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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 48**

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**Introduced by Assembly Member Skinner**  
**(Coauthors: Assembly Members Alejo, Ammiano, Bloom, Bonta,**  
**Ting, and Williams)**  
(Coauthors: Senators De León and Hancock)

December 20, 2012

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An act to amend Sections 16740, 16890, 32310, and 32390 of, and to add Sections ~~16151~~, 16740.5, ~~30301, 30302, 30302.5, 30303, 30304, 30327~~, and 32311 to, the Penal Code, *and to amend Sections 8100, 8102, 8103, 8104, and 8105 of the Welfare and Institutions Code*, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 48, as amended, Skinner. Firearms: ammunition: sales.

(1) Except as specified, existing law makes it a crime to manufacture, import, keep for sale, offer or expose for sale, or give or lend any large-capacity magazine, and makes a large-capacity magazine a nuisance. Existing law defines "large-capacity magazine" to mean any ammunition feeding device with the capacity to accept more than 10 rounds but excludes, in pertinent part, a feeding device that has been permanently altered so that the magazine cannot accommodate more than 10 rounds.

This bill would make it a misdemeanor, punishable by a fine of not more than \$1,000 or imprisonment in a county jail not to exceed 6 months, or by both that fine and imprisonment, to knowingly manufacture, import, keep for sale, offer or expose for sale, or give or lend any device that is capable of converting an ammunition feeding device into a large-capacity magazine. The bill would revise the definition of “large-capacity magazine” to mean any ammunition feeding device with the capacity to accept more than 10 rounds, including a disassembled large-capacity magazine that is readily restorable, as defined, to accommodate more than 10 rounds of ammunition, and an oversize magazine body that appears to hold in excess of 10 rounds but has not been permanently altered to only accommodate 10 rounds of ammunition or less. The bill would make related, conforming changes. By creating a new crime, this bill would impose a state-mandated local program.

(2) Existing law prohibits any person, corporation, or dealer from selling ammunition to a person under 18 years of age, selling ammunition designed for use in a handgun to a person under 21 years of age, or providing possession of any ammunition to any minor who the person, corporation, or dealer knows is prohibited from possessing that ammunition at that time. Existing law prohibits a person, corporation, or firm from giving possession or control of ammunition to any person who he or she knows is prohibited by law from possessing ammunition. Existing law also regulates handgun ammunition vendors and provides that a handgun ammunition vendor shall not permit any employee who the vendor knows or reasonably should know is a person who has been convicted of a felony or other specified crimes to handle, sell, or deliver handgun ammunition in the course and scope of employment.

~~This bill would require the Department of Justice to keep a centralized list of licensed ammunition vendors who meet certain specified requirements. The bill would require anyone in the state, prior to selling or otherwise transferring ownership of any ammunition to an individual or business entity in this state or any other state, to be an ammunition vendor, defined as a person who is currently on the centralized list of ammunition vendors, to require proper identification, as prescribed, and to report the sales to the Department of Justice. An individual who violates these provisions would be guilty of a crime, and the ammunition vendor would be subject to an administrative enforcement action by the department to remove the vendor from the centralized list of~~

~~ammunition vendors. This bill would exempt an individual in the state who sells, transfers, or furnishes ammunition to certain specified law enforcement individuals from those identification and reporting requirements. By creating a new crime, this bill would impose a state-mandated local program.~~

~~The bill would require the department to alert local law enforcement entities in the community in which the purchaser resides if an individual purchaser who is not a peace officer obtains more than 3,000 rounds within a 5-day period.~~

~~The bill would allow a person to request a license from the Department of Justice to be an ammunition vendor, would require the department to conduct a background check to determine if the applicant is prohibited by state or federal law from possessing a firearm, and would require the department to issue a license to be an ammunition vendor to an applicant if the applicant is not prohibited. The bill would require the department to adopt regulations to recover the costs of administering the program by imposing a fee on applicants.~~

~~The bill would require the department to create the California Ammunition Database, and would require the department to cross-reference specified information about ammunition purchasers provided by licensed ammunition vendors with the Prohibited Armed Persons File. If the ammunition vendor failed to report that information, the bill would authorize an administrative enforcement action against the vendor by the department. The bill would make these provisions and the above reporting requirements regarding the sale of ammunition operative upon the creation of the California Ammunition Database by the department. The bill would require the department to adopt regulations and to recover costs of administering the program by imposing a fee on ammunition dealers.~~

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason:~~

~~*This bill would require the Department of Justice to alert local law enforcement entities in the city, county, or city and county in which a purchaser resides if the purchaser obtains more than 3,000 rounds of ammunition within a 5-day period, as specified. The bill would -make this provision operative only if Senate Bill 53 of the 2013–14 Regular Session is enacted and becomes operative.*~~

(3) Existing law prohibits a person from possessing a firearm or deadly weapon for a period of 6 months whenever he or she communicates to a licensed psychotherapist a serious threat of physical violence against a reasonably identifiable victim or victims. Under existing law, a violation of this provision is a crime. Existing law allows a person subject to these provisions to petition the superior court of his or her county for an order that he or she may possess a firearm, as provided.

This bill would increase the prohibitory period from 6 months to 5 years. By increasing the scope of an existing crime, this bill would impose a state-mandated local program. This bill would revise the provisions allowing a person to petition the court for an order that he or she may possess a firearm to conform with other provisions of existing law.

(4) Existing law requires that if a person who has been detained or apprehended for examination of his or her mental condition, or who is a mentally ill individual prohibited from possessing firearms, is found to own or possess a firearm, a law enforcement agency or peace officer is required to confiscate the firearm. Existing law requires the peace officer or law enforcement agency, upon confiscation of that firearm from a person who has been detained or apprehended for examination of his or her mental condition, to notify the person of the procedure for the return of the firearm.

