:

(A) Section 16250 of the Penal Code.

(B) Subdivisions (a) to (d), inclusive of Section 16520 of the Penal Code.

(C) Section 16590 of the Penal Code.

(D) Section 16880 of the Penal Code.

(E) Section 17235 of the Penal Code.

(F) Section 17240 of the Penal Code.

1 (G) Section 17250 of the Penal Code.

2 (2) As used in this article, “injurious object” shall also mean
3 objects capable of inflicting substantial bodily damage, not
4 necessary for the academic purpose of the pupil.

5 (b) As used in this section, “academic purpose” means any
6 school sponsored activity or class of instruction scheduled during
7 the schoolday.

8 (c) “Injurious object” does not include any personal possessions
9 or items of apparel which a schoolage child reasonably may be
10 expected either to have in his or her possession or to wear.

11 SEC. 6. Section 6389 of the Family Code, as amended by
12 Section 23 of Chapter 572 of the Statutes of 2010, is amended to
13 read:

14 6389. (a) A person subject to a protective order, as defined in
15 Section 6218, shall not own, possess, purchase, or receive a firearm
16 or ammunition while that protective order is in effect. Every person
17 who owns, possesses, purchases or receives, or attempts to purchase
18 or receive a firearm or ammunition while the protective order is
19 in effect is punishable pursuant to Section 29825 of the Penal Code.

20 (b) On all forms providing notice that a protective order has
21 been requested or granted, the Judicial Council shall include a
22 notice that, upon service of the order, the respondent shall be
23 ordered to relinquish possession or control of any firearms and not
24 to purchase or receive or attempt to purchase or receive any
25 firearms for a period not to exceed the duration of the restraining
26 order.

27 (c) (1) Upon issuance of a protective order, as defined in Section
28 6218, the court shall order the respondent to relinquish any firearm
29 in the respondent’s immediate possession or control or subject to
30 the respondent’s immediate possession or control.

31 (2) The relinquishment ordered pursuant to paragraph (1) shall
32 occur by immediately surrendering the firearm in a safe manner,
33 upon request of any law enforcement officer, to the control of the
34 officer, after being served with the protective order. Alternatively,
35 if no request is made by a law enforcement officer, the
36 relinquishment shall occur within 24 hours of being served with
37 the order, by either surrendering the firearm in a safe manner to
38 the control of local law enforcement officials, or by selling the
39 firearm to a licensed gun dealer, as specified in Article 1
40 (commencing with Section 26700) and Article 2 (commencing

1 with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part
2 6 of the Penal Code. The law enforcement officer or licensed gun
3 dealer taking possession of the firearm pursuant to this subdivision
4 shall issue a receipt to the person relinquishing the firearm at the
5 time of relinquishment. A person ordered to relinquish any firearm
6 pursuant to this subdivision shall file with the court that issued the
7 protective order, within 48 hours after being served with the order,
8 the receipt showing the firearm was surrendered to a local law
9 enforcement agency or sold to a licensed gun dealer. Failure to
10 timely file a receipt shall constitute a violation of the protective
11 order.

12 (3) The forms for protective orders adopted by the Judicial
13 Council and approved by the Department of Justice shall require
14 the petitioner to describe the number, types, and locations of any
15 firearms presently known by the petitioner to be possessed or
16 controlled by the respondent.

17 (4) It is recommended that every law enforcement agency in
18 the state develop, adopt, and implement written policies and
19 standards for law enforcement officers who request immediate
20 relinquishment of firearms.

21 (d) If the respondent declines to relinquish possession of any
22 firearm based on the assertion of the right against
23 self-incrimination, as provided by the Fifth Amendment to the
24 United States Constitution and Section 15 of Article I of the
25 California Constitution, the court may grant use immunity for the
26 act of relinquishing the firearm required under this section.

27 (e) A local law enforcement agency may charge the respondent
28 a fee for the storage of any firearm pursuant to this section. This
29 fee shall not exceed the actual cost incurred by the local law
30 enforcement agency for the storage of the firearm. For purposes
31 of this subdivision, “actual cost” means expenses directly related
32 to taking possession of a firearm, storing the firearm, and
33 surrendering possession of the firearm to a licensed dealer as
34 defined in Section 26700 of the Penal Code or to the respondent.

35 (f) The restraining order requiring a person to relinquish a
36 firearm pursuant to subdivision (c) shall state on its face that the
37 respondent is prohibited from owning, possessing, purchasing, or
38 receiving a firearm while the protective order is in effect and that
39 the firearm shall be relinquished to the local law enforcement
40 agency for that jurisdiction or sold to a licensed gun dealer, and

1 that proof of surrender or sale shall be filed with the court within
2 a specified period of receipt of the order. The order shall also state
3 on its face the expiration date for relinquishment. Nothing in this
4 section shall limit a respondent's right under existing law to petition
5 the court at a later date for modification of the order.

6 (g) The restraining order requiring a person to relinquish a
7 firearm pursuant to subdivision (c) shall prohibit the person from
8 possessing or controlling any firearm for the duration of the order.
9 At the expiration of the order, the local law enforcement agency
10 shall return possession of any surrendered firearm to the
11 respondent, within five days after the expiration of the
12 relinquishment order, unless the local law enforcement agency
13 determines that (1) the firearm has been stolen, (2) the respondent
14 is prohibited from possessing a firearm because the respondent is
15 in any prohibited class for the possession of firearms, as defined
16 in Chapter 2 (commencing with Section 29800) and Chapter 3
17 (commencing with Section 29900) of Division 9 of Title 4 of Part
18 6 of the Penal Code and Sections 8100 and 8103 of the Welfare
19 and Institutions Code, or (3) another successive restraining order
20 is issued against the respondent under this section. If the local law
21 enforcement agency determines that the respondent is the legal
22 owner of any firearm deposited with the local law enforcement
23 agency and is prohibited from possessing any firearm, the
24 respondent shall be entitled to sell or transfer the firearm to a
25 licensed dealer as defined in Section 26700 of the Penal Code. If
26 the firearm has been stolen, the firearm shall be restored to the
27 lawful owner upon his or her identification of the firearm and proof
28 of ownership.

29 (h) The court may, as part of the relinquishment order, grant an
30 exemption from the relinquishment requirements of this section
31 for a particular firearm if the respondent can show that a particular
32 firearm is necessary as a condition of continued employment and
33 that the current employer is unable to reassign the respondent to
34 another position where a firearm is unnecessary. If an exemption
35 is granted pursuant to this subdivision, the order shall provide that
36 the firearm shall be in the physical possession of the respondent
37 only during scheduled work hours and during travel to and from
38 his or her place of employment. In any case involving a peace
39 officer who as a condition of employment and whose personal
40 safety depends on the ability to carry a firearm, a court may allow

1 the peace officer to continue to carry a firearm, either on duty or
2 off duty, if the court finds by a preponderance of the evidence that
3 the officer does not pose a threat of harm. Prior to making this
4 finding, the court shall require a mandatory psychological
5 evaluation of the peace officer and may require the peace officer
6 to enter into counseling or other remedial treatment program to
7 deal with any propensity for domestic violence.

8 (i) During the period of the relinquishment order, a respondent
9 is entitled to make one sale of all firearms that are in the possession
10 of a local law enforcement agency pursuant to this section. A
11 licensed gun dealer, who presents a local law enforcement agency
12 with a bill of sale indicating that all firearms owned by the
13 respondent that are in the possession of the local law enforcement
14 agency have been sold by the respondent to the licensed gun dealer,
15 shall be given possession of those firearms, at the location where
16 a respondent's firearms are stored, within five days of presenting
17 the local law enforcement agency with a bill of sale.

18 (j) The disposition of any unclaimed property under this section
19 shall be made pursuant to Section 1413 of the Penal Code.

20 (k) The return of a firearm to any person pursuant to subdivision
21 (g) shall not be subject to the requirements of Section 27545 of
22 the Penal Code.

23 (l) If the respondent notifies the court that he or she owns a
24 firearm that is not in his or her immediate possession, the court
25 may limit the order to exclude that firearm if the judge is satisfied
26 the respondent is unable to gain access to that firearm while the
27 protective order is in effect.

28 (m) Any respondent to a protective order who violates any order
29 issued pursuant to this section shall be punished under the
30 provisions of Section 29825 of the Penal Code.

31 SEC. 7. Section 6254 of the Government Code is amended to
32 read:

33 6254. Except as provided in Sections 6254.7 and 6254.13,
34 nothing in this chapter shall be construed to require disclosure of
35 records that are any of the following:

36 (a) Preliminary drafts, notes, or interagency or intra-agency
37 memoranda that are not retained by the public agency in the
38 ordinary course of business, if the public interest in withholding
39 those records clearly outweighs the public interest in disclosure.

1 (b) Records pertaining to pending litigation to which the public
2 agency is a party, or to claims made pursuant to Division 3.6
3 (commencing with Section 810), until the pending litigation or
4 claim has been finally adjudicated or otherwise settled.

5 (c) Personnel, medical, or similar files, the disclosure of which
6 would constitute an unwarranted invasion of personal privacy.

7 (d) Contained in or related to any of the following:

8 (1) Applications filed with any state agency responsible for the
9 regulation or supervision of the issuance of securities or of financial
10 institutions, including, but not limited to, banks, savings and loan
11 associations, industrial loan companies, credit unions, and
12 insurance companies.

13 (2) Examination, operating, or condition reports prepared by,
14 on behalf of, or for the use of, any state agency referred to in
15 paragraph (1).

16 (3) Preliminary drafts, notes, or interagency or intra-agency
17 communications prepared by, on behalf of, or for the use of, any
18 state agency referred to in paragraph (1).

19 (4) Information received in confidence by any state agency
20 referred to in paragraph (1).

21 (e) Geological and geophysical data, plant production data, and
22 similar information relating to utility systems development, or
23 market or crop reports, that are obtained in confidence from any
24 person.

25 (f) Records of complaints to, or investigations conducted by,
26 or records of intelligence information or security procedures of,
27 the office of the Attorney General and the Department of Justice,
28 the California Emergency Management Agency, and any state or
29 local police agency, or any investigatory or security files compiled
30 by any other state or local police agency, or any investigatory or
31 security files compiled by any other state or local agency for
32 correctional, law enforcement, or licensing purposes. However,
33 state and local law enforcement agencies shall disclose the names
34 and addresses of persons involved in, or witnesses other than
35 confidential informants to, the incident, the description of any
36 property involved, the date, time, and location of the incident, all
37 diagrams, statements of the parties involved in the incident, the
38 statements of all witnesses, other than confidential informants, to
39 the victims of an incident, or an authorized representative thereof,
40 an insurance carrier against which a claim has been or might be

1 made, and any person suffering bodily injury or property damage
2 or loss, as the result of the incident caused by arson, burglary, fire,
3 explosion, larceny, robbery, carjacking, vandalism, vehicle theft,
4 or a crime as defined by subdivision (b) of Section 13951, unless
5 the disclosure would endanger the safety of a witness or other
6 person involved in the investigation, or unless disclosure would
7 endanger the successful completion of the investigation or a related
8 investigation. However, nothing in this division shall require the
9 disclosure of that portion of those investigative files that reflects
10 the analysis or conclusions of the investigating officer.

11 Customer lists provided to a state or local police agency by an
12 alarm or security company at the request of the agency shall be
13 construed to be records subject to this subdivision.

14 Notwithstanding any other provision of this subdivision, state
15 and local law enforcement agencies shall make public the following
16 information, except to the extent that disclosure of a particular
17 item of information would endanger the safety of a person involved
18 in an investigation or would endanger the successful completion
19 of the investigation or a related investigation:

20 (1) The full name and occupation of every individual arrested
21 by the agency, the individual's physical description including date
22 of birth, color of eyes and hair, sex, height and weight, the time
23 and date of arrest, the time and date of booking, the location of
24 the arrest, the factual circumstances surrounding the arrest, the
25 amount of bail set, the time and manner of release or the location
26 where the individual is currently being held, and all charges the
27 individual is being held upon, including any outstanding warrants
28 from other jurisdictions and parole or probation holds.

29 (2) Subject to the restrictions imposed by Section 841.5 of the
30 Penal Code, the time, substance, and location of all complaints or
31 requests for assistance received by the agency and the time and
32 nature of the response thereto, including, to the extent the
33 information regarding crimes alleged or committed or any other
34 incident investigated is recorded, the time, date, and location of
35 occurrence, the time and date of the report, the name and age of
36 the victim, the factual circumstances surrounding the crime or
37 incident, and a general description of any injuries, property, or
38 weapons involved. The name of a victim of any crime defined by
39 Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a,
40 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285,

1 286, 288, 288a, 288.2, 288.3 (as added by Chapter 337 of the
2 Statutes of 2006), 288.3 (as added by Section 6 of Proposition 83
3 of the November 7, 2006, statewide general election), 288.5, 288.7,
4 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code may
5 be withheld at the victim's request, or at the request of the victim's
6 parent or guardian if the victim is a minor. When a person is the
7 victim of more than one crime, information disclosing that the
8 person is a victim of a crime defined in any of the sections of the
9 Penal Code set forth in this subdivision may be deleted at the
10 request of the victim, or the victim's parent or guardian if the
11 victim is a minor, in making the report of the crime, or of any
12 crime or incident accompanying the crime, available to the public
13 in compliance with the requirements of this paragraph.

14 (3) Subject to the restrictions of Section 841.5 of the Penal Code
15 and this subdivision, the current address of every individual
16 arrested by the agency and the current address of the victim of a
17 crime, where the requester declares under penalty of perjury that
18 the request is made for a scholarly, journalistic, political, or
19 governmental purpose, or that the request is made for investigation
20 purposes by a licensed private investigator as described in Chapter
21 11.3 (commencing with Section 7512) of Division 3 of the Business
22 and Professions Code. However, the address of the victim of any
23 crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1,
24 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a,
25 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3 (as added by
26 Chapter 337 of the Statutes of 2006), 288.3 (as added by Section
27 6 of Proposition 83 of the November 7, 2006, statewide general
28 election), 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6
29 of the Penal Code shall remain confidential. Address information
30 obtained pursuant to this paragraph may not be used directly or
31 indirectly, or furnished to another, to sell a product or service to
32 any individual or group of individuals, and the requester shall
33 execute a declaration to that effect under penalty of perjury.
34 Nothing in this paragraph shall be construed to prohibit or limit a
35 scholarly, journalistic, political, or government use of address
36 information obtained pursuant to this paragraph.

37 (g) Test questions, scoring keys, and other examination data
38 used to administer a licensing examination, examination for
39 employment, or academic examination, except as provided for in

1 Chapter 3 (commencing with Section 99150) of Part 65 of Division
2 14 of Title 3 of the Education Code.

3 (h) The contents of real estate appraisals or engineering or
4 feasibility estimates and evaluations made for or by the state or
5 local agency relative to the acquisition of property, or to
6 prospective public supply and construction contracts, until all of
7 the property has been acquired or all of the contract agreement
8 obtained. However, the law of eminent domain shall not be affected
9 by this provision.

10 (i) Information required from any taxpayer in connection with
11 the collection of local taxes that is received in confidence and the
12 disclosure of the information to other persons would result in unfair
13 competitive disadvantage to the person supplying the information.

14 (j) Library circulation records kept for the purpose of identifying
15 the borrower of items available in libraries, and library and museum
16 materials made or acquired and presented solely for reference or
17 exhibition purposes. The exemption in this subdivision shall not
18 apply to records of fines imposed on the borrowers.

19 (k) Records, the disclosure of which is exempted or prohibited
20 pursuant to federal or state law, including, but not limited to,
21 provisions of the Evidence Code relating to privilege.

22 (l) Correspondence of and to the Governor or employees of the
23 Governor's office or in the custody of or maintained by the
24 Governor's Legal Affairs Secretary. However, public records shall
25 not be transferred to the custody of the Governor's Legal Affairs
26 Secretary to evade the disclosure provisions of this chapter.

27 (m) In the custody of or maintained by the Legislative Counsel,
28 except those records in the public database maintained by the
29 Legislative Counsel that are described in Section 10248.

30 (n) Statements of personal worth or personal financial data
31 required by a licensing agency and filed by an applicant with the
32 licensing agency to establish his or her personal qualification for
33 the license, certificate, or permit applied for.

34 (o) Financial data contained in applications for financing under
35 Division 27 (commencing with Section 44500) of the Health and
36 Safety Code, where an authorized officer of the California Pollution
37 Control Financing Authority determines that disclosure of the
38 financial data would be competitively injurious to the applicant
39 and the data is required in order to obtain guarantees from the
40 United States Small Business Administration. The California

1 Pollution Control Financing Authority shall adopt rules for review
2 of individual requests for confidentiality under this section and for
3 making available to the public those portions of an application that
4 are subject to disclosure under this chapter.

5 (p) Records of state agencies related to activities governed by
6 Chapter 10.3 (commencing with Section 3512), Chapter 10.5
7 (commencing with Section 3525), and Chapter 12 (commencing
8 with Section 3560) of Division 4, that reveal a state agency's
9 deliberative processes, impressions, evaluations, opinions,
10 recommendations, meeting minutes, research, work products,
11 theories, or strategy, or that provide instruction, advice, or training
12 to employees who do not have full collective bargaining and
13 representation rights under these chapters. Nothing in this
14 subdivision shall be construed to limit the disclosure duties of a
15 state agency with respect to any other records relating to the
16 activities governed by the employee relations acts referred to in
17 this subdivision.

18 (q) (1) Records of state agencies related to activities governed
19 by Article 2.6 (commencing with Section 14081), Article 2.8
20 (commencing with Section 14087.5), and Article 2.91
21 (commencing with Section 14089) of Chapter 7 of Part 3 of
22 Division 9 of the Welfare and Institutions Code, that reveal the
23 special negotiator's deliberative processes, discussions,
24 communications, or any other portion of the negotiations with
25 providers of health care services, impressions, opinions,
26 recommendations, meeting minutes, research, work product,
27 theories, or strategy, or that provide instruction, advice, or training
28 to employees.

29 (2) Except for the portion of a contract containing the rates of
30 payment, contracts for inpatient services entered into pursuant to
31 these articles, on or after April 1, 1984, shall be open to inspection
32 one year after they are fully executed. If a contract for inpatient
33 services that is entered into prior to April 1, 1984, is amended on
34 or after April 1, 1984, the amendment, except for any portion
35 containing the rates of payment, shall be open to inspection one
36 year after it is fully executed. If the California Medical Assistance
37 Commission enters into contracts with health care providers for
38 other than inpatient hospital services, those contracts shall be open
39 to inspection one year after they are fully executed.

1 (3) Three years after a contract or amendment is open to
2 inspection under this subdivision, the portion of the contract or
3 amendment containing the rates of payment shall be open to
4 inspection.

5 (4) Notwithstanding any other provision of law, the entire
6 contract or amendment shall be open to inspection by the Joint
7 Legislative Audit Committee and the Legislative Analyst's Office.
8 The committee and that office shall maintain the confidentiality
9 of the contracts and amendments until the time a contract or
10 amendment is fully open to inspection by the public.

11 (r) Records of Native American graves, cemeteries, and sacred
12 places and records of Native American places, features, and objects
13 described in Sections 5097.9 and 5097.993 of the Public Resources
14 Code maintained by, or in the possession of, the Native American
15 Heritage Commission, another state agency, or a local agency.

16 (s) A final accreditation report of the Joint Commission on
17 Accreditation of Hospitals that has been transmitted to the State
18 Department of Health Care Services pursuant to subdivision (b)
19 of Section 1282 of the Health and Safety Code.

20 (t) Records of a local hospital district, formed pursuant to
21 Division 23 (commencing with Section 32000) of the Health and
22 Safety Code, or the records of a municipal hospital, formed
23 pursuant to Article 7 (commencing with Section 37600) or Article
24 8 (commencing with Section 37650) of Chapter 5 of Part 2 of
25 Division 3 of Title 4 of this code, that relate to any contract with
26 an insurer or nonprofit hospital service plan for inpatient or
27 outpatient services for alternative rates pursuant to Section 10133
28 of the Insurance Code. However, the record shall be open to
29 inspection within one year after the contract is fully executed.

30 (u) (1) Information contained in applications for licenses to
31 carry firearms issued pursuant to Section 26150, 26155, 26170,
32 or 26215 of the Penal Code by the sheriff of a county or the chief
33 or other head of a municipal police department that indicates when
34 or where the applicant is vulnerable to attack or that concerns the
35 applicant's medical or psychological history or that of members
36 of his or her family.

37 (2) The home address and telephone number of peace officers,
38 judges, court commissioners, and magistrates that are set forth in
39 applications for licenses to carry firearms issued pursuant to
40 Section 26150, 26155, 26170, or 26215 of the Penal Code by the

1 sheriff of a county or the chief or other head of a municipal police
2 department.

3 (3) The home address and telephone number of peace officers,
4 judges, court commissioners, and magistrates that are set forth in
5 licenses to carry firearms issued pursuant to Section 26150, 26155,
6 26170, or 26215 of the Penal Code by the sheriff of a county or
7 the chief or other head of a municipal police department.

8 (v) (1) Records of the Managed Risk Medical Insurance Board
9 related to activities governed by Part 6.3 (commencing with Section
10 12695), Part 6.5 (commencing with Section 12700), Part 6.6
11 (commencing with Section 12739.5), and Part 6.7 (commencing
12 with Section 12739.70) of Division 2 of the Insurance Code, and
13 that reveal any of the following:

14 (A) The deliberative processes, discussions, communications,
15 or any other portion of the negotiations with entities contracting
16 or seeking to contract with the board, entities with which the board
17 is considering a contract, or entities with which the board is
18 considering or enters into any other arrangement under which the
19 board provides, receives, or arranges services or reimbursement.

20 (B) The impressions, opinions, recommendations, meeting
21 minutes, research, work product, theories, or strategy of the board
22 or its staff, or records that provide instructions, advice, or training
23 to employees.

24 (2) (A) Except for the portion of a contract that contains the
25 rates of payment, contracts entered into pursuant to Part 6.3
26 (commencing with Section 12695), Part 6.5 (commencing with
27 Section 12700), Part 6.6 (commencing with Section 12739.5), or
28 Part 6.7 (commencing with Section 12739.70) of Division 2 of the
29 Insurance Code, on or after July 1, 1991, shall be open to inspection
30 one year after their effective dates.

31 (B) If a contract that is entered into prior to July 1, 1991, is
32 amended on or after July 1, 1991, the amendment, except for any
33 portion containing the rates of payment, shall be open to inspection
34 one year after the effective date of the amendment.

35 (3) Three years after a contract or amendment is open to
36 inspection pursuant to this subdivision, the portion of the contract
37 or amendment containing the rates of payment shall be open to
38 inspection.

39 (4) Notwithstanding any other provision of law, the entire
40 contract or amendments to a contract shall be open to inspection

1 by the Joint Legislative Audit Committee. The committee shall
2 maintain the confidentiality of the contracts and amendments
3 thereto, until the contracts or amendments to the contracts are open
4 to inspection pursuant to paragraph (3).

5 (w) (1) Records of the Managed Risk Medical Insurance Board
6 related to activities governed by Chapter 8 (commencing with
7 Section 10700) of Part 2 of Division 2 of the Insurance Code, and
8 that reveal the deliberative processes, discussions, communications,
9 or any other portion of the negotiations with health plans, or the
10 impressions, opinions, recommendations, meeting minutes,
11 research, work product, theories, or strategy of the board or its
12 staff, or records that provide instructions, advice, or training to
13 employees.

14 (2) Except for the portion of a contract that contains the rates
15 of payment, contracts for health coverage entered into pursuant to
16 Chapter 8 (commencing with Section 10700) of Part 2 of Division
17 2 of the Insurance Code, on or after January 1, 1993, shall be open
18 to inspection one year after they have been fully executed.

19 (3) Notwithstanding any other provision of law, the entire
20 contract or amendments to a contract shall be open to inspection
21 by the Joint Legislative Audit Committee. The committee shall
22 maintain the confidentiality of the contracts and amendments
23 thereto, until the contracts or amendments to the contracts are open
24 to inspection pursuant to paragraph (2).

25 (x) Financial data contained in applications for registration, or
26 registration renewal, as a service contractor filed with the Director
27 of Consumer Affairs pursuant to Chapter 20 (commencing with
28 Section 9800) of Division 3 of the Business and Professions Code,
29 for the purpose of establishing the service contractor's net worth,
30 or financial data regarding the funded accounts held in escrow for
31 service contracts held in force in this state by a service contractor.

32 (y) (1) Records of the Managed Risk Medical Insurance Board
33 related to activities governed by Part 6.2 (commencing with Section
34 12693) or Part 6.4 (commencing with Section 12699.50) of
35 Division 2 of the Insurance Code, and that reveal any of the
36 following:

37 (A) The deliberative processes, discussions, communications,
38 or any other portion of the negotiations with entities contracting
39 or seeking to contract with the board, entities with which the board
40 is considering a contract, or entities with which the board is

1 considering or enters into any other arrangement under which the
2 board provides, receives, or arranges services or reimbursement.

3 (B) The impressions, opinions, recommendations, meeting
4 minutes, research, work product, theories, or strategy of the board
5 or its staff, or records that provide instructions, advice, or training
6 to employees.

7 (2) (A) Except for the portion of a contract that contains the
8 rates of payment, contracts entered into pursuant to Part 6.2
9 (commencing with Section 12693) or Part 6.4 (commencing with
10 Section 12699.50) of Division 2 of the Insurance Code, on or after
11 January 1, 1998, shall be open to inspection one year after their
12 effective dates.

13 (B) If a contract entered into pursuant to Part 6.2 (commencing
14 with Section 12693) or Part 6.4 (commencing with Section
15 12699.50) of Division 2 of the Insurance Code is amended, the
16 amendment shall be open to inspection one year after the effective
17 date of the amendment.

18 (3) Three years after a contract or amendment is open to
19 inspection pursuant to this subdivision, the portion of the contract
20 or amendment containing the rates of payment shall be open to
21 inspection.

22 (4) Notwithstanding any other provision of law, the entire
23 contract or amendments to a contract shall be open to inspection
24 by the Joint Legislative Audit Committee. The committee shall
25 maintain the confidentiality of the contracts and amendments
26 thereto until the contract or amendments to a contract are open to
27 inspection pursuant to paragraph (2) or (3).

28 (5) The exemption from disclosure provided pursuant to this
29 subdivision for the contracts, deliberative processes, discussions,
30 communications, negotiations, impressions, opinions,
31 recommendations, meeting minutes, research, work product,
32 theories, or strategy of the board or its staff shall also apply to the
33 contracts, deliberative processes, discussions, communications,
34 negotiations, impressions, opinions, recommendations, meeting
35 minutes, research, work product, theories, or strategy of applicants
36 pursuant to Part 6.4 (commencing with Section 12699.50) of
37 Division 2 of the Insurance Code.

38 (z) Records obtained pursuant to paragraph (2) of subdivision
39 (f) of Section 2891.1 of the Public Utilities Code.

1 (aa) A document prepared by or for a state or local agency that
2 assesses its vulnerability to terrorist attack or other criminal acts
3 intended to disrupt the public agency's operations and that is for
4 distribution or consideration in a closed session.

5 (ab) Critical infrastructure information, as defined in Section
6 131(3) of Title 6 of the United States Code, that is voluntarily
7 submitted to the California Emergency Management Agency for
8 use by that office, including the identity of the person who or entity
9 that voluntarily submitted the information. As used in this
10 subdivision, "voluntarily submitted" means submitted in the
11 absence of the office exercising any legal authority to compel
12 access to or submission of critical infrastructure information. This
13 subdivision shall not affect the status of information in the
14 possession of any other state or local governmental agency.

15 (ac) All information provided to the Secretary of State by a
16 person for the purpose of registration in the Advance Health Care
17 Directive Registry, except that those records shall be released at
18 the request of a health care provider, a public guardian, or the
19 registrant's legal representative.

20 (ad) The following records of the State Compensation Insurance
21 Fund:

22 (1) Records related to claims pursuant to Chapter 1
23 (commencing with Section 3200) of Division 4 of the Labor Code,
24 to the extent that confidential medical information or other
25 individually identifiable information would be disclosed.

26 (2) Records related to the discussions, communications, or any
27 other portion of the negotiations with entities contracting or seeking
28 to contract with the fund, and any related deliberations.

29 (3) Records related to the impressions, opinions,
30 recommendations, meeting minutes of meetings or sessions that
31 are lawfully closed to the public, research, work product, theories,
32 or strategy of the fund or its staff, on the development of rates,
33 contracting strategy, underwriting, or competitive strategy pursuant
34 to the powers granted to the fund in Chapter 4 (commencing with
35 Section 11770) of Part 3 of Division 2 of the Insurance Code.

36 (4) Records obtained to provide workers' compensation
37 insurance under Chapter 4 (commencing with Section 11770) of
38 Part 3 of Division 2 of the Insurance Code, including, but not
39 limited to, any medical claims information, policyholder
40 information provided that nothing in this paragraph shall be

1 interpreted to prevent an insurance agent or broker from obtaining
2 proprietary information or other information authorized by law to
3 be obtained by the agent or broker, and information on rates,
4 pricing, and claims handling received from brokers.

5 (5) (A) Records that are trade secrets pursuant to Section
6 6276.44, or Article 11 (commencing with Section 1060) of Chapter
7 4 of Division 8 of the Evidence Code, including without limitation,
8 instructions, advice, or training provided by the State Compensation
9 Insurance Fund to its board members, officers, and employees
10 regarding the fund's special investigation unit, internal audit unit,
11 and informational security, marketing, rating, pricing, underwriting,
12 claims handling, audits, and collections.

13 (B) Notwithstanding subparagraph (A), the portions of records
14 containing trade secrets shall be available for review by the Joint
15 Legislative Audit Committee, the Bureau of State Audits, Division
16 of Workers' Compensation, and the Department of Insurance to
17 ensure compliance with applicable law.

18 (6) (A) Internal audits containing proprietary information and
19 the following records that are related to an internal audit:

20 (i) Personal papers and correspondence of any person providing
21 assistance to the fund when that person has requested in writing
22 that his or her papers and correspondence be kept private and
23 confidential. Those papers and correspondence shall become public
24 records if the written request is withdrawn, or upon order of the
25 fund.

26 (ii) Papers, correspondence, memoranda, or any substantive
27 information pertaining to any audit not completed or an internal
28 audit that contains proprietary information.

29 (B) Notwithstanding subparagraph (A), the portions of records
30 containing proprietary information, or any information specified
31 in subparagraph (A) shall be available for review by the Joint
32 Legislative Audit Committee, the Bureau of State Audits, Division
33 of Workers' Compensation, and the Department of Insurance to
34 ensure compliance with applicable law.

35 (7) (A) Except as provided in subparagraph (C), contracts
36 entered into pursuant to Chapter 4 (commencing with Section
37 11770) of Part 3 of Division 2 of the Insurance Code shall be open
38 to inspection one year after the contract has been fully executed.

39 (B) If a contract entered into pursuant to Chapter 4 (commencing
40 with Section 11770) of Part 3 of Division 2 of the Insurance Code

1 is amended, the amendment shall be open to inspection one year
2 after the amendment has been fully executed.

3 (C) Three years after a contract or amendment is open to
4 inspection pursuant to this subdivision, the portion of the contract
5 or amendment containing the rates of payment shall be open to
6 inspection.

7 (D) Notwithstanding any other provision of law, the entire
8 contract or amendments to a contract shall be open to inspection
9 by the Joint Legislative Audit Committee. The committee shall
10 maintain the confidentiality of the contracts and amendments
11 thereto until the contract or amendments to a contract are open to
12 inspection pursuant to this paragraph.

13 (E) Nothing in this paragraph is intended to apply to documents
14 related to contracts with public entities that are not otherwise
15 expressly confidential as to that public entity.

16 (F) For purposes of this paragraph, “fully executed” means the
17 point in time when all of the necessary parties to the contract have
18 signed the contract.

19 Nothing in this section prevents any agency from opening its
20 records concerning the administration of the agency to public
21 inspection, unless disclosure is otherwise prohibited by law.

22 Nothing in this section prevents any health facility from
23 disclosing to a certified bargaining agent relevant financing
24 information pursuant to Section 8 of the National Labor Relations
25 Act (29 U.S.C. Sec. 158).

26 SEC. 8. Section 53071.5 of the Government Code, as amended
27 by Section 35 of Chapter 178 of the Statutes of 2010, is amended
28 to read:

29 53071.5. By the enforcement of this section, the Legislature
30 occupies the whole field of regulation of the manufacture, sale, or
31 possession of imitation firearms, as defined in subdivision (a) of
32 Section 16700 of the Penal Code, and that subdivision shall
33 preempt and be exclusive of all regulations relating to the
34 manufacture, sale, or possession of imitation firearms, including
35 regulations governing the manufacture, sale, or possession of BB
36 devices and air rifles described in Section 16250 of the Penal Code.

37 SEC. 9. Section 166 of the Penal Code is amended to read:

38 166. (a) Except as provided in subdivisions (b), (c), and (d),
39 every person guilty of any contempt of court, of any of the
40 following kinds, is guilty of a misdemeanor:

1 (1) Disorderly, contemptuous, or insolent behavior committed
2 during the sitting of any court of justice, in the immediate view
3 and presence of the court, and directly tending to interrupt its
4 proceedings or to impair the respect due to its authority.

5 (2) Behavior as specified in paragraph (1) committed in the
6 presence of any referee, while actually engaged in any trial or
7 hearing, pursuant to the order of any court, or in the presence of
8 any jury while actually sitting for the trial of a cause, or upon any
9 inquest or other proceedings authorized by law.

10 (3) Any breach of the peace, noise, or other disturbance directly
11 tending to interrupt the proceedings of any court.

12 (4) Willful disobedience of the terms as written of any process
13 or court order or out-of-state court order, lawfully issued by any
14 court, including orders pending trial.

15 (5) Resistance willfully offered by any person to the lawful
16 order or process of any court.

17 (6) The contumacious and unlawful refusal of any person to be
18 sworn as a witness or, when so sworn, the like refusal to answer
19 any material question.

20 (7) The publication of a false or grossly inaccurate report of the
21 proceedings of any court.

22 (8) Presenting to any court having power to pass sentence upon
23 any prisoner under conviction, or to any member of the court, any
24 affidavit or testimony or representation of any kind, verbal or
25 written, in aggravation or mitigation of the punishment to be
26 imposed upon the prisoner, except as provided in this code.

27 (9) Willful disobedience of the terms of any injunction that
28 restrains the activities of a criminal street gang or any of its
29 members, lawfully issued by any court, including an order pending
30 trial.

31 (b) (1) Any person who is guilty of contempt of court under
32 paragraph (4) of subdivision (a) by willfully contacting a victim
33 by telephone or mail, or directly, and who has been previously
34 convicted of a violation of Section 646.9 shall be punished by
35 imprisonment in a county jail for not more than one year, by a fine
36 of five thousand dollars (\$5,000), or by both that fine and
37 imprisonment.

38 (2) For the purposes of sentencing under this subdivision, each
39 contact shall constitute a separate violation of this subdivision.

1 (3) The present incarceration of a person who makes contact
2 with a victim in violation of paragraph (1) is not a defense to a
3 violation of this subdivision.

4 (c) (1) Notwithstanding paragraph (4) of subdivision (a), any
5 willful and knowing violation of any protective order or stay-away
6 court order issued pursuant to Section 136.2, in a pending criminal
7 proceeding involving domestic violence, as defined in Section
8 13700, or issued as a condition of probation after a conviction in
9 a criminal proceeding involving domestic violence, as defined in
10 Section 13700, or elder or dependent adult abuse, as defined in
11 Section 368, or that is an order described in paragraph (3), shall
12 constitute contempt of court, a misdemeanor, punishable by
13 imprisonment in a county jail for not more than one year, by a fine
14 of not more than one thousand dollars (\$1,000), or by both that
15 imprisonment and fine.

16 (2) If a violation of paragraph (1) results in a physical injury,
17 the person shall be imprisoned in a county jail for at least 48 hours,
18 whether a fine or imprisonment is imposed, or the sentence is
19 suspended.

20 (3) Paragraphs (1) and (2) apply to the following court orders:

21 (A) Any order issued pursuant to Section 6320 or 6389 of the
22 Family Code.

23 (B) An order excluding one party from the family dwelling or
24 from the dwelling of the other.

25 (C) An order enjoining a party from specified behavior that the
26 court determined was necessary to effectuate the orders described
27 in paragraph (1).

28 (4) A second or subsequent conviction for a violation of any
29 order described in paragraph (1) occurring within seven years of
30 a prior conviction for a violation of any of those orders and
31 involving an act of violence or “a credible threat” of violence, as
32 provided in subdivisions (c) and (d) of Section 139, is punishable
33 by imprisonment in a county jail not to exceed one year, or in the
34 state prison for 16 months or two or three years.

35 (5) The prosecuting agency of each county shall have the
36 primary responsibility for the enforcement of the orders described
37 in paragraph (1).

38 (d) (1) A person who owns, possesses, purchases, or receives
39 a firearm knowing he or she is prohibited from doing so by the
40 provisions of a protective order as defined in Section 136.2 of this

1 code, Section 6218 of the Family Code, or Section 527.6 or 527.8
2 of the Code of Civil Procedure, shall be punished under the
3 provisions of Section 29825.

4 (2) A person subject to a protective order described in paragraph
5 (1) shall not be prosecuted under this section for owning,
6 possessing, purchasing, or receiving a firearm to the extent that
7 firearm is granted an exemption pursuant to subdivision (h) of
8 Section 6389 of the Family Code.

9 (e) (1) If probation is granted upon conviction of a violation of
10 subdivision (c), the court shall impose probation consistent with
11 Section 1203.097 of the Penal Code.

12 (2) If probation is granted upon conviction of a violation of
13 subdivision (c), the conditions of probation may include, in lieu
14 of a fine, one or both of the following requirements:

15 (A) That the defendant make payments to a battered women's
16 shelter, up to a maximum of one thousand dollars (\$1,000).

17 (B) That the defendant provide restitution to reimburse the
18 victim for reasonable costs of counseling and other reasonable
19 expenses that the court finds are the direct result of the defendant's
20 offense.

21 (3) For any order to pay a fine, make payments to a battered
22 women's shelter, or pay restitution as a condition of probation
23 under this subdivision or subdivision (c), the court shall make a
24 determination of the defendant's ability to pay. In no event shall
25 any order to make payments to a battered women's shelter be made
26 if it would impair the ability of the defendant to pay direct
27 restitution to the victim or court-ordered child support.

28 (4) If the injury to a married person is caused in whole or in
29 part by the criminal acts of his or her spouse in violation of
30 subdivision (c), the community property may not be used to
31 discharge the liability of the offending spouse for restitution to the
32 injured spouse required by Section 1203.04, as operative on or
33 before August 2, 1995, or Section 1202.4, or to a shelter for costs
34 with regard to the injured spouse and dependents required by this
35 subdivision, until all separate property of the offending spouse is
36 exhausted.