Existing law prescribes specified requirements that govern the return of confiscated firearms in the custody or control of a court or law enforcement agency. Under these provisions of law, a person who wishes to have the firearm returned is required to submit a specified application and fee to the Department of Justice, and to meet specified criteria.

This bill would apply these requirements to persons who have been detained or apprehended for examination and mentally ill individuals who are prohibited from possessing firearms who have had their firearms confiscated. By creating new notification duties for peace officers and law enforcement agencies, this bill would impose a state-mandated local program.

(5) Existing law requires reports to be submitted immediately to the Department of Justice in connection with mentally ill individuals who are prohibited from possessing firearms and dangerous weapons.

This bill would specify that, for these purposes, “immediately” means a period of time not exceeding 24 hours. The bill would require notices and reports submitted to the Department of Justice in connection with

*these provisions to be submitted in an electronic format, in a manner prescribed by the Department of Justice.*

*(6) Existing law requires the State Department of State Hospitals to maintain records in its possession that are necessary to identify persons who come within the prohibition on possessing firearms due to mental illness and requires the State Department of State Hospitals to make these records available to the Department of Justice upon request.*

*This bill would require the State Department of State Hospitals to make these records available to the Department of Justice in electronic format, within 24 hours of receiving the request.*

*(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.*

*With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.*

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

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

1 ~~SECTION 1. Section 16151 is added to the Penal Code, to~~  
2 ~~read:~~

3 ~~16151. “Ammunition vendor” means any person who is~~  
4 ~~currently recorded on the centralized list of ammunition vendors~~  
5 ~~compiled by the Department of Justice pursuant to Section 30302.5.~~

6 ~~SEC. 2.~~

7 ~~SECTION 1. Section 16740 of the Penal Code is amended to~~  
8 ~~read:~~

9 16740. (a) As used in this part, “large-capacity magazine”  
10 means any ammunition feeding device with the capacity to accept  
11 more than 10 rounds, including, but not limited to, a disassembled  
12 large-capacity magazine that is readily restorable to accommodate  
13 more than 10 rounds of ammunition, and an oversize magazine  
14 body that appears to hold in excess of 10 rounds but has not been  
15 permanently altered to only accommodate 10 rounds of ammunition

1 or less. A magazine body is not a large-capacity magazine if it is  
2 only of sufficient size to accommodate 10 or fewer rounds of  
3 ammunition and the internal working parts of the magazine,  
4 including the follower and spring.

5 (b) As used in this part, “readily restorable” includes all of the  
6 magazine parts of a fully functioning large-capacity magazine,  
7 including, but not limited to, the body, spring, follower, and floor  
8 plate or end plate, under the custody and control of an individual  
9 or individuals that can be assembled into a complete magazine.

10 ~~SEC. 3.~~

11 *SEC. 2.* Section 16740.5 is added to the Penal Code, to read:

12 16740.5. As used in this part, a “large-capacity magazine” shall  
13 not be construed to include any of the following:

14 (a) A .22 caliber tube ammunition feeding device.

15 (b) A tubular magazine that is contained in a lever-action  
16 firearm.

17 ~~SEC. 4.~~

18 *SEC. 3.* Section 16890 of the Penal Code is amended to read:

19 16890. As used in Section 16150, 16740, or 30515, “magazine”  
20 means any ammunition feeding device, including a disassembled  
21 magazine that is readily restorable to be an ammunition feeding  
22 device. For purposes of this section, “readily restorable” means  
23 all of the parts of a large-capacity magazine, including, but not  
24 limited to, the body, spring, follower, and floor plate or end plate,  
25 under the custody and control of an individual or individuals that  
26 can be assembled as a fully functioning magazine.

27 ~~SEC. 5.~~ Section 30301 is added to the Penal Code, to read:

28 30301. ~~(a) Anyone in this state, prior to selling, transferring,~~  
29 ~~or otherwise furnishing ammunition to an individual or business~~  
30 ~~entity in this state or any other state, shall do all of the following:~~

31 ~~(1) Be an ammunition vendor as defined in Section 16151.~~

32 ~~(2) Require proper identification from the purchaser in the form~~  
33 ~~of a driver’s license or other photographic identification issued by~~  
34 ~~a state or the federal government.~~

35 ~~(3) Submit a report to the Department of Justice for all of the~~  
36 ~~transactions, in a manner to be determined by the department.~~

37 ~~(b) The Department of Justice shall alert local law enforcement~~  
38 ~~entities in the city, county, or city and county in which the~~  
39 ~~purchaser resides if the purchaser obtains more than 3,000 rounds~~  
40 ~~within a five-day period and the purchaser is not an ammunition~~

1 vendor. The department is not required to alert local law  
2 enforcement of sales of ammunition made to peace officers.

3 (e) (1) A violation of this section shall be punished by  
4 imprisonment in a county jail not exceeding six months, by a fine  
5 not exceeding five thousand dollars (\$5,000), or by both the fine  
6 and imprisonment, and the ammunition vendor is subject to an  
7 administrative enforcement action by the department to remove  
8 the ammunition vendor from the centralized list of ammunition  
9 vendors.

10 (2) Any individual who has previously been convicted of a  
11 violation of paragraph (1) shall, upon a subsequent conviction  
12 thereof, be punished by imprisonment pursuant to subdivision (h)  
13 of Section 1170 of the Penal Code, or by imprisonment in a county  
14 jail not exceeding one year, by a fine not exceeding one hundred  
15 thousand dollars (\$100,000), or by both the fine and imprisonment.