37 (5) Any person violating any order described in subdivision (c)
38 may be punished for any substantive offenses described under
39 Section 136.1 or 646.9. No finding of contempt shall be a bar to
40 prosecution for a violation of Section 136.1 or 646.9. However,

1 any person held in contempt for a violation of subdivision (c) shall
2 be entitled to credit for any punishment imposed as a result of that
3 violation against any sentence imposed upon conviction of an
4 offense described in Section 136.1 or 646.9. Any conviction or
5 acquittal for any substantive offense under Section 136.1 or 646.9
6 shall be a bar to a subsequent punishment for contempt arising out
7 of the same act.

8 SEC. 10. Section 171c of the Penal Code is amended to read:

9 171c. (a) (1) Any person who brings a loaded firearm into,
10 or possesses a loaded firearm within, the State Capitol, any
11 legislative office, any office of the Governor or other constitutional
12 officer, or any hearing room in which any committee of the Senate
13 or Assembly is conducting a hearing, or upon the grounds of the
14 State Capitol, which is bounded by 10th, L, 15th, and N Streets in
15 the City of Sacramento, shall be punished by imprisonment in a
16 county jail for a period of not more than one year, a fine of not
17 more than one thousand dollars (\$1,000), or both such
18 imprisonment and fine, or by imprisonment in the state prison.

19 (2) Any person who brings or possesses, within the State Capitol,
20 any legislative office, any hearing room in which any committee
21 of the Senate or Assembly is conducting a hearing, the Legislative
22 Office Building at 1020 N Street in the City of Sacramento, or
23 upon the grounds of the State Capitol, which is bounded by 10th,
24 L, 15th, and N Streets in the City of Sacramento, any of the
25 following, is guilty of a misdemeanor punishable by imprisonment
26 in a county jail for a period not to exceed one year, or by a fine
27 not exceeding one thousand dollars (\$1,000), or by both that fine
28 and imprisonment, if the area is posted with a statement providing
29 reasonable notice that prosecution may result from possession of
30 any of these items:

31 (A) Any firearm.

32 (B) Any deadly weapon described in Section 21510 or in any
33 provision listed in Section 16590.

34 (C) Any knife with a blade length in excess of four inches, the
35 blade of which is fixed or is capable of being fixed in an unguarded
36 position by the use of one or two hands.

37 (D) Any unauthorized tear gas weapon.

38 (E) Any stun gun, as defined in Section 244.5.

1 (F) Any instrument that expels a metallic projectile, such as a
2 BB or pellet, through the force of air pressure, CO₂ pressure, or
3 spring action, or any spot marker gun or paint gun.

4 (G) Any ammunition as defined in Sections 16150 and 16650.

5 (H) Any explosive as defined in Section 12000 of the Health
6 and Safety Code.

7 (b) Subdivision (a) shall not apply to, or affect, any of the
8 following:

9 (1) A duly appointed peace officer as defined in Chapter 4.5
10 (commencing with Section 830) of Title 3 of Part 2, a retired peace
11 officer with authorization to carry concealed weapons as described
12 in Article 2 (commencing with Section 25450) of Chapter 2 of
13 Division 5 of Title 4 of Part 6, a full-time paid peace officer of
14 another state or the federal government who is carrying out official
15 duties while in California, or any person summoned by any of
16 these officers to assist in making arrests or preserving the peace
17 while he or she is actually engaged in assisting the officer.

18 (2) A person holding a valid license to carry the firearm pursuant
19 to Chapter 4 (commencing with Section 26150) of Division 5 of
20 Title 4 of Part 6, and who has permission granted by the Chief
21 Sergeants at Arms of the State Assembly and the State Senate to
22 possess a concealed weapon upon the premises described in
23 subdivision (a).

24 (3) A person who has permission granted by the Chief Sergeants
25 at Arms of the State Assembly and the State Senate to possess a
26 weapon upon the premises described in subdivision (a).

27 (c) (1) Nothing in this section shall preclude prosecution under
28 Chapter 2 (commencing with Section 29800) or Chapter 3
29 (commencing with Section 29900) of Division 9 of Title 4 of Part
30 6 of this code, Section 8100 or 8103 of the Welfare and Institutions
31 Code, or any other law with a penalty greater than is set forth in
32 this section.

33 (2) The provisions of this section are cumulative, and shall not
34 be construed as restricting the application of any other law.
35 However, an act or omission punishable in different ways by
36 different provisions of law shall not be punished under more than
37 one provision.

38 SEC. 11. Section 171.7 of the Penal Code is amended to read:

39 171.7. (a) For purposes of this section:

(1) “Public transit facility” means any land, building, or equipment, or any interest therein, including any station on a public transportation route, to which access is controlled in a manner consistent with the public transit authority’s security plan, whether or not the operation thereof produces revenue, that has as its primary purpose the operation of a public transit system or the providing of services to the passengers of a public transit system.

A public transit system includes the vehicles used in the system, including, but not limited to, motor vehicles, streetcars, trackless trolleys, buses, light rail systems, rapid transit systems, subways, trains, or jitneys, that transport members of the public for hire.

(2) “Sterile area” means any portion of a public transit facility that is generally controlled in a manner consistent with the public transit authority’s security plan.

(3) “Firearm” has the same meaning as specified in subdivision (a) of Section 16520.

(b) It is unlawful for any person to knowingly possess within any sterile area of a public transit facility any of the following, if the sterile area is posted with a statement providing reasonable notice that prosecution may result from possession of these items:

- (1) Any firearm.
- (2) Any imitation firearm as defined in Section 417.4.
- (3) Any instrument that expels a metallic projectile, such as a BB or pellet, through the force of air pressure, CO₂ pressure, or spring action, or any spot marker gun or paint gun.
- (4) Any metal military practice hand grenade.
- (5) Any metal replica hand grenade.
- (6) Any plastic replica hand grenade.
- (7) Any unauthorized tear gas weapon.
- (8) Any undetectable knife, as described in Section 17290.

(c) (1) Subdivision (b) shall not apply to, or affect, any of the following:

(A) A duly appointed peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(B) A retired peace officer with authorization to carry concealed weapons as described in Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6.

(C) A full-time paid peace officer of another state or the federal government who is carrying out official duties while in California.

1 (D) A qualified law enforcement officer of another state or the
2 federal government, as permitted under the Law Enforcement
3 Officers Safety Act pursuant to Section 926B or 926C of Title 18
4 of the United States Code.

5 (E) Any person summoned by any of the officers listed in
6 subparagraphs (A) to (C), inclusive, to assist in making arrests or
7 preserving the peace while he or she is actually engaged in assisting
8 the officer.

9 (F) A person who is responsible for the security of the public
10 transit system and who has been authorized by the public transit
11 authority's security coordinator, in writing, to possess a weapon
12 specified in subdivision (b).

13 (2) Paragraph (1) of subdivision (b) does not apply to or affect
14 a person who is exempt from the prohibition against carrying a
15 handgun pursuant to Section 25400 if the carrying of that handgun
16 is in accordance with the terms and conditions of the exemption
17 specified in Article 2 (commencing with Section 25450) of Chapter
18 2 of Division 5 of Title 4 of Part 6 or Sections 25615 to 25655,
19 inclusive.

20 (3) Paragraph (7) of subdivision (b) shall not apply to or affect
21 the possession of a tear gas weapon when possession is permitted
22 pursuant to Division 11 (commencing with Section 22810) of Title
23 3 of Part 6.

24 (d) A violation of this section is punishable by imprisonment
25 in a county jail for a period not exceeding six months, or by a fine
26 not exceeding one thousand dollars (\$1,000), or by both that fine
27 and imprisonment.

28 (e) The provisions of this section are cumulative, and shall not
29 be construed as restricting the application of any other law.
30 However, an act or omission that is punishable in different ways
31 by this and any other provision of law shall not be punished under
32 more than one provision.

33 (f) This section does not prevent prosecution under any other
34 provision of law that may provide a greater punishment.

35 (g) This section shall be interpreted so as to be consistent with
36 Section 926A of Title 18 of the United States Code.

37 SEC. 12. Section 186.22 of the Penal Code, as amended by
38 Section 2 of Chapter 256 of the Statutes of 2010, is amended to
39 read:

1 186.22. (a) Any person who actively participates in any
2 criminal street gang with knowledge that its members engage in
3 or have engaged in a pattern of criminal gang activity, and who
4 willfully promotes, furthers, or assists in any felonious criminal
5 conduct by members of that gang, shall be punished by
6 imprisonment in a county jail for a period not to exceed one year,
7 or by imprisonment in the state prison for 16 months, or two or
8 three years.

9 (b) (1) Except as provided in paragraphs (4) and (5), any person
10 who is convicted of a felony committed for the benefit of, at the
11 direction of, or in association with any criminal street gang, with
12 the specific intent to promote, further, or assist in any criminal
13 conduct by gang members, shall, upon conviction of that felony,
14 in addition and consecutive to the punishment prescribed for the
15 felony or attempted felony of which he or she has been convicted,
16 be punished as follows:

17 (A) Except as provided in subparagraphs (B) and (C), the person
18 shall be punished by an additional term of two, three, or four years
19 at the court's discretion.

20 (B) If the felony is a serious felony, as defined in subdivision
21 (c) of Section 1192.7, the person shall be punished by an additional
22 term of five years.

23 (C) If the felony is a violent felony, as defined in subdivision
24 (c) of Section 667.5, the person shall be punished by an additional
25 term of 10 years.

26 (2) If the underlying felony described in paragraph (1) is
27 committed on the grounds of, or within 1,000 feet of, a public or
28 private elementary, vocational, junior high, or high school, during
29 hours in which the facility is open for classes or school-related
30 programs or when minors are using the facility, that fact shall be
31 a circumstance in aggravation of the crime in imposing a term
32 under paragraph (1).

33 (3) The court shall order the imposition of the middle term of
34 the sentence enhancement, unless there are circumstances in
35 aggravation or mitigation. The court shall state the reasons for its
36 choice of sentencing enhancements on the record at the time of
37 the sentencing.

38 (4) Any person who is convicted of a felony enumerated in this
39 paragraph committed for the benefit of, at the direction of, or in
40 association with any criminal street gang, with the specific intent

1 to promote, further, or assist in any criminal conduct by gang
2 members, shall, upon conviction of that felony, be sentenced to
3 an indeterminate term of life imprisonment with a minimum term
4 of the indeterminate sentence calculated as the greater of:

5 (A) The term determined by the court pursuant to Section 1170
6 for the underlying conviction, including any enhancement
7 applicable under Chapter 4.5 (commencing with Section 1170) of
8 Title 7 of Part 2, or any period prescribed by Section 3046, if the
9 felony is any of the offenses enumerated in subparagraph (B) or
10 (C) of this paragraph.

11 (B) Imprisonment in the state prison for 15 years, if the felony
12 is a home invasion robbery, in violation of subparagraph (A) of
13 paragraph (1) of subdivision (a) of Section 213; carjacking, as
14 defined in Section 215; a felony violation of Section 246; or a
15 violation of Section 12022.55.

16 (C) Imprisonment in the state prison for seven years, if the
17 felony is extortion, as defined in Section 519; or threats to victims
18 and witnesses, as defined in Section 136.1.

19 (5) Except as provided in paragraph (4), any person who violates
20 this subdivision in the commission of a felony punishable by
21 imprisonment in the state prison for life shall not be paroled until
22 a minimum of 15 calendar years have been served.

23 (c) If the court grants probation or suspends the execution of
24 sentence imposed upon the defendant for a violation of subdivision
25 (a), or in cases involving a true finding of the enhancement
26 enumerated in subdivision (b), the court shall require that the
27 defendant serve a minimum of 180 days in a county jail as a
28 condition thereof.

29 (d) Any person who is convicted of a public offense punishable
30 as a felony or a misdemeanor, which is committed for the benefit
31 of, at the direction of, or in association with any criminal street
32 gang, with the specific intent to promote, further, or assist in any
33 criminal conduct by gang members, shall be punished by
34 imprisonment in the county jail not to exceed one year, or by
35 imprisonment in the state prison for one, two, or three years,
36 provided that any person sentenced to imprisonment in the county
37 jail shall be imprisoned for a period not to exceed one year, but
38 not less than 180 days, and shall not be eligible for release upon
39 completion of sentence, parole, or any other basis, until he or she
40 has served 180 days. If the court grants probation or suspends the

1 execution of sentence imposed upon the defendant, it shall require
2 as a condition thereof that the defendant serve 180 days in a county
3 jail.

4 (e) As used in this chapter, “pattern of criminal gang activity”
5 means the commission of, attempted commission of, conspiracy
6 to commit, or solicitation of, sustained juvenile petition for, or
7 conviction of two or more of the following offenses, provided at
8 least one of these offenses occurred after the effective date of this
9 chapter and the last of those offenses occurred within three years
10 after a prior offense, and the offenses were committed on separate
11 occasions, or by two or more persons:

12 (1) Assault with a deadly weapon or by means of force likely
13 to produce great bodily injury, as defined in Section 245.

14 (2) Robbery, as defined in Chapter 4 (commencing with Section
15 211) of Title 8 of Part 1.

16 (3) Unlawful homicide or manslaughter, as defined in Chapter
17 1 (commencing with Section 187) of Title 8 of Part 1.

18 (4) The sale, possession for sale, transportation, manufacture,
19 offer for sale, or offer to manufacture controlled substances as
20 defined in Sections 11054, 11055, 11056, 11057, and 11058 of
21 the Health and Safety Code.

22 (5) Shooting at an inhabited dwelling or occupied motor vehicle,
23 as defined in Section 246.

24 (6) Discharging or permitting the discharge of a firearm from
25 a motor vehicle, as defined in subdivisions (a) and (b) of Section
26 26100.

27 (7) Arson, as defined in Chapter 1 (commencing with Section
28 450) of Title 13.

29 (8) The intimidation of witnesses and victims, as defined in
30 Section 136.1.

31 (9) Grand theft, as defined in subdivision (a) or (c) of Section
32 487.

33 (10) Grand theft of any firearm, vehicle, trailer, or vessel.

34 (11) Burglary, as defined in Section 459.

35 (12) Rape, as defined in Section 261.

36 (13) Looting, as defined in Section 463.

37 (14) Money laundering, as defined in Section 186.10.

38 (15) Kidnapping, as defined in Section 207.

39 (16) Mayhem, as defined in Section 203.

40 (17) Aggravated mayhem, as defined in Section 205.

1 (18) Torture, as defined in Section 206.

2 (19) Felony extortion, as defined in Sections 518 and 520.

3 (20) Felony vandalism, as defined in paragraph (1) of
4 subdivision (b) of Section 594.

5 (21) Carjacking, as defined in Section 215.

6 (22) The sale, delivery, or transfer of a firearm, as defined in
7 Article 1 (commencing with Section 27500) of Chapter 4 of
8 Division 6 of Title 4 of Part 6.

9 (23) Possession of a pistol, revolver, or other firearm capable
10 of being concealed upon the person in violation of Section 29610.

11 (24) Threats to commit crimes resulting in death or great bodily
12 injury, as defined in Section 422.

13 (25) Theft and unlawful taking or driving of a vehicle, as defined
14 in Section 10851 of the Vehicle Code.

15 (26) Felony theft of an access card or account information, as
16 defined in Section 484e.

17 (27) Counterfeiting, designing, using, or attempting to use an
18 access card, as defined in Section 484f.

19 (28) Felony fraudulent use of an access card or account
20 information, as defined in Section 484g.

21 (29) Unlawful use of personal identifying information to obtain
22 credit, goods, services, or medical information, as defined in
23 Section 530.5.

24 (30) Wrongfully obtaining Department of Motor Vehicles
25 documentation, as defined in Section 529.7.

26 (31) Prohibited possession of a firearm in violation of Chapter
27 2 (commencing with Section 29800) of Division 9 of Title 4 of
28 Part 6.

29 (32) Carrying a concealed firearm in violation of Section 25400.

30 (33) Carrying a loaded firearm in violation of Section 25850.

31 (f) As used in this chapter, “criminal street gang” means any
32 ongoing organization, association, or group of three or more
33 persons, whether formal or informal, having as one of its primary
34 activities the commission of one or more of the criminal acts
35 enumerated in paragraphs (1) to (25), inclusive, or (31) to (33),
36 inclusive, of subdivision (e), having a common name or common
37 identifying sign or symbol, and whose members individually or
38 collectively engage in or have engaged in a pattern of criminal
39 gang activity.

1 (g) Notwithstanding any other law, the court may strike the
2 additional punishment for the enhancements provided in this
3 section or refuse to impose the minimum jail sentence for
4 misdemeanors in an unusual case where the interests of justice
5 would best be served, if the court specifies on the record and enters
6 into the minutes the circumstances indicating that the interests of
7 justice would best be served by that disposition.

8 (h) Notwithstanding any other provision of law, for each person
9 committed to the Division of Juvenile Facilities for a conviction
10 pursuant to subdivision (a) or (b) of this section, the offense shall
11 be deemed one for which the state shall pay the rate of 100 percent
12 of the per capita institutional cost of the Division of Juvenile
13 Facilities, pursuant to Section 912.5 of the Welfare and Institutions
14 Code.

15 (i) In order to secure a conviction or sustain a juvenile petition,
16 pursuant to subdivision (a) it is not necessary for the prosecution
17 to prove that the person devotes all, or a substantial part, of his or
18 her time or efforts to the criminal street gang, nor is it necessary
19 to prove that the person is a member of the criminal street gang.
20 Active participation in the criminal street gang is all that is
21 required.

22 (j) A pattern of gang activity may be shown by the commission
23 of one or more of the offenses enumerated in paragraphs (26) to
24 (30), inclusive, of subdivision (e), and the commission of one or
25 more of the offenses enumerated in paragraphs (1) to (25),
26 inclusive, or (31) to (33), inclusive, of subdivision (e). A pattern
27 of gang activity cannot be established solely by proof of
28 commission of offenses enumerated in paragraphs (26) to (30),
29 inclusive, of subdivision (e), alone.

30 (k) This section shall become operative on January 1, 2012.

31 SEC. 13. Section 273.6 of the Penal Code, as amended by
32 Section 55 of Chapter 178 of the Statutes of 2010, is amended to
33 read:

34 273.6. (a) Any intentional and knowing violation of a
35 protective order, as defined in Section 6218 of the Family Code,
36 or of an order issued pursuant to Section 527.6, 527.8, or 527.85
37 of the Code of Civil Procedure, or Section 15657.03 of the Welfare
38 and Institutions Code, is a misdemeanor punishable by a fine of
39 not more than one thousand dollars (\$1,000), or by imprisonment

1 in a county jail for not more than one year, or by both that fine and
2 imprisonment.

3 (b) In the event of a violation of subdivision (a) that results in
4 physical injury, the person shall be punished by a fine of not more
5 than two thousand dollars (\$2,000), or by imprisonment in a county
6 jail for not less than 30 days nor more than one year, or by both
7 that fine and imprisonment. However, if the person is imprisoned
8 in a county jail for at least 48 hours, the court may, in the interest
9 of justice and for reasons stated on the record, reduce or eliminate
10 the 30-day minimum imprisonment required by this subdivision.
11 In determining whether to reduce or eliminate the minimum
12 imprisonment pursuant to this subdivision, the court shall consider
13 the seriousness of the facts before the court, whether there are
14 additional allegations of a violation of the order during the
15 pendency of the case before the court, the probability of future
16 violations, the safety of the victim, and whether the defendant has
17 successfully completed or is making progress with counseling.

18 (c) Subdivisions (a) and (b) shall apply to the following court
19 orders:

20 (1) Any order issued pursuant to Section 6320 or 6389 of the
21 Family Code.

22 (2) An order excluding one party from the family dwelling or
23 from the dwelling of the other.

24 (3) An order enjoining a party from specified behavior that the
25 court determined was necessary to effectuate the order described
26 in subdivision (a).

27 (4) Any order issued by another state that is recognized under
28 Part 5 (commencing with Section 6400) of Division 10 of the
29 Family Code.