16 (d) Subdivisions (a), (b), and (c) do not apply to or affect the  
17 sale, delivery, or transfer of ammunition to any of the following:

18 (1) An authorized law enforcement representative of a city,  
19 county, city and county, or state or federal government, if the sale,  
20 delivery, or transfer is for the exclusive use by that government  
21 agency and, prior to the sale, delivery, or transfer of the  
22 ammunition, written authorization from the head of the agency  
23 employing the purchaser or transferee is obtained identifying the  
24 employee as an individual authorized to conduct the transaction,  
25 and authorizing the transaction for the exclusive use of the agency  
26 employing the individual.

27 (2) A sworn peace officer, as defined in Chapter 4.5  
28 (commencing with Section 830) of Title 3 of Part 2 who is  
29 authorized to carry a firearm in the course and scope of his or her  
30 duties.

31 SEC. 6. Section 30302 is added to the Penal Code, to read:

32 30302. (a) A person may request a license from the Department  
33 of Justice to be an ammunition vendor.

34 (b) The Department of Justice shall examine its records in order  
35 to determine if the applicant is prohibited by state or federal law  
36 from possessing, receiving, owning, or purchasing a firearm.

37 (c) The department shall issue a license to be an ammunition  
38 vendor to an applicant if the department's records indicate that the  
39 applicant is not a person who is prohibited by state or federal law

1 from possessing firearms and the applicant complies with the  
2 requirements of subdivision (b) of Section 30302.5.  
3 ~~(d) The department shall adopt regulations to administer this~~  
4 ~~program and shall recover the reasonable costs of administering~~  
5 ~~and enforcing this program, by imposing fees assessed to applicants~~  
6 ~~who apply for those licenses.~~  
7 ~~(e) All funds collected shall be deposited in the Ammunition~~  
8 ~~Vendor Fund, which is hereby created.~~  
9 ~~SEC. 7. Section 30302.5 is added to the Penal Code, to read:~~  
10 ~~30302.5. (a) Except as otherwise provided in subdivisions (c),~~  
11 ~~(d), and (e), the Department of Justice shall keep a centralized list~~  
12 ~~of ammunition vendors licensed pursuant to Section 30302.~~  
13 ~~(b) In order to be listed as an ammunition vendor on the~~  
14 ~~centralized list of ammunition vendors, a person shall satisfy all~~  
15 ~~of the following requirements:~~  
16 ~~(1) Meet at least one of the following criteria:~~  
17 ~~(A) Be recorded on the centralized list of licensed firearms~~  
18 ~~dealers specified in Section 26715.~~  
19 ~~(B) Be recorded on the centralized list of licensed firearms~~  
20 ~~manufacturers specified in Section 29060.~~  
21 ~~(C) Have a certificate of eligibility issued by the Department~~  
22 ~~of Justice pursuant to Section 26710.~~  
23 ~~(2) Have any regulatory or business license, or licenses, required~~  
24 ~~by local government.~~  
25 ~~(3) Have a valid seller's permit issued by the State Board of~~  
26 ~~Equalization.~~  
27 ~~(4) Have paid the annual fee established by the department~~  
28 ~~pursuant to subdivision (d) of Section 30302.~~  
29 ~~(e) The department may remove from the centralized list any~~  
30 ~~person who knowingly or with gross negligence violates a~~  
31 ~~provision of Section 30301.~~  
32 ~~(d) The department shall remove from the centralized list any~~  
33 ~~person who does not satisfy the requirements of subdivision (b).~~  
34 ~~(e) Upon removal of a vendor from the list, notification shall~~  
35 ~~be provided to local law enforcement and licensing authorities in~~  
36 ~~the jurisdiction where the vendor's business is located.~~  
37 ~~(f) Information compiled from the centralized list shall only be~~  
38 ~~made available, upon request, for law enforcement purposes.~~  
39 ~~SEC. 8. Section 30303 is added to the Penal Code, to read:~~

1 30303. (a) ~~The Department of Justice shall create the California~~  
2 ~~Ammunition Database.~~

3 ~~(b) Ammunition vendors shall collect each ammunition~~  
4 ~~purchaser's name, date of birth, address, and the number of rounds~~  
5 ~~of ammunition to be sold, transferred, or furnished, and report that~~  
6 ~~information electronically to the Department of Justice. An~~  
7 ~~ammunition vendor who fails to report that information~~  
8 ~~electronically to the department is subject to an administrative~~  
9 ~~enforcement action by the department to revoke or suspend the~~  
10 ~~vendor's license to sell ammunition.~~

11 ~~(c) Upon receipt of the information described in subdivision~~  
12 ~~(b), the Department of Justice shall immediately cross-reference~~  
13 ~~the purchaser's information with the Prohibited Armed Persons~~  
14 ~~File. If a purchaser's name appears in the Prohibited Armed~~  
15 ~~Persons File, the Department of Justice shall forward that~~  
16 ~~individual's information to local law enforcement through a secure~~  
17 ~~means.~~

18 ~~(d) This section and the reporting requirement in Section 30301~~  
19 ~~shall not become effective until the Department of Justice creates~~  
20 ~~the California Ammunition Database, which shall occur on or~~  
21 ~~before January 1, 2016.~~

22 ~~(e) The department shall adopt regulations to administer this~~  
23 ~~program, and shall recover the reasonable costs of administering~~  
24 ~~and enforcing this program by imposing fees assessed to~~  
25 ~~ammunition vendors based upon the number of rounds of~~  
26 ~~ammunition sold or transferred to the ammunition purchaser.~~