30 (d) A subsequent conviction for a violation of an order described
31 in subdivision (a), occurring within seven years of a prior
32 conviction for a violation of an order described in subdivision (a)
33 and involving an act of violence or “a credible threat” of violence,
34 as defined in subdivision (c) of Section 139, is punishable by
35 imprisonment in a county jail not to exceed one year, or in the
36 state prison.

37 (e) In the event of a subsequent conviction for a violation of an
38 order described in subdivision (a) for an act occurring within one
39 year of a prior conviction for a violation of an order described in
40 subdivision (a) that results in physical injury to a victim, the person

1 shall be punished by a fine of not more than two thousand dollars
2 (\$2,000), or by imprisonment in a county jail for not less than six
3 months nor more than one year, by both that fine and
4 imprisonment, or by imprisonment in the state prison. However,
5 if the person is imprisoned in a county jail for at least 30 days, the
6 court may, in the interest of justice and for reasons stated in the
7 record, reduce or eliminate the six-month minimum imprisonment
8 required by this subdivision. In determining whether to reduce or
9 eliminate the minimum imprisonment pursuant to this subdivision,
10 the court shall consider the seriousness of the facts before the court,
11 whether there are additional allegations of a violation of the order
12 during the pendency of the case before the court, the probability
13 of future violations, the safety of the victim, and whether the
14 defendant has successfully completed or is making progress with
15 counseling.

16 (f) The prosecuting agency of each county shall have the primary
17 responsibility for the enforcement of orders described in
18 subdivisions (a), (b), (d), and (e).

19 (g) (1) Every person who owns, possesses, purchases, or
20 receives a firearm knowing he or she is prohibited from doing so
21 by the provisions of a protective order as defined in Section 136.2
22 of this code, Section 6218 of the Family Code, or Section 527.6,
23 527.8, or 527.85 of the Code of Civil Procedure, or Section
24 15657.03 of the Welfare and Institutions Code, shall be punished
25 under Section 29825.

26 (2) Every person subject to a protective order described in
27 paragraph (1) shall not be prosecuted under this section for owning,
28 possessing, purchasing, or receiving a firearm to the extent that
29 firearm is granted an exemption pursuant to subdivision (f) of
30 Section 527.9 of the Code of Civil Procedure, or subdivision (h)
31 of Section 6389 of the Family Code.

32 (h) If probation is granted upon conviction of a violation of
33 subdivision (a), (b), (c), (d), or (e), the court shall impose probation
34 consistent with Section 1203.097, and the conditions of probation
35 may include, in lieu of a fine, one or both of the following
36 requirements:

37 (1) That the defendant make payments to a battered women's
38 shelter or to a shelter for abused elder persons or dependent adults,
39 up to a maximum of five thousand dollars (\$5,000), pursuant to
40 Section 1203.097.

1 (2) That the defendant reimburse the victim for reasonable costs
2 of counseling and other reasonable expenses that the court finds
3 are the direct result of the defendant's offense.

4 (i) For any order to pay a fine, make payments to a battered
5 women's shelter, or pay restitution as a condition of probation
6 under subdivision (e), the court shall make a determination of the
7 defendant's ability to pay. In no event shall any order to make
8 payments to a battered women's shelter be made if it would impair
9 the ability of the defendant to pay direct restitution to the victim
10 or court-ordered child support. Where the injury to a married person
11 is caused in whole or in part by the criminal acts of his or her
12 spouse in violation of this section, the community property may
13 not be used to discharge the liability of the offending spouse for
14 restitution to the injured spouse, required by Section 1203.04, as
15 operative on or before August 2, 1995, or Section 1202.4, or to a
16 shelter for costs with regard to the injured spouse and dependents,
17 required by this section, until all separate property of the offending
18 spouse is exhausted.

19 SEC. 14. Section 626.95 of the Penal Code, as amended by
20 Section 60 of Chapter 178 of the Statutes of 2010, is amended to
21 read:

22 626.95. (a) Any person who is in violation of paragraph (2)
23 of subdivision (a), or subdivision (b), of Section 417, or Section
24 25400 or 25850, upon the grounds of or within a playground, or
25 a public or private youth center during hours in which the facility
26 is open for business, classes, or school-related programs, or at any
27 time when minors are using the facility, knowing that he or she is
28 on or within those grounds, shall be punished by imprisonment in
29 the state prison for one, two, or three years, or in a county jail not
30 exceeding one year.

31 (b) State and local authorities are encouraged to cause signs to
32 be posted around playgrounds and youth centers giving warning
33 of prohibition of the possession of firearms upon the grounds of
34 or within playgrounds or youth centers.

35 (c) For purposes of this section, the following definitions shall
36 apply:

37 (1) "Playground" means any park or recreational area
38 specifically designed to be used by children that has play equipment
39 installed, including public grounds designed for athletic activities
40 such as baseball, football, soccer, or basketball, or any similar

1 facility located on public or private school grounds, or on city or
2 county parks.

3 (2) “Youth center” means any public or private facility that is
4 used to host recreational or social activities for minors while minors
5 are present.

6 (d) It is the Legislature’s intent that only an actual conviction
7 of a felony of one of the offenses specified in this section would
8 subject the person to firearms disabilities under the federal Gun
9 Control Act of 1968 (P.L. 90-618; 18 U.S.C. Sec. 921).

10 SEC. 15. Section 626.10 of the Penal Code, as amended by
11 Section 61 of Chapter 178 of the Statutes of 2010, is amended to
12 read:

13 626.10. (a) (1) Any person, except a duly appointed peace
14 officer as defined in Chapter 4.5 (commencing with Section 830)
15 of Title 3 of Part 2, a full-time paid peace officer of another state
16 or the federal government who is carrying out official duties while
17 in this state, a person summoned by any officer to assist in making
18 arrests or preserving the peace while the person is actually engaged
19 in assisting any officer, or a member of the military forces of this
20 state or the United States who is engaged in the performance of
21 his or her duties, who brings or possesses any dirk, dagger, ice
22 pick, knife having a blade longer than 2 ½ inches, folding knife
23 with a blade that locks into place, razor with an unguarded blade,
24 taser, or stun gun, as defined in subdivision (a) of Section 244.5,
25 any instrument that expels a metallic projectile, such as a BB or a
26 pellet, through the force of air pressure, CO₂ pressure, or spring
27 action, or any spot marker gun, upon the grounds of, or within,
28 any public or private school providing instruction in kindergarten
29 or any of grades 1 to 12, inclusive, is guilty of a public offense,
30 punishable by imprisonment in a county jail not exceeding one
31 year, or by imprisonment in the state prison.

32 (2) Any person, except a duly appointed peace officer as defined
33 in Chapter 4.5 (commencing with Section 830) of Title 3 of Part
34 2, a full-time paid peace officer of another state or the federal
35 government who is carrying out official duties while in this state,
36 a person summoned by any officer to assist in making arrests or
37 preserving the peace while the person is actually engaged in
38 assisting any officer, or a member of the military forces of this
39 state or the United States who is engaged in the performance of
40 his or her duties, who brings or possesses a razor blade or a box

1 cutter upon the grounds of, or within, any public or private school
2 providing instruction in kindergarten or any of grades 1 to 12,
3 inclusive, is guilty of a public offense, punishable by imprisonment
4 in a county jail not exceeding one year.

5 (b) Any person, except a duly appointed peace officer as defined
6 in Chapter 4.5 (commencing with Section 830) of Title 3 of Part
7 2, a full-time paid peace officer of another state or the federal
8 government who is carrying out official duties while in this state,
9 a person summoned by any officer to assist in making arrests or
10 preserving the peace while the person is actually engaged in
11 assisting any officer, or a member of the military forces of this
12 state or the United States who is engaged in the performance of
13 his or her duties, who brings or possesses any dirk, dagger, ice
14 pick, or knife having a fixed blade longer than 2½ inches upon
15 the grounds of, or within, any private university, the University of
16 California, the California State University, or the California
17 Community Colleges is guilty of a public offense, punishable by
18 imprisonment in a county jail not exceeding one year, or by
19 imprisonment in the state prison.

20 (c) Subdivisions (a) and (b) do not apply to any person who
21 brings or possesses a knife having a blade longer than 2½ inches,
22 a razor with an unguarded blade, a razor blade, or a box cutter
23 upon the grounds of, or within, a public or private school providing
24 instruction in kindergarten or any of grades 1 to 12, inclusive, or
25 any private university, state university, or community college at
26 the direction of a faculty member of the private university, state
27 university, or community college, or a certificated or classified
28 employee of the school for use in a private university, state
29 university, community college, or school-sponsored activity or
30 class.

31 (d) Subdivisions (a) and (b) do not apply to any person who
32 brings or possesses an ice pick, a knife having a blade longer than
33 2½ inches, a razor with an unguarded blade, a razor blade, or a
34 box cutter upon the grounds of, or within, a public or private school
35 providing instruction in kindergarten or any of grades 1 to 12,
36 inclusive, or any private university, state university, or community
37 college for a lawful purpose within the scope of the person's
38 employment.

39 (e) Subdivision (b) does not apply to any person who brings or
40 possesses an ice pick or a knife having a fixed blade longer than

1 2½ inches upon the grounds of, or within, any private university,
2 state university, or community college for lawful use in or around
3 a residence or residential facility located upon those grounds or
4 for lawful use in food preparation or consumption.

5 (f) Subdivision (a) does not apply to any person who brings an
6 instrument that expels a metallic projectile, such as a BB or a pellet,
7 through the force of air pressure, CO₂ pressure, or spring action,
8 or any spot marker gun, or any razor blade or box cutter upon the
9 grounds of, or within, a public or private school providing
10 instruction in kindergarten or any of grades 1 to 12, inclusive, if
11 the person has the written permission of the school principal or
12 his or her designee.

13 (g) Any certificated or classified employee or school peace
14 officer of a public or private school providing instruction in
15 kindergarten or any of grades 1 to 12, inclusive, may seize any of
16 the weapons described in subdivision (a), and any certificated or
17 classified employee or school peace officer of any private
18 university, state university, or community college may seize any
19 of the weapons described in subdivision (b), from the possession
20 of any person upon the grounds of, or within, the school if he or
21 she knows, or has reasonable cause to know, the person is
22 prohibited from bringing or possessing the weapon upon the
23 grounds of, or within, the school.

24 (h) As used in this section, “dirk” or “dagger” means a knife or
25 other instrument with or without a handguard that is capable of
26 ready use as a stabbing weapon that may inflict great bodily injury
27 or death.

28 (i) Any person who, without the written permission of the
29 college or university president or chancellor or his or her designee,
30 brings or possesses a less lethal weapon, as defined in Section
31 16780, or a stun gun, as defined in Section 17230, upon the grounds
32 of, or within, a public or private college or university campus is
33 guilty of a misdemeanor.

34 SEC. 16. Section 629.52 of the Penal Code is amended to read:

35 629.52. Upon application made under Section 629.50, the judge
36 may enter an ex parte order, as requested or modified, authorizing
37 interception of wire or electronic communications initially
38 intercepted within the territorial jurisdiction of the court in which
39 the judge is sitting, if the judge determines, on the basis of the
40 facts submitted by the applicant, all of the following:

1 (a) There is probable cause to believe that an individual is
2 committing, has committed, or is about to commit, one of the
3 following offenses:

4 (1) Importation, possession for sale, transportation, manufacture,
5 or sale of controlled substances in violation of Section 11351,
6 11351.5, 11352, 11370.6, 11378, 11378.5, 11379, 11379.5, or
7 11379.6 of the Health and Safety Code with respect to a substance
8 containing heroin, cocaine, PCP, methamphetamine, or their
9 precursors or analogs where the substance exceeds 10 gallons by
10 liquid volume or three pounds of solid substance by weight.

11 (2) Murder, solicitation to commit murder, a violation of Section
12 209, or the commission of a felony involving a destructive device
13 in violation of Section 18710, 18715, 18720, 18725, 18730, 18740,
14 18745, 18750, or 18755.

15 (3) Any felony violation of Section 186.22.

16 (4) Any felony violation of Section 11418, relating to weapons
17 of mass destruction, Section 11418.5, relating to threats to use
18 weapons of mass destruction, or Section 11419, relating to
19 restricted biological agents.

20 (5) An attempt or conspiracy to commit any of the
21 above-mentioned crimes.

22 (b) There is probable cause to believe that particular
23 communications concerning the illegal activities will be obtained
24 through that interception, including, but not limited to,
25 communications that may be utilized for locating or rescuing a
26 kidnap victim.

27 (c) There is probable cause to believe that the facilities from
28 which, or the place where, the wire or electronic communications
29 are to be intercepted are being used, or are about to be used, in
30 connection with the commission of the offense, or are leased to,
31 listed in the name of, or commonly used by the person whose
32 communications are to be intercepted.

33 (d) Normal investigative procedures have been tried and have
34 failed or reasonably appear either to be unlikely to succeed if tried
35 or to be too dangerous.

36 SEC. 17. Section 1203.4 of the Penal Code, as amended by
37 Section 76 of Chapter 178 of the Statutes of 2010, is amended to
38 read:

39 1203.4. (a) (1) In any case in which a defendant has fulfilled
40 the conditions of probation for the entire period of probation, or

1 has been discharged prior to the termination of the period of
2 probation, or in any other case in which a court, in its discretion
3 and the interests of justice, determines that a defendant should be
4 granted the relief available under this section, the defendant shall,
5 at any time after the termination of the period of probation, if he
6 or she is not then serving a sentence for any offense, on probation
7 for any offense, or charged with the commission of any offense,
8 be permitted by the court to withdraw his or her plea of guilty or
9 plea of nolo contendere and enter a plea of not guilty; or, if he or
10 she has been convicted after a plea of not guilty, the court shall
11 set aside the verdict of guilty; and, in either case, the court shall
12 thereupon dismiss the accusations or information against the
13 defendant and except as noted below, he or she shall thereafter be
14 released from all penalties and disabilities resulting from the
15 offense of which he or she has been convicted, except as provided
16 in Section 13555 of the Vehicle Code. The probationer shall be
17 informed, in his or her probation papers, of this right and privilege
18 and his or her right, if any, to petition for a certificate of
19 rehabilitation and pardon. The probationer may make the
20 application and change of plea in person or by attorney, or by the
21 probation officer authorized in writing. However, in any subsequent
22 prosecution of the defendant for any other offense, the prior
23 conviction may be pleaded and proved and shall have the same
24 effect as if probation had not been granted or the accusation or
25 information dismissed. The order shall state, and the probationer
26 shall be informed, that the order does not relieve him or her of the
27 obligation to disclose the conviction in response to any direct
28 question contained in any questionnaire or application for public
29 office, for licensure by any state or local agency, or for contracting
30 with the California State Lottery Commission.

31 (2) Dismissal of an accusation or information pursuant to this
32 section does not permit a person to own, possess, or have in his or
33 her custody or control any firearm or prevent his or her conviction
34 under Chapter 2 (commencing with Section 29800) of Division 9
35 of Title 4 of Part 6.

36 (3) Dismissal of an accusation or information underlying a
37 conviction pursuant to this section does not permit a person
38 prohibited from holding public office as a result of that conviction
39 to hold public office.

1 (4) This subdivision shall apply to all applications for relief
2 under this section which are filed on or after November 23, 1970.

3 (b) Subdivision (a) of this section does not apply to any
4 misdemeanor that is within the provisions of Section 42002.1 of
5 the Vehicle Code, to any violation of subdivision (c) of Section
6 286, Section 288, subdivision (c) of Section 288a, Section 288.5,
7 or subdivision (j) of Section 289, any felony conviction pursuant
8 to subdivision (d) of Section 261.5, or to any infraction.

9 (c) (1) Except as provided in paragraph (2), subdivision (a)
10 does not apply to a person who receives a notice to appear or is
11 otherwise charged with a violation of an offense described in
12 subdivisions (a) to (e), inclusive, of Section 12810 of the Vehicle
13 Code.

14 (2) If a defendant who was convicted of a violation listed in
15 paragraph (1) petitions the court, the court in its discretion and in
16 the interests of justice, may order the relief provided pursuant to
17 subdivision (a) to that defendant.

18 (d) A person who petitions for a change of plea or setting aside
19 of a verdict under this section may be required to reimburse the
20 court for the actual costs of services rendered, whether or not the
21 petition is granted and the records are sealed or expunged, at a rate
22 to be determined by the court not to exceed one hundred fifty
23 dollars (\$150), and to reimburse the county for the actual costs of
24 services rendered, whether or not the petition is granted and the
25 records are sealed or expunged, at a rate to be determined by the
26 county board of supervisors not to exceed one hundred fifty dollars
27 (\$150), and to reimburse any city for the actual costs of services
28 rendered, whether or not the petition is granted and the records are
29 sealed or expunged, at a rate to be determined by the city council
30 not to exceed one hundred fifty dollars (\$150). Ability to make
31 this reimbursement shall be determined by the court using the
32 standards set forth in paragraph (2) of subdivision (g) of Section
33 987.8 and shall not be a prerequisite to a person's eligibility under
34 this section. The court may order reimbursement in any case in
35 which the petitioner appears to have the ability to pay, without
36 undue hardship, all or any portion of the costs for services
37 established pursuant to this subdivision.

38 (e) (1) Relief shall not be granted under this section unless the
39 prosecuting attorney has been given 15 days' notice of the petition

1 for relief. The probation officer shall notify the prosecuting attorney
2 when a petition is filed, pursuant to this section.

3 (2) It shall be presumed that the prosecuting attorney has
4 received notice if proof of service is filed with the court.

5 (f) If, after receiving notice pursuant to subdivision (e), the
6 prosecuting attorney fails to appear and object to a petition for
7 dismissal, the prosecuting attorney may not move to set aside or
8 otherwise appeal the grant of that petition.

9 (g) Notwithstanding the above provisions or any other provision
10 of law, the Governor shall have the right to pardon a person
11 convicted of a violation of subdivision (c) of Section 286, Section
12 288, subdivision (c) of Section 288a, Section 288.5, or subdivision
13 (j) of Section 289, if there are extraordinary circumstances.

14 SEC. 18. Section 1203.4a of the Penal Code is amended to
15 read:

16 1203.4a. (a) (1) Every defendant convicted of a misdemeanor
17 and not granted probation, and every defendant convicted of an
18 infraction, shall, at any time after the lapse of one year from the
19 date of pronouncement of judgment, if he or she has fully complied
20 with and performed the sentence of the court, is not then serving
21 a sentence for any offense and is not under charge of commission
22 of any crime and has, since the pronouncement of judgment, lived
23 an honest and upright life and has conformed to and obeyed the
24 laws of the land, be permitted by the court to withdraw his or her
25 plea of guilty or nolo contendere and enter a plea of not guilty; or
26 if he or she has been convicted after a plea of not guilty, the court
27 shall set aside the verdict of guilty; and in either case the court
28 shall thereupon dismiss the accusatory pleading against the
29 defendant, who shall thereafter be released from all penalties and
30 disabilities resulting from the offense of which he or she has been
31 convicted, except as provided in Chapter 3 (commencing with
32 Section 29900) of Division 9 of Title 4 of Part 6 of this code or
33 Section 13555 of the Vehicle Code. The defendant shall be
34 informed of the provisions of this section, either orally or in
35 writing, at the time he or she is sentenced. The defendant may
36 make an application and change of plea in person or by attorney,
37 or by the probation officer authorized in writing; provided, that in
38 any subsequent prosecution of the defendant for any other offense,
39 the prior conviction may be pleaded and proved and shall have the
40 same effect as if relief had not been granted pursuant to this section.

(2) This subdivision applies to convictions which occurred before, as well as those occurring after, the effective date of this section.

(b) Subdivision (a) does not apply to any misdemeanor falling within the provisions of Section 42002.1 of the Vehicle Code, or to any infraction falling within the provisions of Section 42001 of the Vehicle Code.