27 ~~(f) For purposes of this section, an "ammunition purchaser"~~  
28 ~~includes any individual who receives ammunition, whether by sale~~  
29 ~~or transfer, or is otherwise furnished with ammunition. An~~  
30 ~~ammunition purchaser does not include any individual or entity~~  
31 ~~described in subdivision (d) of Section 30301.~~

32 ~~SEC. 9. Section 30304 is added to the Penal Code, to read:~~

33 ~~30304. For purposes of Sections 30301, 30302, 30302.5, and~~  
34 ~~30303, "ammunition" does not include blanks.~~

35 ~~SEC. 4. Section 30327 is added to the Penal Code, to read:~~

36 ~~30327. The Department of Justice shall alert local law~~  
37 ~~enforcement entities in the city, county, or city and county in which~~  
38 ~~the purchaser resides if the purchaser obtains more than 3,000~~  
39 ~~rounds of ammunition within a five-day period and the purchaser~~  
40 ~~is an individual and not an ammunition vendor. The department~~

1 *is not required to alert local law enforcement of sales of*  
2 *ammunition made to peace officers.*

3 ~~SEC. 10.~~

4 *SEC. 5.* Section 32310 of the Penal Code is amended to read:

5 32310. (a) Except as provided in Article 2 (commencing with  
6 Section 32400) of this chapter and in Chapter 1 (commencing with  
7 Section 17700) of Division 2 of Title 2, commencing January 1,  
8 2000, any person in this state who manufactures or causes to be  
9 manufactured, imports into the state, keeps for sale, or offers or  
10 exposes for sale, or who gives, lends, buys, or receives any  
11 large-capacity magazine is punishable by imprisonment in a county  
12 jail not exceeding one year or imprisonment pursuant to subdivision  
13 (h) of Section 1170.

14 (b) For purposes of this section, “manufacturing” includes both  
15 fabricating a magazine and assembling a magazine from a  
16 combination of parts, including, but not limited to, the body, spring,  
17 follower, and floor plate or end plate, to be a fully functioning  
18 large-capacity magazine.

19 ~~SEC. 11.~~

20 *SEC. 6.* Section 32311 is added to the Penal Code, to read:

21 32311. Except as provided in Article 2 (commencing with  
22 Section 32400) of this chapter and in Chapter 1 (commencing with  
23 Section 17700) of Division 2 of Title 2, commencing January 1,  
24 2014, any person in this state who knowingly manufactures or  
25 causes to be manufactured, imports into the state, keeps for sale,  
26 or offers or exposes for sale, or who gives, lends, buys, or receives  
27 any device or combination of the parts of a fully functioning  
28 large-capacity magazine, including, but not limited to, the body,  
29 spring, follower, and floor plate or end plate, capable of converting  
30 an ammunition feeding device into a large-capacity magazine is  
31 punishable by a fine of not more than one thousand dollars (\$1,000)  
32 or imprisonment in a county jail not to exceed six months, or by  
33 both that fine and imprisonment.

34 ~~SEC. 12.~~

35 *SEC. 7.* Section 32390 of the Penal Code is amended to read:

36 32390. (a) Except as provided in Article 2 (commencing with  
37 Section 32400) of this chapter and in Chapter 1 (commencing with  
38 Section 17700) of Division 2 of Title 2, and in subdivision (b),  
39 any large-capacity magazine is a nuisance and is subject to Section  
40 18010.

1 (b) Subdivision (a) does not apply to the possession of a readily  
2 restorable disassembled large-capacity magazine or an oversize  
3 magazine body that has been permanently altered so that the  
4 magazine cannot accommodate more than 10 rounds by a person  
5 who lawfully possessed the magazine prior to January 1, 2014.

6 *SEC. 8. Section 8100 of the Welfare and Institutions Code is*  
7 *amended to read:*

8 8100. (a) A person shall not have in his or her possession or  
9 under his or her custody or control, or purchase or receive, or  
10 attempt to purchase or receive, any firearms whatsoever or any  
11 other deadly weapon, if on or after January 1, 1992, he or she has  
12 been admitted to a facility and is receiving inpatient treatment and,  
13 in the opinion of the attending health professional who is primarily  
14 responsible for the patient's treatment of a mental disorder, is a  
15 danger to self or others, as specified by Section 5150, 5250, or  
16 5300, even though the patient has consented to that treatment. A  
17 person is not subject to this subdivision once he or she is discharged  
18 from the facility.

19 (b) (1) A person shall not have in his or her possession or under  
20 his or her custody or control, or purchase or receive, or attempt to  
21 purchase or receive, any firearms whatsoever or any other deadly  
22 weapon for a period of ~~six months~~ *five years* whenever, on or after  
23 January 1, ~~1992~~ *2014*, he or she communicates to a licensed  
24 psychotherapist, as defined in subdivisions (a) to (e), inclusive, of  
25 Section 1010 of the Evidence Code, a serious threat of physical  
26 violence against a reasonably identifiable victim or victims. The  
27 ~~six-month~~ *five-year* period shall commence from the date that the  
28 licensed psychotherapist reports to the local law enforcement  
29 agency the identity of the person making the communication. The  
30 prohibition provided for in this subdivision shall not apply unless  
31 the licensed psychotherapist notifies a local law enforcement  
32 agency of the threat by that person. The person, however, may  
33 own, possess, have custody or control over, or receive or purchase  
34 any firearm if a superior court, pursuant to paragraph (3) and upon  
35 petition of the person, has found, by a preponderance of the  
36 evidence, that the person is likely to use firearms or other deadly  
37 weapons in a safe and lawful manner.

38 (2) Upon receipt of the report from the local law enforcement  
39 agency pursuant to subdivision (c) of Section 8105, the Department

1 of Justice shall notify by certified mail, return receipt requested,  
2 a person subject to this subdivision of the following:

3 (A) That he or she is prohibited from possessing, having custody  
4 or control over, receiving, or purchasing any firearm or other  
5 deadly weapon for a period of ~~six months~~ *five years* commencing  
6 from the date that the licensed psychotherapist reports to the local  
7 law enforcement agency the identity of the person making the  
8 communication. The notice shall state the date when the prohibition  
9 commences and ends.

10 (B) That he or she may petition a court, as provided in this  
11 subdivision, for an order permitting the person to own, possess,  
12 control, receive, or purchase a firearm.

13 (3) (A) Any person who is subject to paragraph (1) may petition  
14 the superior court of his or her county of residence for an order  
15 that he or she may own, possess, have custody or control over,  
16 receive, or purchase firearms. At the time the petition is filed, the  
17 clerk of the court shall set a hearing date and notify the person,  
18 the Department of Justice, and the district attorney. The people of  
19 the State of California shall be the respondent in the proceeding  
20 and shall be represented by the district attorney. Upon motion of  
21 the district attorney, or upon its own motion, the superior court  
22 may transfer the petition to the county in which the person resided  
23 at the time of the statements, or the county in which the person  
24 made the statements. Within seven days after receiving notice of  
25 the petition, the Department of Justice shall file copies of the  
26 reports described in Section 8105 with the superior court. The  
27 reports shall be disclosed upon request to the person and to the  
28 district attorney. The district attorney shall be entitled to a  
29 continuance of the hearing to a date of not less than 14 days after  
30 the district attorney is notified of the hearing date by the clerk of  
31 the court. The court, upon motion of the petitioner establishing  
32 that confidential information is likely to be discussed during the  
33 hearing that would cause harm to the person, shall conduct the  
34 hearing in camera with only the relevant parties present, unless  
35 the court finds that the public interest would be better served by  
36 conducting the hearing in public. Notwithstanding any other  
37 provision of law, declarations, police reports, including criminal  
38 history information, and any other material and relevant evidence  
39 that is not excluded under Section 352 of the Evidence Code, shall  
40 be admissible at the hearing under this paragraph. ~~If the court finds~~

1 by a preponderance of the evidence that the person would be likely  
2 to use firearms in a safe and lawful manner, the court shall order  
3 that the person may have custody or control over, receive, possess,  
4 or purchase firearms. A copy of the order shall be submitted to the  
5 Department of Justice. Upon receipt of the order, the department  
6 shall delete any reference to the prohibition against firearms from  
7 the person's state summary criminal history information.

8 (B) *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 (C) *If the court finds at the hearing that the people have not met*  
12 *their burden as set forth in subparagraph (B), the court shall order*  
13 *that the person shall not be subject to the five-year prohibition in*  
14 *this section on the ownership, control, receipt, possession, or*  
15 *purchase of firearms, and that person shall comply with the*  
16 *procedure described in Chapter 2 (commencing with Section*  
17 *33850) of Division 11 of Title 4 of Part 6 of the Penal Code for*  
18 *the return of any firearms. A copy of the order shall be submitted*  
19 *to the Department of Justice. Upon receipt of the order, the*  
20 *Department of Justice shall delete any reference to the prohibition*  
21 *against firearms from the person's state mental health firearms*  
22 *prohibition system information.*

23 (D) *Where the district attorney declines or fails to go forward*  
24 *in the hearing, the court shall order that the person shall not be*  
25 *subject to the five-year prohibition required by this subdivision*  
26 *on the ownership, control, receipt, possession, or purchase of*  
27 *firearms, and that person shall comply with the procedure*  
28 *described in Chapter 2 (commencing with Section 33850) of*  
29 *Division 11 of Title 4 of Part 6 of the Penal Code for the return*  
30 *of any firearms. A copy of the order shall be submitted to the*  
31 *Department of Justice. Upon receipt of the order, the Department*  
32 *of Justice shall, within 15 days, delete any reference to the*  
33 *prohibition against firearms from the person's state mental health*  
34 *firearms prohibition system information.*

35 (E) *Nothing in this subdivision shall prohibit the use of reports*  
36 *filed pursuant to this section to determine the eligibility of persons*  
37 *to own, possess, control, receive, or purchase a firearm if the*  
38 *person is the subject of a criminal investigation, a part of which*  
39 *involves the ownership, possession, control, receipt, or purchase*  
40 *of a firearm.*

1 (c) “Discharge,” for the purposes of this section, does not include  
2 a leave of absence from a facility.

3 (d) “Attending health care professional,” as used in this section,  
4 means the licensed health care professional primarily responsible  
5 for the person’s treatment who is qualified to make the decision  
6 that the person has a mental disorder and has probable cause to  
7 believe that the person is a danger to self or others.

8 (e) “Deadly weapon,” as used in this section and in Sections  
9 8101, 8102, and 8103, means any weapon, the possession or  
10 concealed carrying of which is prohibited by any provision listed  
11 in Section 16590 of the Penal Code.

12 (f) “Danger to self,” as used in subdivision (a), means a  
13 voluntary person who has made a serious threat of, or attempted,  
14 suicide with the use of a firearm or other deadly weapon.