(c) A person who petitions for a dismissal of a charge under this section may be required to reimburse the county and the court for the cost of services rendered at a rate to be determined by the county board of supervisors for the county and by the court for the court, not to exceed sixty dollars (\$60), and to reimburse any city for the cost of services rendered at a rate to be determined by the city council not to exceed sixty dollars (\$60). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services established pursuant to this subdivision.

(d) A petition for dismissal of an infraction pursuant to this section shall be by written declaration, except upon a showing of compelling need. Dismissal of an infraction shall not be granted under this section unless the prosecuting attorney has been given at least 15 days' notice of the petition for dismissal. It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.

(e) Any determination of amount made by a court under this section shall be valid only if either (1) made under procedures adopted by the Judicial Council or (2) approved by the Judicial Council.

SEC. 18.5. Section 1203.4a of the Penal Code is amended to read:

1203.4a. (a) (1) Every defendant convicted of a misdemeanor and not granted probation, and every defendant convicted of an infraction, shall, at any time after the lapse of one year from the date of pronouncement of judgment, if he or she has fully complied with and performed the sentence of the court, is not then serving a sentence for any offense and is not under charge of commission

1 of any crime and has, since the pronouncement of judgment, lived
2 an honest and upright life and has conformed to and obeyed the
3 laws of the land, be permitted by the court to withdraw his or her
4 plea of guilty or nolo contendere and enter a plea of not guilty; or
5 if he or she has been convicted after a plea of not guilty, the court
6 shall set aside the verdict of guilty; and in either case the court
7 shall thereupon dismiss the accusatory pleading against the
8 defendant, who shall thereafter be released from all penalties and
9 disabilities resulting from the offense of which he or she has been
10 convicted, except as provided in ~~Section 12021.1~~ *Chapter 3*
11 *(commencing with Section 29900) of Division 9 of Title 4 of Part*
12 *6* of this code or Section 13555 of the Vehicle Code. The defendant
13 shall be informed of the provisions of this section, either orally or
14 in writing, at the time he or she is sentenced. The defendant may
15 make an application and change of plea in person or by attorney,
16 or by the probation officer authorized in writing; provided, that in
17 any subsequent prosecution of the defendant for any other offense,
18 the prior conviction may be pleaded and proved and shall have the
19 same effect as if relief had not been granted pursuant to this section.

20 (2) This subdivision applies to convictions which occurred
21 before, as well as those occurring after, the effective date of this
22 section.

23 (b) Subdivision (a) does not apply to any misdemeanor falling
24 within the provisions of Section 42002.1 of the Vehicle Code, ~~or~~
25 to any infraction falling within the provisions of ~~Section 42001~~ of
26 the Vehicle Code, *or to any local ordinance adopted pursuant to*
27 *the Vehicle Code.*

28 (c) A person who petitions for a dismissal of a charge under
29 this section may be required to reimburse the county and the court
30 for the cost of services rendered at a rate to be determined by the
31 county board of supervisors for the county and by the court for the
32 court, not to exceed sixty dollars (\$60), and to reimburse any city
33 for the cost of services rendered at a rate to be determined by the
34 city council not to exceed sixty dollars (\$60). Ability to make this
35 reimbursement shall be determined by the court using the standards
36 set forth in paragraph (2) of subdivision (g) of Section 987.8 and
37 shall not be a prerequisite to a person's eligibility under this
38 section. The court may order reimbursement in any case in which
39 the petitioner appears to have the ability to pay, without undue

1 hardship, all or any portion of the cost for services established
2 pursuant to this subdivision.

3 (d) A petition for dismissal of an infraction pursuant to this
4 section shall be by written declaration, except upon a showing of
5 compelling need. Dismissal of an infraction shall not be granted
6 under this section unless the prosecuting attorney has been given
7 at least 15 days' notice of the petition for dismissal. It shall be
8 presumed that the prosecuting attorney has received notice if proof
9 of service is filed with the court.

10 (e) Any determination of amount made by a court under this
11 section shall be valid only if either (1) made under procedures
12 adopted by the Judicial Council or (2) approved by the Judicial
13 Council.

14 SEC. 19. Section 2933.5 of the Penal Code, as amended by
15 Section 81 of Chapter 178 of the Statutes of 2010, is amended to
16 read:

17 2933.5. (a) (1) Notwithstanding any other law, every person
18 who is convicted of any felony offense listed in paragraph (2), and
19 who previously has been convicted two or more times, on charges
20 separately brought and tried, and who previously has served two
21 or more separate prior prison terms, as defined in subdivision (g)
22 of Section 667.5, of any offense or offenses listed in paragraph
23 (2), shall be ineligible to earn credit on his or her term of
24 imprisonment pursuant to this article.

25 (2) As used in this subdivision, "felony offense" includes any
26 of the following:

27 (A) Murder, as defined in Sections 187 and 189.

28 (B) Voluntary manslaughter, as defined in subdivision (a) of
29 Section 192.

30 (C) Mayhem as defined in Section 203.

31 (D) Aggravated mayhem, as defined in Section 205.

32 (E) Kidnapping, as defined in Section 207, 209, or 209.5.

33 (F) Assault with vitriol, corrosive acid, or caustic chemical of
34 any nature, as described in Section 244.

35 (G) Rape, as defined in paragraph (2) or (6) of subdivision (a)
36 of Section 261 or paragraph (1) or (4) of subdivision (a) of Section
37 262.

38 (H) Sodomy by means of force, violence, duress, menace or
39 fear of immediate and unlawful bodily injury on the victim or
40 another person, as described in subdivision (c) of Section 286.

1 (I) Sodomy while voluntarily acting in concert, as described in
2 subdivision (d) of Section 286.

3 (J) Lewd or lascivious acts on a child under the age of 14 years,
4 as described in subdivision (b) of Section 288.

5 (K) Oral copulation by means of force, violence, duress, menace,
6 or fear of immediate and unlawful bodily injury on the victim or
7 another person, as described in subdivision (c) of Section 288a.

8 (L) Continuous sexual abuse of a child, as described in Section
9 288.5.

10 (M) Sexual penetration, as described in subdivision (a) of
11 Section 289.

12 (N) Exploding a destructive device or explosive with intent to
13 injure, as described in Section 18740, with intent to murder, as
14 described in Section 18745, or resulting in great bodily injury or
15 mayhem, as described in Section 18750.

16 (O) Any felony in which the defendant personally inflicted great
17 bodily injury, as provided in Section 12022.53 or 12022.7.

18 (b) A prior conviction of an offense listed in subdivision (a)
19 shall include a conviction in another jurisdiction for an offense
20 which includes all of the elements of the particular felony as
21 defined under California law.

22 (c) This section shall apply whenever the present felony is
23 committed on or after the effective date of this section, regardless
24 of the date of commission of the prior offense or offenses resulting
25 in credit-earning ineligibility.

26 (d) This section shall be in addition to, and shall not preclude
27 the imposition of, any applicable sentence enhancement terms, or
28 probation ineligibility and habitual offender provisions authorized
29 under any other section.

30 SEC. 20. Section 2962 of the Penal Code is amended to read:

31 2962. As a condition of parole, a prisoner who meets the
32 following criteria shall be required to be treated by the State
33 Department of Mental Health, and the State Department of Mental
34 Health shall provide the necessary treatment:

35 (a) (1) The prisoner has a severe mental disorder that is not in
36 remission or cannot be kept in remission without treatment.

37 (2) The term “severe mental disorder” means an illness or
38 disease or condition that substantially impairs the person’s thought,
39 perception of reality, emotional process, or judgment; or which
40 grossly impairs behavior; or that demonstrates evidence of an acute

1 brain syndrome for which prompt remission, in the absence of
2 treatment, is unlikely. The term “severe mental disorder” as used
3 in this section does not include a personality or adjustment disorder,
4 epilepsy, mental retardation or other developmental disabilities,
5 or addiction to or abuse of intoxicating substances.

6 (3) The term “remission” means a finding that the overt signs
7 and symptoms of the severe mental disorder are controlled either
8 by psychotropic medication or psychosocial support. A person
9 “cannot be kept in remission without treatment” if during the year
10 prior to the question being before the Board of Prison Terms or a
11 trial court, he or she has been in remission and he or she has been
12 physically violent, except in self-defense, or he or she has made
13 a serious threat of substantial physical harm upon the person of
14 another so as to cause the target of the threat to reasonably fear
15 for his or her safety or the safety of his or her immediate family,
16 or he or she has intentionally caused property damage, or he or
17 she has not voluntarily followed the treatment plan. In determining
18 if a person has voluntarily followed the treatment plan, the standard
19 shall be whether the person has acted as a reasonable person would
20 in following the treatment plan.

21 (b) The severe mental disorder was one of the causes of or was
22 an aggravating factor in the commission of a crime for which the
23 prisoner was sentenced to prison.

24 (c) The prisoner has been in treatment for the severe mental
25 disorder for 90 days or more within the year prior to the prisoner’s
26 parole or release.

27 (d) (1) Prior to release on parole, the person in charge of treating
28 the prisoner and a practicing psychiatrist or psychologist from the
29 State Department of Mental Health have evaluated the prisoner at
30 a facility of the Department of Corrections and Rehabilitation, and
31 a chief psychiatrist of the Department of Corrections and
32 Rehabilitation has certified to the Board of Parole Hearings that
33 the prisoner has a severe mental disorder, that the disorder is not
34 in remission, or cannot be kept in remission without treatment,
35 that the severe mental disorder was one of the causes or was an
36 aggravating factor in the prisoner’s criminal behavior, that the
37 prisoner has been in treatment for the severe mental disorder for
38 90 days or more within the year prior to his or her parole release
39 day, and that by reason of his or her severe mental disorder the
40 prisoner represents a substantial danger of physical harm to others.

1 For prisoners being treated by the State Department of Mental
2 Health pursuant to Section 2684, the certification shall be by a
3 chief psychiatrist of the Department of Corrections and
4 Rehabilitation, and the evaluation shall be done at a state hospital
5 by the person at the state hospital in charge of treating the prisoner
6 and a practicing psychiatrist or psychologist from the Department
7 of Corrections and Rehabilitation.

8 (2) If the professionals doing the evaluation pursuant to
9 paragraph (1) do not concur that (A) the prisoner has a severe
10 mental disorder, (B) that the disorder is not in remission or cannot
11 be kept in remission without treatment, or (C) that the severe
12 mental disorder was a cause of, or aggravated, the prisoner's
13 criminal behavior, and a chief psychiatrist has certified the prisoner
14 to the Board of Parole Hearings pursuant to this paragraph, then
15 the Board of Parole Hearings shall order a further examination by
16 two independent professionals, as provided for in Section 2978.

17 (3) If at least one of the independent professionals who evaluate
18 the prisoner pursuant to paragraph (2) concurs with the chief
19 psychiatrist's certification of the issues described in paragraph (2),
20 this subdivision shall be applicable to the prisoner. The
21 professionals appointed pursuant to Section 2978 shall inform the
22 prisoner that the purpose of their examination is not treatment but
23 to determine if the prisoner meets certain criteria to be involuntarily
24 treated as a mentally disordered offender. It is not required that
25 the prisoner appreciate or understand that information.

26 (e) The crime referred to in subdivision (b) meets both of the
27 following criteria:

28 (1) The defendant received a determinate sentence pursuant to
29 Section 1170 for the crime.

30 (2) The crime is one of the following:

31 (A) Voluntary manslaughter.

32 (B) Mayhem.

33 (C) Kidnapping in violation of Section 207.

34 (D) Any robbery wherein it was charged and proved that the
35 defendant personally used a deadly or dangerous weapon, as
36 provided in subdivision (b) of Section 12022, in the commission
37 of that robbery.

38 (E) Carjacking, as defined in subdivision (a) of Section 215, if
39 it is charged and proved that the defendant personally used a deadly

1 or dangerous weapon, as provided in subdivision (b) of Section
2 12022, in the commission of the carjacking.

3 (F) Rape, as defined in paragraph (2) or (6) of subdivision (a)
4 of Section 261 or paragraph (1) or (4) of subdivision (a) of Section
5 262.

6 (G) Sodomy by force, violence, duress, menace, or fear of
7 immediate and unlawful bodily injury on the victim or another
8 person.

9 (H) Oral copulation by force, violence, duress, menace, or fear
10 of immediate and unlawful bodily injury on the victim or another
11 person.

12 (I) Lewd acts on a child under the age of 14 years in violation
13 of Section 288.

14 (J) Continuous sexual abuse in violation of Section 288.5.

15 (K) The offense described in subdivision (a) of Section 289
16 where the act was accomplished against the victim's will by force,
17 violence, duress, menace, or fear of immediate and unlawful bodily
18 injury on the victim or another person.

19 (L) Arson in violation of subdivision (a) of Section 451, or arson
20 in violation of any other provision of Section 451 or in violation
21 of Section 455 where the act posed a substantial danger of physical
22 harm to others.

23 (M) Any felony in which the defendant used a firearm which
24 use was charged and proved as provided in Section 12022.5,
25 12022.53, or 12022.55.

26 (N) A violation of Section 18745.

27 (O) Attempted murder.

28 (P) A crime not enumerated in subparagraphs (A) to (O),
29 inclusive, in which the prisoner used force or violence, or caused
30 serious bodily injury as defined in paragraph (4) of subdivision (f)
31 of Section 243.

32 (Q) A crime in which the perpetrator expressly or impliedly
33 threatened another with the use of force or violence likely to
34 produce substantial physical harm in such a manner that a
35 reasonable person would believe and expect that the force or
36 violence would be used. For purposes of this subparagraph,
37 substantial physical harm shall not require proof that the threatened
38 act was likely to cause great or serious bodily injury.

39 (f) As used in this chapter, "substantial danger of physical harm"
40 does not require proof of a recent overt act.

1 SEC. 21. Section 11105 of the Penal Code is amended to read:
2 11105. (a) (1) The Department of Justice shall maintain state
3 summary criminal history information.

4 (2) As used in this section:

5 (A) "State summary criminal history information" means the
6 master record of information compiled by the Attorney General
7 pertaining to the identification and criminal history of any person,
8 such as name, date of birth, physical description, fingerprints,
9 photographs, date of arrests, arresting agencies and booking
10 numbers, charges, dispositions, and similar data about the person.

11 (B) "State summary criminal history information" does not refer
12 to records and data compiled by criminal justice agencies other
13 than the Attorney General, nor does it refer to records of complaints
14 to or investigations conducted by, or records of intelligence
15 information or security procedures of, the office of the Attorney
16 General and the Department of Justice.

17 (b) The Attorney General shall furnish state summary criminal
18 history information to any of the following, if needed in the course
19 of their duties, provided that when information is furnished to
20 assist an agency, officer, or official of state or local government,
21 a public utility, or any other entity, in fulfilling employment,
22 certification, or licensing duties, Chapter 1321 of the Statutes of
23 1974 and Section 432.7 of the Labor Code shall apply:

24 (1) The courts of the state.

25 (2) Peace officers of the state, as defined in Section 830.1,
26 subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section
27 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision
28 (a) of Section 830.31.

29 (3) District attorneys of the state.

30 (4) Prosecuting city attorneys of any city within the state.

31 (5) City attorneys pursuing civil gang injunctions pursuant to
32 Section 186.22a, or drug abatement actions pursuant to Section
33 3479 or 3480 of the Civil Code, or Section 11571 of the Health
34 and Safety Code.

35 (6) Probation officers of the state.

36 (7) Parole officers of the state.

37 (8) A public defender or attorney of record when representing
38 a person in proceedings upon a petition for a certificate of
39 rehabilitation and pardon pursuant to Section 4852.08.

(9) A public defender or attorney of record when representing a person in a criminal case, or parole revocation or revocation extension proceeding, and if authorized access by statutory or decisional law.

(10) Any agency, officer, or official of the state if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The agency, officer, or official of the state authorized by this paragraph to receive state summary criminal history information may also transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.

(11) Any city or county, city and county, district, or any officer or official thereof if access is needed in order to assist that agency, officer, or official in fulfilling employment, certification, or licensing duties, and if the access is specifically authorized by the city council, board of supervisors, or governing board of the city, county, or district if the criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The city or county, city and county, district, or the officer or official thereof authorized by this paragraph may also transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.

(12) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120).

(13) Any person or entity when access is expressly authorized by statute if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct.

1 (14) Health officers of a city, county, city and county, or district
2 when in the performance of their official duties enforcing Section
3 120175 of the Health and Safety Code.

4 (15) Any managing or supervising correctional officer of a
5 county jail or other county correctional facility.

6 (16) Any humane society, or society for the prevention of cruelty
7 to animals, for the specific purpose of complying with Section
8 14502 of the Corporations Code for the appointment of humane
9 officers.

10 (17) Local child support agencies established by Section 17304
11 of the Family Code. When a local child support agency closes a
12 support enforcement case containing summary criminal history
13 information, the agency shall delete or purge from the file and
14 destroy any documents or information concerning or arising from
15 offenses for or of which the parent has been arrested, charged, or
16 convicted, other than for offenses related to the parent's having
17 failed to provide support for minor children, consistent with the
18 requirements of Section 17531 of the Family Code.

19 (18) County child welfare agency personnel who have been
20 delegated the authority of county probation officers to access state
21 summary criminal history information pursuant to Section 272 of
22 the Welfare and Institutions Code for the purposes specified in
23 Section 16504.5 of the Welfare and Institutions Code. Information
24 from criminal history records provided pursuant to this subdivision
25 shall not be used for any purposes other than those specified in
26 this section and Section 16504.5 of the Welfare and Institutions
27 Code. When an agency obtains records obtained both on the basis
28 of name checks and fingerprint checks, final placement decisions
29 shall be based only on the records obtained pursuant to the
30 fingerprint check.

31 (19) The court of a tribe, or court of a consortium of tribes, that
32 has entered into an agreement with the state pursuant to Section
33 10553.1 of the Welfare and Institutions Code. This information
34 may be used only for the purposes specified in Section 16504.5
35 of the Welfare and Institutions Code and for tribal approval or
36 tribal licensing of foster care or adoptive homes. Article 6
37 (commencing with Section 11140) shall apply to officers, members,
38 and employees of a tribal court receiving criminal record offender
39 information pursuant to this section.

(20) Child welfare agency personnel of a tribe or consortium of tribes that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code and to whom the state has delegated duties under paragraph (2) of subdivision (a) of Section 272 of the Welfare and Institutions Code. The purposes for use of the information shall be for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. When an agency obtains records on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check. Article 6 (commencing with Section 11140) shall apply to child welfare agency personnel receiving criminal record offender information pursuant to this section.

(21) An officer providing conservatorship investigations pursuant to Sections 5351, 5354, and 5356 of the Welfare and Institutions Code.

(22) A court investigator providing investigations or reviews in conservatorships pursuant to Section 1826, 1850, 1851, or 2250.6 of the Probate Code.

(23) A person authorized to conduct a guardianship investigation pursuant to Section 1513 of the Probate Code.

(24) A humane officer pursuant to Section 14502 of the Corporations Code for the purposes of performing his or her duties.

(c) The Attorney General may furnish state summary criminal history information and, when specifically authorized by this subdivision, federal level criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) Any public utility, as defined in Section 216 of the Public Utilities Code, that operates a nuclear energy facility when access is needed in order to assist in employing persons to work at the facility, provided that, if the Attorney General supplies the data, he or she shall furnish a copy of the data to the person to whom the data relates.

1 (2) To a peace officer of the state other than those included in
2 subdivision (b).

3 (3) To an illegal dumping enforcement officer as defined in
4 subdivision (j) of Section 830.7.

5 (4) To a peace officer of another country.