15 (g) A violation of subdivision (a) of, or paragraph (1) of  
16 subdivision (b) of, this section shall be a public offense, punishable  
17 by imprisonment pursuant to subdivision (h) of Section 1170 of  
18 the Penal Code, or in a county jail for not more than one year, by  
19 a fine not exceeding one thousand dollars (\$1,000), or by both that  
20 imprisonment and fine.

21 (h) The prohibitions set forth in this section shall be in addition  
22 to those set forth in Section 8103.

23 (i) Any person admitted and receiving treatment prior to January  
24 1, 1992, shall be governed by this section, as amended by Chapter  
25 1090 of the Statutes of 1990, until discharged from the facility.

26 *SEC. 9. Section 8102 of the Welfare and Institutions Code is*  
27 *amended to read:*

28 8102. (a) Whenever a person, who has been detained or  
29 apprehended for examination of his or her mental condition or  
30 who is a person described in Section 8100 or 8103, is found to  
31 own, have in his or her possession or under his or her control, any  
32 firearm whatsoever, or any other deadly weapon, the firearm or  
33 other deadly weapon shall be confiscated by any law enforcement  
34 agency or peace officer, who shall retain custody of the firearm  
35 or other deadly weapon.

36 “Deadly weapon,” as used in this section, has the meaning  
37 prescribed by Section 8100.

38 (b) (1) Upon confiscation of any firearm or other deadly  
39 weapon from a person who has been detained or apprehended for  
40 examination of his or her mental condition, the peace officer or

1 law enforcement agency shall notify the person of the procedure  
2 for the return of any firearm or other deadly weapon which has  
3 been confiscated.

4 **Where**

5 (2) *Where* the person is released, the professional person in  
6 charge of the facility, or his or her designee, shall notify the person  
7 of the procedure for the return of any firearm or other deadly  
8 weapon which may have been confiscated.

9 **Health**

10 (3) *Health* facility personnel shall notify the confiscating law  
11 enforcement agency upon release of the detained person, and shall  
12 make a notation to the effect that the facility provided the required  
13 notice to the person regarding the procedure to obtain return of  
14 any confiscated firearm.

15 (4) *For purposes of this subdivision, the procedure for the return*  
16 *of confiscated firearms includes the procedures described in this*  
17 *section and the procedures described in Chapter 2 (commencing*  
18 *with Section 33850) of Division 11 of Title 4 of Part 6 of the Penal*  
19 *Code.*

20 (c) Upon the release of a person as described in subdivision (b),  
21 the confiscating law enforcement agency shall have 30 days to  
22 initiate a petition in the superior court for a hearing to determine  
23 whether the return of a firearm or other deadly weapon would be  
24 likely to result in endangering the person or others, and to send a  
25 notice advising the person of his or her right to a hearing on this  
26 issue. The law enforcement agency may make an ex parte  
27 application stating good cause for an order extending the time to  
28 file a petition. Including any extension of time granted in response  
29 to an ex parte request, a petition must be filed within 60 days of  
30 the release of the person from a health facility.

31 (d) If the law enforcement agency does not initiate proceedings  
32 within the 30-day period, or the period of time authorized by the  
33 court in an ex parte order issued pursuant to subdivision (c), it  
34 shall make the weapon available for return *upon compliance with*  
35 *all applicable requirements, including the requirements specified*  
36 *in Chapter 2 (commencing with Section 33850) of Division 11 of*  
37 *Title 4 of Part 6 of the Penal Code.*

38 (e) The law enforcement agency shall inform the person that he  
39 or she has 30 days to respond to the court clerk to confirm his or  
40 her desire for a hearing, and that the failure to respond will result

1 in a default order forfeiting the confiscated firearm or weapon.  
2 *For a confiscated firearm, the period of forfeiture is 180 days*  
3 *pursuant to Section 33875 of the Penal Code, unless the person*  
4 *contacts the law enforcement agency to facilitate the sale or*  
5 *transfer of the firearm to a licensed dealer pursuant to Section*  
6 *33870 of the Penal Code. For the purpose of this subdivision, the*  
7 *person's last known address shall be the address provided to the*  
8 *law enforcement officer by the person at the time of the person's*  
9 *detention or apprehension.*

10 (f) If the person responds and requests a hearing, the court clerk  
11 shall set a hearing, no later than 30 days from receipt of the request.  
12 The court clerk shall notify the person and the district attorney of  
13 the date, time, and place of the hearing.

14 (g) If the person does not respond within 30 days of the notice,  
15 the law enforcement agency may file a petition for order of default,  
16 *allowing the law enforcement agency to destroy the firearm in 180*  
17 *days from when the court enters default unless the person contacts*  
18 *the law enforcement agency to facilitate the sale or transfer of the*  
19 *firearm to a licensed dealer pursuant to Section 33870 of the Penal*  
20 *Code.*

21 *SEC. 10. Section 8103 of the Welfare and Institutions Code is*  
22 *amended to read:*

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

36 (2) The court shall immediately notify the Department of Justice  
37 of the court order finding the individual to be a person described  
38 in paragraph (1). The court shall also *immediately* notify the  
39 Department of Justice of any certificate issued as described in  
40 paragraph (1).