6 (5) To public officers, other than peace officers, of the United
7 States, other states, or possessions or territories of the United
8 States, provided that access to records similar to state summary
9 criminal history information is expressly authorized by a statute
10 of the United States, other states, or possessions or territories of
11 the United States if the information is needed for the performance
12 of their official duties.

13 (6) To any person when disclosure is requested by a probation,
14 parole, or peace officer with the consent of the subject of the state
15 summary criminal history information and for purposes of
16 furthering the rehabilitation of the subject.

17 (7) The courts of the United States, other states, or territories
18 or possessions of the United States.

19 (8) Peace officers of the United States, other states, or territories
20 or possessions of the United States.

21 (9) To any individual who is the subject of the record requested
22 if needed in conjunction with an application to enter the United
23 States or any foreign nation.

24 (10) (A) (i) Any public utility, as defined in Section 216 of the
25 Public Utilities Code, or any cable corporation as defined in
26 subparagraph (B), if receipt of criminal history information is
27 needed in order to assist in employing current or prospective
28 employees, contract employees, or subcontract employees who,
29 in the course of their employment may be seeking entrance to
30 private residences or adjacent grounds. The information provided
31 shall be limited to the record of convictions and any arrest for
32 which the person is released on bail or on his or her own
33 recognizance pending trial.

34 (ii) If the Attorney General supplies the data pursuant to this
35 paragraph, the Attorney General shall furnish a copy of the data
36 to the current or prospective employee to whom the data relates.

37 (iii) Any information obtained from the state summary criminal
38 history is confidential and the receiving public utility or cable
39 corporation shall not disclose its contents, other than for the
40 purpose for which it was acquired. The state summary criminal

1 history information in the possession of the public utility or cable
2 corporation and all copies made from it shall be destroyed not
3 more than 30 days after employment or promotion or transfer is
4 denied or granted, except for those cases where a current or
5 prospective employee is out on bail or on his or her own
6 recognizance pending trial, in which case the state summary
7 criminal history information and all copies shall be destroyed not
8 more than 30 days after the case is resolved.

9 (iv) A violation of this paragraph is a misdemeanor, and shall
10 give the current or prospective employee who is injured by the
11 violation a cause of action against the public utility or cable
12 corporation to recover damages proximately caused by the
13 violations. Any public utility's or cable corporation's request for
14 state summary criminal history information for purposes of
15 employing current or prospective employees who may be seeking
16 entrance to private residences or adjacent grounds in the course
17 of their employment shall be deemed a "compelling need" as
18 required to be shown in this subdivision.

19 (v) Nothing in this section shall be construed as imposing any
20 duty upon public utilities or cable corporations to request state
21 summary criminal history information on any current or prospective
22 employees.

23 (B) For purposes of this paragraph, "cable corporation" means
24 any corporation or firm that transmits or provides television,
25 computer, or telephone services by cable, digital, fiber optic,
26 satellite, or comparable technology to subscribers for a fee.

27 (C) Requests for federal level criminal history information
28 received by the Department of Justice from entities authorized
29 pursuant to subparagraph (A) shall be forwarded to the Federal
30 Bureau of Investigation by the Department of Justice. Federal level
31 criminal history information received or compiled by the
32 Department of Justice may then be disseminated to the entities
33 referenced in subparagraph (A), as authorized by law.

34 (D) (i) Authority for a cable corporation to request state or
35 federal level criminal history information under this paragraph
36 shall commence July 1, 2005.

37 (ii) Authority for a public utility to request federal level criminal
38 history information under this paragraph shall commence July 1,
39 2005.

(11) To any campus of the California State University or the University of California, or any four year college or university accredited by a regional accreditation organization approved by the United States Department of Education, if needed in conjunction with an application for admission by a convicted felon to any special education program for convicted felons, including, but not limited to, university alternatives and halfway houses. Only conviction information shall be furnished. The college or university may require the convicted felon to be fingerprinted, and any inquiry to the department under this section shall include the convicted felon's fingerprints and any other information specified by the department.

(12) To any foreign government, if requested by the individual who is the subject of the record requested, if needed in conjunction with the individual's application to adopt a minor child who is a citizen of that foreign nation. Requests for information pursuant to this paragraph shall be in accordance with the process described in Sections 11122 to 11124, inclusive. The response shall be provided to the foreign government or its designee and to the individual who requested the information.

(d) Whenever an authorized request for state summary criminal history information pertains to a person whose fingerprints are on file with the Department of Justice and the department has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying the request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) Whenever state summary criminal history information is furnished as the result of an application and is to be used for employment, licensing, or certification purposes, the Department of Justice may charge the person or entity making the request a fee that it determines to be sufficient to reimburse the department for the cost of furnishing the information. In addition, the Department of Justice may add a surcharge to the fee to fund maintenance and improvements to the systems from which the information is obtained. Notwithstanding any other law, any person or entity required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient to reimburse the person or entity for this expense. All moneys

received by the department pursuant to this section, Sections 11105.3 and 26190 of the Penal Code, and Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to those sections and for maintenance and improvements to the systems from which the information is obtained upon appropriation by the Legislature.

(f) Whenever there is a conflict, the processing of criminal fingerprints and fingerprints of applicants for security guard or alarm agent registrations or firearms qualification permits submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4 of the Business and Professions Code shall take priority over the processing of other applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this section to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record if the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

(i) Notwithstanding any other law, the Department of Justice or any state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting summary criminal history information checks that are authorized by law.

(j) The state summary criminal history information shall include any finding of mental incompetence pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 arising out of a complaint charging a felony offense specified in Section 290.

(k) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization and the information is to be used for peace officer employment or certification purposes. As used in this subdivision, a peace officer is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

1 (A) Every conviction rendered against the applicant.

2 (B) Every arrest for an offense for which the applicant is
3 presently awaiting trial, whether the applicant is incarcerated or
4 has been released on bail or on his or her own recognizance
5 pending trial.

6 (C) Every arrest or detention, except for an arrest or detention
7 resulting in an exoneration, provided however that where the
8 records of the Department of Justice do not contain a disposition
9 for the arrest, the Department of Justice first makes a genuine effort
10 to determine the disposition of the arrest.

11 (D) Every successful diversion.

12 (E) Every date and agency name associated with all retained
13 peace officer or nonsworn law enforcement agency employee
14 preemployment criminal offender record information search
15 requests.

16 (I) (1) This subdivision shall apply whenever state or federal
17 summary criminal history information is furnished by the
18 Department of Justice as the result of an application by a criminal
19 justice agency or organization as defined in Section 13101 of the
20 Penal Code, and the information is to be used for criminal justice
21 employment, licensing, or certification purposes.

22 (2) Notwithstanding any other provision of law, whenever state
23 summary criminal history information is furnished pursuant to
24 paragraph (1), the Department of Justice shall disseminate the
25 following information:

26 (A) Every conviction rendered against the applicant.

27 (B) Every arrest for an offense for which the applicant is
28 presently awaiting trial, whether the applicant is incarcerated or
29 has been released on bail or on his or her own recognizance
30 pending trial.

31 (C) Every arrest for an offense for which the records of the
32 Department of Justice do not contain a disposition or did not result
33 in a conviction, provided that the Department of Justice first makes
34 a genuine effort to determine the disposition of the arrest. However,
35 information concerning an arrest shall not be disclosed if the
36 records of the Department of Justice indicate or if the genuine
37 effort reveals that the subject was exonerated, successfully
38 completed a diversion or deferred entry of judgment program, or
39 the arrest was deemed a detention.

1 (D) Every date and agency name associated with all retained
2 peace officer or nonsworn law enforcement agency employee
3 preemployment criminal offender record information search
4 requests.

5 (m) (1) This subdivision shall apply whenever state or federal
6 summary criminal history information is furnished by the
7 Department of Justice as the result of an application by an
8 authorized agency or organization pursuant to Section 1522,
9 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
10 any statute that incorporates the criteria of any of those sections
11 or this subdivision by reference, and the information is to be used
12 for employment, licensing, or certification purposes.

13 (2) Notwithstanding any other provision of law, whenever state
14 summary criminal history information is furnished pursuant to
15 paragraph (1), the Department of Justice shall disseminate the
16 following information:

17 (A) Every conviction of an offense rendered against the
18 applicant.

19 (B) Every arrest for an offense for which the applicant is
20 presently awaiting trial, whether the applicant is incarcerated or
21 has been released on bail or on his or her own recognizance
22 pending trial.

23 (C) Every arrest for an offense for which the Department of
24 Social Services is required by paragraph (1) of subdivision (a) of
25 Section 1522 of the Health and Safety Code to determine if an
26 applicant has been arrested. However, if the records of the
27 Department of Justice do not contain a disposition for an arrest,
28 the Department of Justice shall first make a genuine effort to
29 determine the disposition of the arrest.

30 (3) Notwithstanding the requirements of the sections referenced
31 in paragraph (1) of this subdivision, the Department of Justice
32 shall not disseminate information about an arrest subsequently
33 deemed a detention or an arrest that resulted in either the successful
34 completion of a diversion program or exoneration.

35 (n) (1) This subdivision shall apply whenever state or federal
36 summary criminal history information, to be used for employment,
37 licensing, or certification purposes, is furnished by the Department
38 of Justice as the result of an application by an authorized agency,
39 organization, or individual pursuant to any of the following:

1 (A) Paragraph (9) of subdivision (c), when the information is
2 to be used by a cable corporation.

3 (B) Section 11105.3 or 11105.4.

4 (C) Section 15660 of the Welfare and Institutions Code.

5 (D) Any statute that incorporates the criteria of any of the
6 statutory provisions listed in subparagraph (A), (B), or (C), or of
7 this subdivision, by reference.

8 (2) With the exception of applications submitted by
9 transportation companies authorized pursuant to Section 11105.3,
10 and notwithstanding any other provision of law, whenever state
11 summary criminal history information is furnished pursuant to
12 paragraph (1), the Department of Justice shall disseminate the
13 following information:

14 (A) Every conviction rendered against the applicant for a
15 violation or attempted violation of any offense specified in
16 subdivision (a) of Section 15660 of the Welfare and Institutions
17 Code. However, with the exception of those offenses for which
18 registration is required pursuant to Section 290, the Department
19 of Justice shall not disseminate information pursuant to this
20 subdivision unless the conviction occurred within 10 years of the
21 date of the agency's request for information or the conviction is
22 over 10 years old but the subject of the request was incarcerated
23 within 10 years of the agency's request for information.

24 (B) Every arrest for a violation or attempted violation of an
25 offense specified in subdivision (a) of Section 15660 of the Welfare
26 and Institutions Code for which the applicant is presently awaiting
27 trial, whether the applicant is incarcerated or has been released on
28 bail or on his or her own recognizance pending trial.

29 (o) (1) This subdivision shall apply whenever state or federal
30 summary criminal history information is furnished by the
31 Department of Justice as the result of an application by an
32 authorized agency or organization pursuant to Section 261 or 550
33 of the Financial Code, or any statute that incorporates the criteria
34 of either of those sections or this subdivision by reference, and the
35 information is to be used for employment, licensing, or certification
36 purposes.

37 (2) Notwithstanding any other provision of law, whenever state
38 summary criminal history information is furnished pursuant to
39 paragraph (1), the Department of Justice shall disseminate the
40 following information:

1 (A) Every conviction rendered against the applicant for a
2 violation or attempted violation of any offense specified in Section
3 550 of the Financial Code.

4 (B) Every arrest for a violation or attempted violation of an
5 offense specified in Section 550 of the Financial Code for which
6 the applicant is presently awaiting trial, whether the applicant is
7 incarcerated or has been released on bail or on his or her own
8 recognizance pending trial.

9 (p) (1) This subdivision shall apply whenever state or federal
10 criminal history information is furnished by the Department of
11 Justice as the result of an application by an agency, organization,
12 or individual not defined in subdivision (k), (l), (m), (n), or (o), or
13 by a transportation company authorized pursuant to Section
14 11105.3, or any statute that incorporates the criteria of that section
15 or this subdivision by reference, and the information is to be used
16 for employment, licensing, or certification purposes.

17 (2) Notwithstanding any other provisions of law, whenever state
18 summary criminal history information is furnished pursuant to
19 paragraph (1), the Department of Justice shall disseminate the
20 following information:

21 (A) Every conviction rendered against the applicant.

22 (B) Every arrest for an offense for which the applicant is
23 presently awaiting trial, whether the applicant is incarcerated or
24 has been released on bail or on his or her own recognizance
25 pending trial.

26 (q) All agencies, organizations, or individuals defined in
27 subdivisions (k), (l), (m), (n), (o), and (p) may contract with the
28 Department of Justice for subsequent arrest notification pursuant
29 to Section 11105.2. This subdivision shall not supersede sections
30 that mandate an agency, organization, or individual to contract
31 with the Department of Justice for subsequent arrest notification
32 pursuant to Section 11105.2.

33 (r) Nothing in this section shall be construed to mean that the
34 Department of Justice shall cease compliance with any other
35 statutory notification requirements.

36 (s) The provisions of Section 50.12 of Title 28 of the Code of
37 Federal Regulations are to be followed in processing federal
38 criminal history information.

SEC. 22. Section 11105.03 of the Penal Code, as amended by Section 88 of Chapter 178 of the Statutes of 2010, is amended to read:

11105.03. (a) Subject to the requirements and conditions set forth in this section and Section 11105, local law enforcement agencies are hereby authorized to provide state criminal summary history information obtained through CLETS for the purpose of screening prospective participants and prospective and current staff of a regional, county, city, or other local public housing authority, at the request of the chief executive officer of the authority or his or her designee, upon a showing by that authority that the authority manages a Section 8 housing program pursuant to federal law (U.S. Housing Act of 1937), or operates housing at which children under the age of 18 years reside or operates housing for persons categorized as aged, blind, or disabled.

(b) The following requirements shall apply to information released by local law enforcement agencies pursuant to subdivision (a):

(1) Local law enforcement agencies shall not release any information unless it relates to a conviction for a serious felony, as defined in subdivision (c) of Section 1192.7, a conviction for any offense punishable under Section 273.5, 422.6, 422.7, 422.75, 422.9, or 1170.75, or under Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6, or under any provision listed in Section 16590, a conviction under Section 273.6 that involves a violation of a protective order, as defined in Section 6218 of the Family Code, or a conviction for any felony offense that involves controlled substances or alcoholic beverages, or any felony offense that involves any activity related to controlled substances or alcoholic beverages, or a conviction for any offense that involves domestic violence, as defined in Section 13700.

(2) Local law enforcement agencies shall not release any information concerning any arrest for an offense that did not result in a conviction.

(3) Local law enforcement agencies shall not release any information concerning any offense committed by a person who was under 18 years of age at the time he or she committed the offense.

1 (4) Local law enforcement agencies shall release any information
2 concerning any conviction or release from custody that occurred
3 within 10 years of the date on which the request for information
4 is submitted to the Attorney General, unless the conviction was
5 based upon a felony offense that involved controlled substances
6 or alcoholic beverages or a felony offense that involved any activity
7 related to controlled substances or alcoholic beverages. Where a
8 conviction was based on any of these felony offenses, local law
9 enforcement agencies shall release any information concerning
10 this conviction if the conviction occurred within five years of the
11 date on which a request for the information was submitted.

12 (5) Notwithstanding paragraph (4), if information that meets
13 the requirements of paragraphs (2) to (4), inclusive, is located and
14 the information reveals a conviction of an offense specified in
15 paragraph (1), local law enforcement agencies shall release all
16 summary criminal history information concerning the person
17 whether or not the information meets the requirements of paragraph
18 (4), provided, however, that the information meets the requirements
19 of paragraphs (1) to (3), inclusive.

20 (6) Information released to the local public housing authority
21 pursuant to this section shall also be released to parole or probation
22 officers at the same time.

23 (c) State summary criminal history information shall be used
24 by the chief executive officer of the housing authority or a designee
25 only for purposes of identifying prospective participants in
26 subsidized programs and prospective and current staff who have
27 access to residences, whose criminal history is likely to pose a risk
28 to children under the age of 18 years or persons categorized as
29 aged, blind, or disabled living in the housing operated by the
30 authority.

31 (d) If a housing authority obtains summary criminal history
32 information for the purpose of screening a prospective participant
33 pursuant to this section, it shall review and evaluate that
34 information in the context of other available information and shall
35 not evaluate the person's suitability as a prospective participant
36 based solely on his or her past criminal history.

37 (e) If a housing authority determines that a prospective
38 participant is not eligible as a resident, it shall promptly notify him
39 or her of the basis for its determination and, upon request, shall
40 provide him or her within a reasonable time after the determination

1 is made with an opportunity for an informal hearing on the
2 determination in accordance with Section 960.207 of Title 24 of
3 the Code of Federal Regulations.

4 (f) Any information obtained from state summary criminal
5 history information pursuant to this section is confidential and the
6 recipient public housing authority shall not disclose or use the
7 information for any purpose other than that authorized by this
8 section. The state summary criminal history information in the
9 possession of the authority and all copies made from it shall be
10 destroyed not more than 30 days after the authority's final decision
11 whether to act on the housing status of the individual to whom the
12 information relates.

13 (g) The local public housing authority receiving state summary
14 criminal history information pursuant to this section shall adopt
15 regulations governing the receipt, maintenance, and use of the
16 information. The regulations shall include provisions that require
17 notice that the authority has access to criminal records of
18 participants and employees who have access to programs.

19 (h) Use of this information is to be consistent with Title 24 of
20 the Code of Federal Regulations and the current regulations
21 adopted by the housing authority using the information.

22 (i) Nothing in this section shall be construed to require a housing
23 authority to request and review an applicant's criminal history.

24 (j) The California Housing Authorities Association, after
25 compiling data from all public housing authorities that receive
26 summary criminal information pursuant to this chapter, shall report
27 its findings based upon this data to the Legislature prior to January
28 1, 2000.

29 SEC. 23. Section 11106 of the Penal Code, as amended by
30 Section 89 of Chapter 178 of the Statutes of 2010, is amended to
31 read:

32 11106. (a) (1) In order to assist in the investigation of crime,
33 the prosecution of civil actions by city attorneys pursuant to
34 paragraph (3) of subdivision (c), the arrest and prosecution of
35 criminals, and the recovery of lost, stolen, or found property, the
36 Attorney General shall keep and properly file a complete record
37 of all of the following:

38 (A) All copies of fingerprints.

39 (B) Copies of licenses to carry firearms issued pursuant to
40 Section 26150, 26155, 26170, or 26215.

1 (C) Information reported to the Department of Justice pursuant
2 to Section 26225.

3 (D) Dealers' records of sales of firearms.

4 (E) Reports provided pursuant to Article 1 (commencing with
5 Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6, or
6 pursuant to any provision listed in subdivision (a) of Section 16585.

7 (F) Forms provided pursuant to Section 12084, as that section
8 read prior to being repealed on January 1, 2006.

9 (G) Reports provided pursuant to Article 1 (commencing with
10 Section 26700) and Article 2 (commencing with Section 26800)
11 of Chapter 2 of Division 6 of Title 4 of Part 6 that are not dealers'
12 records of sales of firearms.

13 (H) Reports of stolen, lost, found, pledged, or pawned property
14 in any city or county in this state.

15 (2) The Attorney General shall, upon proper application therefor,
16 furnish the information kept pursuant to subdivision (a) to the
17 officers referred to in Section 11105.

18 (b) (1) Except as provided in subdivision (d), the Attorney
19 General shall not retain or compile any information from any of
20 the following:

21 (A) Reports filed pursuant to any provision listed in subdivision
22 (c) of Section 16585 for firearms that are not handguns.

23 (B) Forms submitted pursuant to Section 12084, as that section
24 read prior to being repealed on January 1, 2006, for firearms that
25 are not handguns.

26 (C) Dealers' records of sales for firearms that are not handguns.