1 (b) (1) No person who has been found, pursuant to Section  
2 1026 of the Penal Code or the law of any other state or the United  
3 States, not guilty by reason of insanity of murder, mayhem, a  
4 violation of Section 207, 209, or 209.5 of the Penal Code in which  
5 the victim suffers intentionally inflicted great bodily injury,  
6 carjacking or robbery in which the victim suffers great bodily  
7 injury, a violation of Section 451 or 452 of the Penal Code  
8 involving a trailer coach, as defined in Section 635 of the Vehicle  
9 Code, or any dwelling house, a violation of paragraph (1) or (2)  
10 of subdivision (a) of Section 262 or paragraph (2) or (3) of  
11 subdivision (a) of Section 261 of the Penal Code, a violation of  
12 Section 459 of the Penal Code in the first degree, assault with  
13 intent to commit murder, a violation of Section 220 of the Penal  
14 Code in which the victim suffers great bodily injury, a violation  
15 of Section 18715, 18725, 18740, 18745, 18750, or 18755 of the  
16 Penal Code, or of a felony involving death, great bodily injury, or  
17 an act which poses a serious threat of bodily harm to another  
18 person, or a violation of the law of any other state or the United  
19 States that includes all the elements of any of the above felonies  
20 as defined under California law, shall purchase or receive, or  
21 attempt to purchase or receive, or have in his or her possession or  
22 under his or her custody or control any firearm or any other deadly  
23 weapon.

24 (2) The court shall immediately notify the Department of Justice  
25 of the court order finding the person to be a person described in  
26 paragraph (1).

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

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

1 (d) (1) No person found by a court to be mentally incompetent  
2 to stand trial, pursuant to Section 1370 or 1370.1 of the Penal Code  
3 or the law of any other state or the United States, shall purchase  
4 or receive, or attempt to purchase or receive, or shall have in his  
5 or her possession, custody, or control, any firearm or any other  
6 deadly weapon, unless there has been a finding with respect to the  
7 person of restoration to competence to stand trial by the committing  
8 court, pursuant to Section 1372 of the Penal Code or the law of  
9 any other state or the United States.

10 (2) The court shall immediately notify the Department of Justice  
11 of the court order finding the person to be mentally incompetent  
12 as described in paragraph (1). The court shall also notify the  
13 Department of Justice when it finds that the person has recovered  
14 his or her competence.

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

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

1 (3) All information provided to the Department of Justice  
2 pursuant to paragraph (2) shall be kept confidential, separate, and  
3 apart from all other records maintained by the Department of  
4 Justice, and shall be used only to determine eligibility to purchase  
5 or possess firearms or other deadly weapons. Any person who  
6 knowingly furnishes that information for any other purpose is  
7 guilty of a misdemeanor. All the information concerning any person  
8 shall be destroyed upon receipt by the Department of Justice of  
9 notice of the termination of conservatorship as to that person  
10 pursuant to paragraph (2).

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

25 (2) (A) For each person subject to this subdivision, the facility  
26 shall immediately, on the date of admission, submit a report to the  
27 Department of Justice, on a form prescribed by the Department of  
28 Justice, containing information that includes, but is not limited to,  
29 the identity of the person and the legal grounds upon which the  
30 person was admitted to the facility.

31 Any report submitted pursuant to this paragraph shall be  
32 confidential, except for purposes of the court proceedings described  
33 in this subdivision and for determining the eligibility of the person  
34 to own, possess, control, receive, or purchase a firearm.

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

38 (3) Prior to, or concurrent with, the discharge, the facility shall  
39 inform a person subject to this subdivision that he or she is  
40 prohibited from owning, possessing, controlling, receiving, or

1 purchasing any firearm for a period of five years. Simultaneously,  
2 the facility shall inform the person that he or she may request a  
3 hearing from a court, as provided in this subdivision, for an order  
4 permitting the person to own, possess, control, receive, or purchase  
5 a firearm. The facility shall provide the person with a form for a  
6 request for a hearing. The Department of Justice shall prescribe  
7 the form. Where the person requests a hearing at the time of  
8 discharge, the facility shall forward the form to the superior court  
9 unless the person states that he or she will submit the form to the  
10 superior court.

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

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

1 information about the detention of the person that may be relevant  
2 to the court and shall file that information with the superior court.  
3 That information shall be disclosed to the person and to the district  
4 attorney. The court, upon motion of the person subject to paragraph  
5 (1) establishing that confidential information is likely to be  
6 discussed during the hearing that would cause harm to the person,  
7 shall conduct the hearing in camera with only the relevant parties  
8 present, unless the court finds that the public interest would be  
9 better served by conducting the hearing in public. Notwithstanding  
10 any other law, declarations, police reports, including criminal  
11 history information, and any other material and relevant evidence  
12 that is not excluded under Section 352 of the Evidence Code shall  
13 be admissible at the hearing under this section.

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

17 (7) If the court finds at the hearing set forth in paragraph (5)  
18 that the people have not met their burden as set forth in paragraph  
19 (6), the court shall order that the person shall not be subject to the  
20 five-year prohibition in this section on the ownership, control,  
21 receipt, possession, or purchase of firearms, *and that person shall*  
22 *comply with the procedure described in Chapter 2 (commencing*  
23 *with Section 33850) of Division 11 of Title 4 of Part 6 of the Penal*  
24 *Code for the return of any firearms.* A copy of the order shall be  
25 submitted to the Department of Justice. Upon receipt of the order,  
26 the Department of Justice shall delete any reference to the  
27 prohibition against firearms from the person's state mental health  
28 firearms prohibition system information.

29 (8) Where the district attorney declines or fails to go forward  
30 in the hearing, the court shall order that the person shall not be  
31 subject to the five-year prohibition required by this subdivision  
32 on the ownership, control, receipt, possession, or purchase of  
33 firearms. A copy of the order shall be submitted to the Department  
34 of Justice. Upon receipt of the order, the Department of Justice  
35 shall, within 15 days, delete any reference to the prohibition against  
36 firearms from the person's state mental health firearms prohibition  
37 system information, *and that person shall comply with the*  
38 *procedure described in Chapter 2 (commencing with Section*  
39 *33850) of Division 11 of Title 4 of Part 6 of the Penal Code for*  
40 *the return of any firearms.*

1 (9) Nothing in this subdivision shall prohibit the use of reports  
2 filed pursuant to this section to determine the eligibility of persons  
3 to own, possess, control, receive, or purchase a firearm if the person  
4 is the subject of a criminal investigation, a part of which involves  
5 the ownership, possession, control, receipt, or purchase of a  
6 firearm.