27 (2) All copies of the forms submitted, or any information
28 received in electronic form, pursuant to Section 12084, as that
29 section read prior to being repealed on January 1, 2006, for firearms
30 that are not handguns, or of the dealers' records of sales for
31 firearms that are not handguns shall be destroyed within five days
32 of the clearance by the Attorney General, unless the purchaser or
33 transferor is ineligible to take possession of the firearm.

34 (3) All copies of the reports filed, or any information received
35 in electronic form, pursuant to any provision listed in subdivision
36 (c) of Section 16585 for firearms that are not handguns shall be
37 destroyed within five days of the receipt by the Attorney General,
38 unless retention is necessary for use in a criminal prosecution.

39 (4) A peace officer, the Attorney General, a Department of
40 Justice employee designated by the Attorney General, or any

1 authorized local law enforcement employee shall not retain or
2 compile any information from a firearm transaction record, as
3 defined in Section 16550, for firearms that are not handguns unless
4 retention or compilation is necessary for use in a criminal
5 prosecution or in a proceeding to revoke a license issued pursuant
6 to Article 1 (commencing with Section 26700) and Article 2
7 (commencing with Section 26800) of Chapter 2 of Division 6 of
8 Title 4 of Part 6.

9 (5) A violation of this subdivision is a misdemeanor.

10 (c) (1) The Attorney General shall permanently keep and
11 properly file and maintain all information reported to the
12 Department of Justice pursuant to the following provisions as to
13 handguns and maintain a registry thereof:

14 (A) Article 1 (commencing with Section 26700) and Article 2
15 (commencing with Section 26800) of Chapter 2 of Division 6 of
16 Title 4 of Part 6.

17 (B) Article 1 (commencing with Section 27500) of Chapter 4
18 of Division 6 of Title 4 of Part 6.

19 (C) Chapter 5 (commencing with Section 28050) of Division 6
20 of Title 4 of Part 6.

21 (D) Any provision listed in subdivision (a) of Section 16585.

22 (E) Former Section 12084.

23 (F) Any other law.

24 (2) The registry shall consist of all of the following:

25 (A) The name, address, identification of, place of birth (state
26 or country), complete telephone number, occupation, sex,
27 description, and all legal names and aliases ever used by the owner
28 or person being loaned the particular handgun as listed on the
29 information provided to the department on the Dealers' Record of
30 Sale, the Law Enforcement Firearms Transfer (LEFT), as defined
31 in former Section 12084, or reports made to the department
32 pursuant to any provision listed in subdivision (a) of Section 16585
33 or any other law.

34 (B) The name and address of, and other information about, any
35 person (whether a dealer or a private party) from whom the owner
36 acquired or the person being loaned the particular handgun and
37 when the firearm was acquired or loaned as listed on the
38 information provided to the department on the Dealers' Record of
39 Sale, the LEFT, or reports made to the department pursuant to any

1 provision listed in subdivision (a) of Section 16585 or any other
2 law.

3 (C) Any waiting period exemption applicable to the transaction
4 which resulted in the owner of or the person being loaned the
5 particular handgun acquiring or being loaned that firearm.

6 (D) The manufacturer's name if stamped on the firearm, model
7 name or number if stamped on the firearm, and, if applicable, the
8 serial number, other number (if more than one serial number is
9 stamped on the firearm), caliber, type of firearm, if the firearm is
10 new or used, barrel length, and color of the firearm.

11 (3) Information in the registry referred to in this subdivision
12 shall, upon proper application therefor, be furnished to the officers
13 referred to in Section 11105, to a city attorney prosecuting a civil
14 action, solely for use in prosecuting that civil action and not for
15 any other purpose, or to the person listed in the registry as the
16 owner or person who is listed as being loaned the particular
17 handgun.

18 (4) If any person is listed in the registry as the owner of a firearm
19 through a Dealers' Record of Sale prior to 1979, and the person
20 listed in the registry requests by letter that the Attorney General
21 store and keep the record electronically, as well as in the record's
22 existing photographic, photostatic, or nonerasable optically stored
23 form, the Attorney General shall do so within three working days
24 of receipt of the request. The Attorney General shall, in writing,
25 and as soon as practicable, notify the person requesting electronic
26 storage of the record that the request has been honored as required
27 by this paragraph.

28 (d) (1) If the conditions specified in paragraph (2) are met, any
29 officer referred to in paragraphs (1) to (6), inclusive, of subdivision
30 (b) of Section 11105 may disseminate the name of the subject of
31 the record, the number of the firearms listed in the record, and the
32 description of any firearm, including the make, model, and caliber,
33 from the record relating to any firearm's sale, transfer, registration,
34 or license record, or any information reported to the Department
35 of Justice pursuant to any of the following:

36 (A) Section 26225.

37 (B) Article 1 (commencing with Section 26700) and Article 2
38 (commencing with Section 26800) of Chapter 2 of Division 6 of
39 Title 4 of Part 6.

1 (C) Article 1 (commencing with Section 27500) of Chapter 4
2 of Division 6 of Title 4 of Part 6.

3 (D) Chapter 5 (commencing with Section 28050) of Division
4 6 of Title 4 of Part 6.

5 (E) Article 2 (commencing with Section 28150) of Chapter 6
6 of Division 6 of Title 4 of Part 6.

7 (F) Article 5 (commencing with Section 30900) of Chapter 2
8 of Division 10 of Title 4 of Part 6.

9 (G) Chapter 2 (commencing with Section 33850) of Division
10 11 of Title 4 of Part 6.

11 (H) Any provision listed in subdivision (a) of Section 16585.

12 (2) Information may be disseminated pursuant to paragraph (1)
13 only if all of the following conditions are satisfied:

14 (A) The subject of the record has been arraigned for a crime in
15 which the victim is a person described in subdivisions (a) to (f),
16 inclusive, of Section 6211 of the Family Code and is being
17 prosecuted or is serving a sentence for the crime, or the subject of
18 the record is the subject of an emergency protective order, a
19 temporary restraining order, or an order after hearing, which is in
20 effect and has been issued by a family court under the Domestic
21 Violence Protection Act set forth in Division 10 (commencing
22 with Section 6200) of the Family Code.

23 (B) The information is disseminated only to the victim of the
24 crime or to the person who has obtained the emergency protective
25 order, the temporary restraining order, or the order after hearing
26 issued by the family court.

27 (C) Whenever a law enforcement officer disseminates the
28 information authorized by this subdivision, that officer or another
29 officer assigned to the case shall immediately provide the victim
30 of the crime with a "Victims of Domestic Violence" card, as
31 specified in subparagraph (H) of paragraph (9) of subdivision (c)
32 of Section 13701.

33 (3) The victim or person to whom information is disseminated
34 pursuant to this subdivision may disclose it as he or she deems
35 necessary to protect himself or herself or another person from
36 bodily harm by the person who is the subject of the record.

37 SEC. 24. Section 12003 of the Penal Code, as added by Section
38 5 of Chapter 711 of the Statutes of 2010, is amended to read:

39 12003. If any section, subdivision, paragraph, subparagraph,
40 sentence, clause, or phrase of this title or any other provision listed

1 in Section 16580 is for any reason held to be unconstitutional, that
2 decision shall not affect the validity of the remaining portions of
3 this title or any other provision listed in Section 16580. The
4 Legislature hereby declares that it would have passed this title and
5 any other provision listed in Section 16580, and each section,
6 subdivision, paragraph, subparagraph, sentence, clause, and phrase
7 thereof, irrespective of the fact that any one or more other sections,
8 subdivisions, paragraphs, subparagraphs, sentences, clauses, or
9 phrases be declared unconstitutional.

10 SEC. 25. Section 23505 of the Penal Code is amended to read:

11 23505. If any section, subdivision, paragraph, subparagraph,
12 sentence, clause, or phrase of any provision listed in Section 16580
13 is for any reason held unconstitutional, that decision does not affect
14 the validity of any other provision listed in Section 16580. The
15 Legislature hereby declares that it would have passed the provisions
16 listed in Section 16580 and each section, subdivision, paragraph,
17 subparagraph, sentence, clause, and phrase of those provisions,
18 irrespective of the fact that any one or more other sections,
19 subdivisions, paragraphs, subparagraphs, sentences, clauses, or
20 phrases be declared unconstitutional.

21 SEC. 26. Section 25105 of the Penal Code is amended to read:

22 25105. Section 25100 does not apply whenever any of the
23 following occurs:

24 (a) The child obtains the firearm as a result of an illegal entry
25 to any premises by any person.

26 (b) The firearm is kept in a locked container or in a location
27 that a reasonable person would believe to be secure.

28 (c) The firearm is carried on the person or within close enough
29 proximity thereto that the individual can readily retrieve and use
30 the firearm as if carried on the person.

31 (d) The firearm is locked with a locking device, as defined in
32 Section 16860, which has rendered the firearm inoperable.

33 (e) The person is a peace officer or a member of the Armed
34 Forces or the National Guard and the child obtains the firearm
35 during, or incidental to, the performance of the person's duties.

36 (f) The child obtains, or obtains and discharges, the firearm in
37 a lawful act of self-defense or defense of another person.

38 (g) The person who keeps a loaded firearm on premises that are
39 under the person's custody or control has no reasonable

1 expectation, based on objective facts and circumstances, that a
2 child is likely to be present on the premises.

3 SEC. 27. Section 29510 of the Penal Code is amended to read:

4 29510. (a) The Department of Justice shall recover the full
5 costs of administering the entertainment firearms permit program
6 by assessing the following application fees:

7 (1) For the initial application: one hundred four dollars (\$104).
8 Of this sum, fifty-six dollars (\$56) shall be deposited into the
9 Fingerprint Fee Account, and forty-eight dollars (\$48) shall be
10 deposited into the Dealers' Record of Sale Special Account.

11 (2) For each annual renewal application: twenty-nine dollars
12 (\$29), which shall be deposited into the Dealers' Record of Sale
13 Special Account.

14 (b) The department shall annually review and shall adjust the
15 fees specified in subdivision (a), if necessary, to fully fund, but
16 not to exceed the actual costs of, the permit program provided for
17 by this chapter, including enforcement of the program.

18 SEC. 28. Section 8103 of the Welfare and Institutions Code is
19 amended to read:

20 8103. (a) (1) No person who after October 1, 1955, has been
21 adjudicated by a court of any state to be a danger to others as a
22 result of a mental disorder or mental illness, or who has been
23 adjudicated to be a mentally disordered sex offender, shall purchase
24 or receive, or attempt to purchase or receive, or have in his or her
25 possession, custody, or control any firearm or any other deadly
26 weapon unless there has been issued to the person a certificate by
27 the court of adjudication upon release from treatment or at a later
28 date stating that the person may possess a firearm or any other
29 deadly weapon without endangering others, and the person has
30 not, subsequent to the issuance of the certificate, again been
31 adjudicated by a court to be a danger to others as a result of a
32 mental disorder or mental illness.

33 (2) The court shall immediately notify the Department of Justice
34 of the court order finding the individual to be a person described
35 in paragraph (1). The court shall also notify the Department of
36 Justice of any certificate issued as described in paragraph (1).

37 (b) (1) No person who has been found, pursuant to Section
38 1026 of the Penal Code or the law of any other state or the United
39 States, not guilty by reason of insanity of murder, mayhem, a
40 violation of Section 207, 209, or 209.5 of the Penal Code in which

1 the victim suffers intentionally inflicted great bodily injury,
2 carjacking or robbery in which the victim suffers great bodily
3 injury, a violation of Section 451 or 452 of the Penal Code
4 involving a trailer coach, as defined in Section 635 of the Vehicle
5 Code, or any dwelling house, a violation of paragraph (1) or (2)
6 of subdivision (a) of Section 262 or paragraph (2) or (3) of
7 subdivision (a) of Section 261 of the Penal Code, a violation of
8 Section 459 of the Penal Code in the first degree, assault with
9 intent to commit murder, a violation of Section 220 of the Penal
10 Code in which the victim suffers great bodily injury, a violation
11 of Section 18715, 18725, 18740, 18745, 18750, or 18755 of the
12 Penal Code, or of a felony involving death, great bodily injury, or
13 an act which poses a serious threat of bodily harm to another
14 person, or a violation of the law of any other state or the United
15 States that includes all the elements of any of the above felonies
16 as defined under California law, shall purchase or receive, or
17 attempt to purchase or receive, or have in his or her possession or
18 under his or her custody or control any firearm or any other deadly
19 weapon.

20 (2) The court shall immediately notify the Department of Justice
21 of the court order finding the person to be a person described in
22 paragraph (1).

23 (c) (1) No person who has been found, pursuant to Section 1026
24 of the Penal Code or the law of any other state or the United States,
25 not guilty by reason of insanity of any crime other than those
26 described in subdivision (b) shall purchase or receive, or attempt
27 to purchase or receive, or shall have in his or her possession,
28 custody, or control any firearm or any other deadly weapon unless
29 the court of commitment has found the person to have recovered
30 sanity, pursuant to Section 1026.2 of the Penal Code or the law of
31 any other state or the United States.

32 (2) The court shall immediately notify the Department of Justice
33 of the court order finding the person to be a person described in
34 paragraph (1). The court shall also notify the Department of Justice
35 when it finds that the person has recovered his or her sanity.

36 (d) (1) No person found by a court to be mentally incompetent
37 to stand trial, pursuant to Section 1370 or 1370.1 of the Penal Code
38 or the law of any other state or the United States, shall purchase
39 or receive, or attempt to purchase or receive, or shall have in his
40 or her possession, custody, or control any firearm or any other

1 deadly weapon, unless there has been a finding with respect to the
2 person of restoration to competence to stand trial by the committing
3 court, pursuant to Section 1372 of the Penal Code or the law of
4 any other state or the United States.

5 (2) The court shall immediately notify the Department of Justice
6 of the court order finding the person to be mentally incompetent
7 as described in paragraph (1). The court shall also notify the
8 Department of Justice when it finds that the person has recovered
9 his or her competence.

10 (e) (1) No person who has been placed under conservatorship
11 by a court, pursuant to Section 5350 or the law of any other state
12 or the United States, because the person is gravely disabled as a
13 result of a mental disorder or impairment by chronic alcoholism
14 shall purchase or receive, or attempt to purchase or receive, or
15 shall have in his or her possession, custody, or control any firearm
16 or any other deadly weapon while under the conservatorship if, at
17 the time the conservatorship was ordered or thereafter, the court
18 which imposed the conservatorship found that possession of a
19 firearm or any other deadly weapon by the person would present
20 a danger to the safety of the person or to others. Upon placing any
21 person under conservatorship, and prohibiting firearm or any other
22 deadly weapon possession by the person, the court shall notify the
23 person of this prohibition.

24 (2) The court shall immediately notify the Department of Justice
25 of the court order placing the person under conservatorship and
26 prohibiting firearm or any other deadly weapon possession by the
27 person as described in paragraph (1). The notice shall include the
28 date the conservatorship was imposed and the date the
29 conservatorship is to be terminated. If the conservatorship is
30 subsequently terminated before the date listed in the notice to the
31 Department of Justice or the court subsequently finds that
32 possession of a firearm or any other deadly weapon by the person
33 would no longer present a danger to the safety of the person or
34 others, the court shall immediately notify the Department of Justice.

35 (3) All information provided to the Department of Justice
36 pursuant to paragraph (2) shall be kept confidential, separate, and
37 apart from all other records maintained by the Department of
38 Justice, and shall be used only to determine eligibility to purchase
39 or possess firearms or other deadly weapons. Any person who
40 knowingly furnishes that information for any other purpose is

1 guilty of a misdemeanor. All the information concerning any person
2 shall be destroyed upon receipt by the Department of Justice of
3 notice of the termination of conservatorship as to that person
4 pursuant to paragraph (2).

5 (f) (1) No person who has been (A) taken into custody as
6 provided in Section 5150 because that person is a danger to himself,
7 herself, or to others, (B) assessed within the meaning of Section
8 5151, and (C) admitted to a designated facility within the meaning
9 of Sections 5151 and 5152 because that person is a danger to
10 himself, herself, or others, shall own, possess, control, receive, or
11 purchase, or attempt to own, possess, control, receive, or purchase
12 any firearm for a period of five years after the person is released
13 from the facility. A person described in the preceding sentence,
14 however, may own, possess, control, receive, or purchase, or
15 attempt to own, possess, control, receive, or purchase any firearm
16 if the superior court has, pursuant to paragraph (5), found that the
17 People of the State of California have not met their burden pursuant
18 to paragraph (6).

19 (2) (A) (i) For each person subject to this subdivision, the
20 facility shall immediately, on the date of admission, submit a report
21 to the Department of Justice, on a form prescribed by the
22 Department of Justice, containing information that includes, but
23 is not limited to, the identity of the person and the legal grounds
24 upon which the person was admitted to the facility.

25 (ii) Any report submitted pursuant to this paragraph shall be
26 confidential, except for purposes of the court proceedings described
27 in this subdivision and for determining the eligibility of the person
28 to own, possess, control, receive, or purchase a firearm.

29 (B) Commencing July 1, 2012, facilities shall submit reports
30 pursuant to this paragraph exclusively by electronic means, in a
31 manner prescribed by the Department of Justice.

32 (3) Prior to, or concurrent with, the discharge, the facility shall
33 inform a person subject to this subdivision that he or she is
34 prohibited from owning, possessing, controlling, receiving, or
35 purchasing any firearm for a period of five years. Simultaneously,
36 the facility shall inform the person that he or she may request a
37 hearing from a court, as provided in this subdivision, for an order
38 permitting the person to own, possess, control, receive, or purchase
39 a firearm. The facility shall provide the person with a form for a
40 request for a hearing. The Department of Justice shall prescribe

1 the form. Where the person requests a hearing at the time of
2 discharge, the facility shall forward the form to the superior court
3 unless the person states that he or she will submit the form to the
4 superior court.

5 (4) The Department of Justice shall provide the form upon
6 request to any person described in paragraph (1). The Department
7 of Justice shall also provide the form to the superior court in each
8 county. A person described in paragraph (1) may make a single
9 request for a hearing at any time during the five-year period. The
10 request for hearing shall be made on the form prescribed by the
11 department or in a document that includes equivalent language.

12 (5) Any person who is subject to paragraph (1) who has
13 requested a hearing from the superior court of his or her county
14 of residence for an order that he or she may own, possess, control,
15 receive, or purchase firearms shall be given a hearing. The clerk
16 of the court shall set a hearing date and notify the person, the
17 Department of Justice, and the district attorney. The People of the
18 State of California shall be the plaintiff in the proceeding and shall
19 be represented by the district attorney. Upon motion of the district
20 attorney, or on its own motion, the superior court may transfer the
21 hearing to the county in which the person resided at the time of
22 his or her detention, the county in which the person was detained,
23 or the county in which the person was evaluated or treated. Within
24 seven days after the request for a hearing, the Department of Justice
25 shall file copies of the reports described in this section with the
26 superior court. The reports shall be disclosed upon request to the
27 person and to the district attorney. The court shall set the hearing
28 within 30 days of receipt of the request for a hearing. Upon
29 showing good cause, the district attorney shall be entitled to a
30 continuance not to exceed 14 days after the district attorney was
31 notified of the hearing date by the clerk of the court. If additional
32 continuances are granted, the total length of time for continuances
33 shall not exceed 60 days. The district attorney may notify the
34 county mental health director of the hearing who shall provide
35 information about the detention of the person that may be relevant
36 to the court and shall file that information with the superior court.
37 That information shall be disclosed to the person and to the district
38 attorney. The court, upon motion of the person subject to paragraph
39 (1) establishing that confidential information is likely to be
40 discussed during the hearing that would cause harm to the person,

1 shall conduct the hearing in camera with only the relevant parties
2 present, unless the court finds that the public interest would be
3 better served by conducting the hearing in public. Notwithstanding
4 any other law, declarations, police reports, including criminal
5 history information, and any other material and relevant evidence
6 that is not excluded under Section 352 of the Evidence Code shall
7 be admissible at the hearing under this section.

8 (6) The people shall bear the burden of showing by a
9 preponderance of the evidence that the person would not be likely
10 to use firearms in a safe and lawful manner.

11 (7) If the court finds at the hearing set forth in paragraph (5)
12 that the people have not met their burden as set forth in paragraph
13 (6), the court shall order that the person shall not be subject to the
14 five-year prohibition in this section on the ownership, control,
15 receipt, possession or purchase of firearms. A copy of the order
16 shall be submitted to the Department of Justice. Upon receipt of
17 the order, the Department of Justice shall delete any reference to
18 the prohibition against firearms from the person's state mental
19 health firearms prohibition system information.

20 (8) Where the district attorney declines or fails to go forward
21 in the hearing, the court shall order that the person shall not be
22 subject to the five-year prohibition required by this subdivision
23 on the ownership, control, receipt, possession, or purchase of
24 firearms. A copy of the order shall be submitted to the Department
25 of Justice. Upon receipt of the order, the Department of Justice
26 shall, within 15 days, delete any reference to the prohibition against
27 firearms from the person's state mental health firearms prohibition
28 system information.

29 (9) Nothing in this subdivision shall prohibit the use of reports
30 filed pursuant to this section to determine the eligibility of persons
31 to own, possess, control, receive, or purchase a firearm if the person
32 is the subject of a criminal investigation, a part of which involves
33 the ownership, possession, control, receipt, or purchase of a
34 firearm.

35 (g) (1) No person who has been certified for intensive treatment
36 under Section 5250, 5260, or 5270.15 shall own, possess, control,
37 receive, or purchase, or attempt to own, possess, control, receive,
38 or purchase any firearm for a period of five years.

39 Any person who meets the criteria contained in subdivision (e)
40 or (f) who is released from intensive treatment shall nevertheless,

1 if applicable, remain subject to the prohibition contained in
2 subdivision (e) or (f).

3 (2) (A) For each person certified for intensive treatment under
4 paragraph (1), the facility shall immediately submit a report to the
5 Department of Justice, on a form prescribed by the department,
6 containing information regarding the person, including, but not
7 limited to, the legal identity of the person and the legal grounds
8 upon which the person was certified. Any report submitted pursuant
9 to this paragraph shall only be used for the purposes specified in
10 paragraph (2) of subdivision (f).

11 (B) Commencing July 1, 2012, facilities shall submit reports
12 pursuant to this paragraph exclusively by electronic means, in a
13 manner prescribed by the Department of Justice.

14 (3) Prior to, or concurrent with, the discharge of each person
15 certified for intensive treatment under paragraph (1), the facility
16 shall inform the person of that information specified in paragraph
17 (3) of subdivision (f).

18 (4) Any person who is subject to paragraph (1) may petition the
19 superior court of his or her county of residence for an order that
20 he or she may own, possess, control, receive, or purchase firearms.
21 At the time the petition is filed, the clerk of the court shall set a
22 hearing date and notify the person, the Department of Justice, and
23 the district attorney. The People of the State of California shall be
24 the respondent in the proceeding and shall be represented by the
25 district attorney. Upon motion of the district attorney, or on its
26 own motion, the superior court may transfer the petition to the
27 county in which the person resided at the time of his or her
28 detention, the county in which the person was detained, or the
29 county in which the person was evaluated or treated. Within seven
30 days after receiving notice of the petition, the Department of Justice
31 shall file copies of the reports described in this section with the
32 superior court. The reports shall be disclosed upon request to the
33 person and to the district attorney. The district attorney shall be
34 entitled to a continuance of the hearing to a date of not less than
35 14 days after the district attorney was notified of the hearing date
36 by the clerk of the court. The district attorney may notify the county
37 mental health director of the petition, and the county mental health
38 director shall provide information about the detention of the person
39 that may be relevant to the court and shall file that information
40 with the superior court. That information shall be disclosed to the

1 person and to the district attorney. The court, upon motion of the
2 person subject to paragraph (1) establishing that confidential
3 information is likely to be discussed during the hearing that would
4 cause harm to the person, shall conduct the hearing in camera with
5 only the relevant parties present, unless the court finds that the
6 public interest would be better served by conducting the hearing
7 in public. Notwithstanding any other provision of law, any
8 declaration, police reports, including criminal history information,
9 and any other material and relevant evidence that is not excluded
10 under Section 352 of the Evidence Code, shall be admissible at
11 the hearing under this section. If the court finds by a preponderance
12 of the evidence that the person would be likely to use firearms in
13 a safe and lawful manner, the court may order that the person may
14 own, control, receive, possess, or purchase firearms. A copy of
15 the order shall be submitted to the Department of Justice. Upon
16 receipt of the order, the Department of Justice shall delete any
17 reference to the prohibition against firearms from the person's
18 state mental health firearms prohibition system information.

19 (h) (1) For all persons identified in subdivisions (f) and (g),
20 facilities shall report to the Department of Justice as specified in
21 those subdivisions, except facilities shall not report persons under
22 subdivision (g) if the same persons previously have been reported
23 under subdivision (f).

24 (2) Additionally, all facilities shall report to the Department of
25 Justice upon the discharge of persons from whom reports have
26 been submitted pursuant to subdivision (f) or (g). However, a report
27 shall not be filed for persons who are discharged within 31 days
28 after the date of admission.

29 (i) Every person who owns or possesses or has under his or her
30 custody or control, or purchases or receives, or attempts to purchase
31 or receive, any firearm or any other deadly weapon in violation of
32 this section shall be punished by imprisonment in the state prison
33 or in a county jail for not more than one year.

34 (j) "Deadly weapon," as used in this section, has the meaning
35 prescribed by Section 8100.

36 SEC. 29. Section 15657.03 of the Welfare and Institutions
37 Code, as amended by Section 26 of Chapter 572 of the Statutes of
38 2010, is amended to read:

1 15657.03. (a) (1) An elder or dependent adult who has suffered
2 abuse as defined in Section 15610.07 may seek protective orders
3 as provided in this section.

4 (2) A petition may be brought on behalf of an abused elder or
5 dependent adult by a conservator or a trustee of the elder or
6 dependent adult, an attorney-in-fact of an elder or dependent adult
7 who acts within the authority of the power of attorney, a person
8 appointed as a guardian ad litem for the elder or dependent adult,
9 or other person legally authorized to seek such relief.

10 (b) For the purposes of this section:

11 (1) "Conservator" means the legally appointed conservator of
12 the person or estate of the petitioner, or both.

13 (2) "Petitioner" means the elder or dependent adult to be
14 protected by the protective orders and, if the court grants the
15 petition, the protected person.

16 (3) "Protective order" means an order that includes any of the
17 following restraining orders, whether issued ex parte, after notice
18 and hearing, or in a judgment:

19 (A) An order enjoining a party from abusing, intimidating,
20 molesting, attacking, striking, stalking, threatening, sexually
21 assaulting, battering, harassing, telephoning, including, but not
22 limited to, making annoying telephone calls as described in Section
23 653m of the Penal Code, destroying personal property, contacting,
24 either directly or indirectly, by mail or otherwise, or coming within
25 a specified distance of, or disturbing the peace of the petitioner,
26 and, in the discretion of the court, on a showing of good cause, of
27 other named family or household members or a conservator, if
28 any, of the petitioner.

29 (B) An order excluding a party from the petitioner's residence
30 or dwelling, except that this order shall not be issued if legal or
31 equitable title to, or lease of, the residence or dwelling is in the
32 sole name of the party to be excluded, or is in the name of the party
33 to be excluded and any other party besides the petitioner.

34 (C) An order enjoining a party from specified behavior that the
35 court determines is necessary to effectuate orders described in
36 subparagraph (A) or (B).

37 (4) "Respondent" means the person against whom the protective
38 orders are sought and, if the petition is granted, the restrained
39 person.

1 (c) An order may be issued under this section, with or without
2 notice, to restrain any person for the purpose of preventing a
3 recurrence of abuse, if a declaration shows, to the satisfaction of
4 the court, reasonable proof of a past act or acts of abuse of the
5 petitioning elder or dependent adult.

6 (d) Upon filing a petition for protective orders under this section,
7 the petitioner may obtain a temporary restraining order in
8 accordance with Section 527 of the Code of Civil Procedure, except
9 to the extent this section provides a rule that is inconsistent. The
10 temporary restraining order may include any of the protective
11 orders described in paragraph (3) of subdivision (b). However, the
12 court may issue an ex parte order excluding a party from the
13 petitioner's residence or dwelling only on a showing of all of the
14 following:

15 (1) Facts sufficient for the court to ascertain that the party who
16 will stay in the dwelling has a right under color of law to possession
17 of the premises.

18 (2) That the party to be excluded has assaulted or threatens to
19 assault the petitioner, other named family or household member
20 of the petitioner, or a conservator of the petitioner.

21 (3) That physical or emotional harm would otherwise result to
22 the petitioner, other named family or household member of the
23 petitioner, or a conservator of the petitioner.

24 (e) A request for the issuance of a temporary restraining order
25 without notice under this section shall be granted or denied on the
26 same day that the petition is submitted to the court, unless the
27 petition is filed too late in the day to permit effective review, in
28 which case the order shall be granted or denied on the next day of
29 judicial business in sufficient time for the order to be filed that day
30 with the clerk of the court.

31 (f) Within 21 days, or, if good cause appears to the court, 25
32 days, from the date that a request for a temporary restraining order
33 is granted or denied, a hearing shall be held on the petition. If no
34 request for temporary orders is made, the hearing shall be held
35 within 21 days, or, if good cause appears to the court, 25 days,
36 from the date that the petition is filed.

37 (g) The respondent may file a response that explains or denies
38 the alleged abuse.

39 (h) The court may issue, upon notice and a hearing, any of the
40 orders set forth in paragraph (3) of subdivision (b). The court may

1 issue, after notice and hearing, an order excluding a person from
2 a residence or dwelling if the court finds that physical or emotional
3 harm would otherwise result to the petitioner, other named family
4 or household member of the petitioner, or conservator of the
5 petitioner.

6 (i) (1) In the discretion of the court, an order issued after notice
7 and a hearing under this section may have a duration of not more
8 than five years, subject to termination or modification by further
9 order of the court either on written stipulation filed with the court
10 or on the motion of a party. These orders may be renewed upon
11 the request of a party, either for five years or permanently, without
12 a showing of any further abuse since the issuance of the original
13 order, subject to termination or modification by further order of
14 the court either on written stipulation filed with the court or on the
15 motion of a party. The request for renewal may be brought at any
16 time within the three months before the expiration of the order.

17 (2) The failure to state the expiration date on the face of the
18 form creates an order with a duration of three years from the date
19 of issuance.

20 (j) In a proceeding under this section, a support person may
21 accompany a party in court and, if the party is not represented by
22 an attorney, may sit with the party at the table that is generally
23 reserved for the party and the party's attorney. The support person
24 is present to provide moral and emotional support for a person
25 who alleges he or she is a victim of abuse. The support person is
26 not present as a legal adviser and may not provide legal advice.
27 The support person may assist the person who alleges he or she is
28 a victim of abuse in feeling more confident that he or she will not
29 be injured or threatened by the other party during the proceedings
30 if the person who alleges he or she is a victim of abuse and the
31 other party are required to be present in close proximity. This
32 subdivision does not preclude the court from exercising its
33 discretion to remove the support person from the courtroom if the
34 court believes the support person is prompting, swaying, or
35 influencing the party assisted by the support person.

36 (k) Upon the filing of a petition for protective orders under this
37 section, the respondent shall be personally served with a copy of
38 the petition, notice of the hearing or order to show cause, temporary
39 restraining order, if any, and any declarations in support of the
40 petition. Service shall be made at least five days before the hearing.

1 The court may, on motion of the petitioner or on its own motion,
2 shorten the time for service on the respondent.

3 (l) A notice of hearing under this section shall notify the
4 respondent that if he or she does not attend the hearing, the court
5 may make orders against him or her that could last up to five years.

6 (m) (1) The court may, upon the filing of a declaration by the
7 petitioner that the respondent could not be served within the time
8 required by statute, reissue an order previously issued and dissolved
9 by the court for failure to serve the respondent. The reissued order
10 shall remain in effect until the date set for the hearing.

11 (2) The reissued order shall state on its face the date of
12 expiration of the order.

13 (n) (1) If a respondent, named in an order issued under this
14 section after a hearing, has not been served personally with the
15 order but has received actual notice of the existence and substance
16 of the order through personal appearance in court to hear the terms
17 of the order from the court, no additional proof of service is
18 required for enforcement of the order.

19 (2) If the respondent named in a temporary restraining order is
20 personally served with the order and notice of hearing with respect
21 to a restraining order or protective order based on the temporary
22 restraining order, but the respondent does not appear at the hearing,
23 either personally or by an attorney, and the terms and conditions
24 of the restraining order or protective order issued at the hearing
25 are identical to the temporary restraining order, except for the
26 duration of the order, then the restraining order or protective order
27 issued at the hearing may be served on the respondent by first-class
28 mail sent to the respondent at the most current address for the
29 respondent that is available to the court.

30 (3) The Judicial Council form for temporary orders issued
31 pursuant to this subdivision shall contain a statement in
32 substantially the following form:

33
34 “If you have been personally served with a temporary restraining
35 order and notice of hearing, but you do not appear at the hearing
36 either in person or by a lawyer, and a restraining order that is the
37 same as this temporary restraining order except for the expiration
38 date is issued at the hearing, a copy of the order will be served on
39 you by mail at the following address: ____.

1 If that address is not correct or you wish to verify that the
2 temporary restraining order was converted to a restraining order
3 at the hearing without substantive change and to find out the
4 duration of that order, contact the clerk of the court.”
5

6 (o) (1) Information on any protective order relating to elder or
7 dependent adult abuse issued by a court pursuant to this section
8 shall be transmitted to the Department of Justice in accordance
9 with either paragraph (2) or (3).

10 (2) The court shall order the petitioner or the attorney for the
11 petitioner to deliver a copy of an order issued under this section,
12 or a reissuance, extension, modification, or termination of the
13 order, and any subsequent proof of service, by the close of the
14 business day on which the order, reissuance, extension,
15 modification, or termination was made, to each law enforcement
16 agency having jurisdiction over the residence of the petitioner, and
17 to any additional law enforcement agencies within the court’s
18 discretion as are requested by the petitioner.

19 (3) Alternatively, the court or its designee shall transmit, within
20 one business day, to law enforcement personnel all information
21 required under subdivision (b) of Section 6380 of the Family Code
22 regarding any order issued under this section, or a reissuance,
23 extension, modification, or termination of the order, and any
24 subsequent proof of service, by either one of the following
25 methods:

26 (A) Transmitting a physical copy of the order or proof of service
27 to a local law enforcement agency authorized by the Department
28 of Justice to enter orders into the California Law Enforcement
29 Telecommunications System (CLETS).

30 (B) With the approval of the Department of Justice, entering
31 the order or proof of service into CLETS directly.

32 (4) Each appropriate law enforcement agency shall make
33 available information as to the existence and current status of these
34 orders to law enforcement officers responding to the scene of
35 reported abuse.

36 (5) An order issued under this section shall, on request of the
37 petitioner, be served on the respondent, whether or not the
38 respondent has been taken into custody, by any law enforcement
39 officer who is present at the scene of reported abuse involving the
40 parties to the proceeding. The petitioner shall provide the officer

1 with an endorsed copy of the order and a proof of service, which
2 the officer shall complete and send to the issuing court.

3 (6) Upon receiving information at the scene of an incident of
4 abuse that a protective order has been issued under this section,
5 or that a person who has been taken into custody is the respondent
6 to that order, if the protected person cannot produce an endorsed
7 copy of the order, a law enforcement officer shall immediately
8 attempt to verify the existence of the order.

9 (7) If the law enforcement officer determines that a protective
10 order has been issued, but not served, the officer shall immediately
11 notify the respondent of the terms of the order and where a written
12 copy of the order can be obtained, and the officer shall at that time
13 also enforce the order. The law enforcement officer's verbal notice
14 of the terms of the order shall constitute service of the order and
15 is sufficient notice for the purposes of this section and for the
16 purposes of Section 273.6 of the Penal Code.

17 (p) Nothing in this section shall preclude either party from
18 representation by private counsel or from appearing on the party's
19 own behalf.

20 (q) There is no filing fee for a petition, response, or paper
21 seeking the reissuance, modification, or enforcement of a protective
22 order filed in a proceeding brought pursuant to this section.

23 (r) Pursuant to paragraph (4) of subdivision (b) of Section 6103.2
24 of the Government Code, a petitioner shall not be required to pay
25 a fee for law enforcement to serve an order issued under this
26 section.

27 (s) The prevailing party in any action brought under this section
28 may be awarded court costs and attorney's fees, if any.

29 (t) (1) A person subject to a protective order under this section
30 shall not own, possess, purchase, receive, or attempt to receive a
31 firearm or ammunition while the protective order is in effect.

32 (2) The court shall order a person subject to a protective order
33 issued under this section to relinquish any firearms he or she owns
34 or possesses pursuant to Section 527.9 of the Code of Civil
35 Procedure.

36 (3) Every person who owns, possesses, purchases, or receives,
37 or attempts to purchase or receive a firearm or ammunition while
38 subject to a protective order issued under this section is punishable
39 pursuant to Section 29825 of the Penal Code.

1 (4) This subdivision shall not apply in a case in which the
2 protective order issued under this section was made solely on the
3 basis of financial abuse unaccompanied by force, threat,
4 harassment, intimidation, or any other form of abuse.

5 (u) Any willful disobedience of any temporary restraining order
6 or restraining order after hearing granted under this section is
7 punishable pursuant to Section 273.6 of the Penal Code.

8 (v) This section does not apply to any action or proceeding
9 governed by Title 1.6C (commencing with Section 1788) of Part
10 4 of Division 3 of the Civil Code, by Chapter 3 (commencing with
11 Section 525) of Title 7 of Part 2 of the Code of Civil Procedure,
12 or by Division 10 (commencing with Section 6200) of the Family
13 Code. Nothing in this section shall preclude a petitioner's right to
14 use other existing civil remedies.

15 (w) The Judicial Council shall develop forms, instructions, and
16 rules relating to matters governed by this section. The petition and
17 response forms shall be simple and concise, and their use by parties
18 in actions brought pursuant to this section shall be mandatory.

19 *SEC. 30. This act shall only become operative if Senate Bill*
20 *1080, enacted as Chapter 711 of the Statutes of 2010, becomes*
21 *operative on January 1, 2012, in which case this act shall also*
22 *become operative on January 1, 2012.*

23 *SEC. 31. Any section of any act enacted by the Legislature*
24 *during the 2011 calendar year, other than a section of Assembly*
25 *Bill 1023, Senate Bill 428, or another bill with a subordination*
26 *clause, that takes effect on or before January 1, 2012, and that*
27 *amends, amends and renumbers, amends and repeals, adds, repeals*
28 *and adds, or repeals a section that is amended, amended and*
29 *renumbered, amended and repealed, added, repealed, repealed*
30 *and added, or repealed by this act, shall prevail over this act,*
31 *whether that act is chaptered before or after this act.*

32 *SEC. 32. Section 18.5 of this bill incorporates amendments to*
33 *Section 1203.4a of the Penal Code proposed by both this bill and*
34 *SB 428. It shall only become operative if (1) both bills are enacted*
35 *and become effective on or before January 1, 2012, and (2) each*
36 *bill amends Section 1203.4a of the Penal Code, in which case*
37 *Section 18 of this bill shall not become operative.*