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

11 Any person who meets the criteria contained in subdivision (e)  
12 or (f) who is released from intensive treatment shall nevertheless,  
13 if applicable, remain subject to the prohibition contained in  
14 subdivision (e) or (f).

15 (2) (A) For each person certified for intensive treatment under  
16 paragraph (1), the facility shall immediately submit a report to the  
17 Department of Justice, on a form prescribed by the department,  
18 containing information regarding the person, including, but not  
19 limited to, the legal identity of the person and the legal grounds  
20 upon which the person was certified. Any report submitted pursuant  
21 to this paragraph shall only be used for the purposes specified in  
22 paragraph (2) of subdivision (f).

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

26 (3) Prior to, or concurrent with, the discharge of each person  
27 certified for intensive treatment under paragraph (1), the facility  
28 shall inform the person of that information specified in paragraph  
29 (3) of subdivision (f).

30 (4) Any person who is subject to paragraph (1) may petition the  
31 superior court of his or her county of residence for an order that  
32 he or she may own, possess, control, receive, or purchase firearms.  
33 At the time the petition is filed, the clerk of the court shall set a  
34 hearing date and notify the person, the Department of Justice, and  
35 the district attorney. The people of the State of California shall be  
36 the respondent in the proceeding and shall be represented by the  
37 district attorney. Upon motion of the district attorney, or on its  
38 own motion, the superior court may transfer the petition to the  
39 county in which the person resided at the time of his or her  
40 detention, the county in which the person was detained, or the

1 county in which the person was evaluated or treated. Within seven  
2 days after receiving notice of the petition, the Department of Justice  
3 shall file copies of the reports described in this section with the  
4 superior court. The reports shall be disclosed upon request to the  
5 person and to the district attorney. The district attorney shall be  
6 entitled to a continuance of the hearing to a date of not less than  
7 14 days after the district attorney was notified of the hearing date  
8 by the clerk of the court. The district attorney may notify the county  
9 mental health director of the petition, and the county mental health  
10 director shall provide information about the detention of the person  
11 that may be relevant to the court and shall file that information  
12 with the superior court. That information shall be disclosed to the  
13 person and to the district attorney. The court, upon motion of the  
14 person subject to paragraph (1) establishing that confidential  
15 information is likely to be discussed during the hearing that would  
16 cause harm to the person, shall conduct the hearing in camera with  
17 only the relevant parties present, unless the court finds that the  
18 public interest would be better served by conducting the hearing  
19 in public. Notwithstanding any other provision of law, any  
20 declaration, police reports, including criminal history information,  
21 and any other material and relevant evidence that is not excluded  
22 under Section 352 of the Evidence Code, shall be admissible at  
23 the hearing under this section. If the court finds by a preponderance  
24 of the evidence that the person would be likely to use firearms in  
25 a safe and lawful manner, the court may order that the person may  
26 own, control, receive, possess, or purchase firearms, *and that*  
27 *person shall comply with the procedure described in Chapter 2*  
28 *(commencing with Section 33850) of Division 11 of Title 4 of Part*  
29 *6 of the Penal Code for the return of any firearms.* A copy of the  
30 order shall be submitted to the Department of Justice. Upon receipt  
31 of the order, the Department of Justice shall delete any reference  
32 to the prohibition against firearms from the person's state mental  
33 health firearms prohibition system information.

34 (h) (1) For all persons identified in subdivisions (f) and (g),  
35 facilities shall report to the Department of Justice as specified in  
36 those subdivisions, except facilities shall not report persons under  
37 subdivision (g) if the same persons previously have been reported  
38 under subdivision (f).

39 ~~Additionally,~~

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

6 (i) Every person who owns or possesses or has under his or her  
7 custody or control, or purchases or receives, or attempts to purchase  
8 or receive, any firearm or any other deadly weapon in violation of  
9 this section shall be punished by imprisonment pursuant to  
10 subdivision (h) of Section 1170 of the Penal Code or in a county  
11 jail for not more than one year.

12 (j) “Deadly weapon,” as used in this section, has the meaning  
13 prescribed by Section 8100.

14 (k) *For purposes of this section, “immediately” means a period*  
15 *of time not exceeding 24 hours.*

16 (l) *Any notice or report required to be submitted to the*  
17 *Department of Justice pursuant to this section shall be submitted*  
18 *in an electronic format, in a manner prescribed by the Department*  
19 *of Justice.*

20 *SEC. 11. Section 8104 of the Welfare and Institutions Code is*  
21 *amended to read:*

22 8104. The State Department of State Hospitals shall maintain  
23 in a convenient central location and shall make available to the  
24 Department of Justice those records that the State Department of  
25 State Hospitals has in its possession that are necessary to identify  
26 persons who come within Section 8100 or 8103. ~~These records~~  
27 ~~shall be made~~ *Upon request of the Department of Justice, the State*  
28 *Department of State Hospitals shall make these records available*  
29 *to the Department of Justice—upon in electronic format within*  
30 *twenty-four hours of receiving the request.* The Department of  
31 Justice shall make these requests only with respect to its duties  
32 with regard to applications for permits for, or to carry, or the  
33 possession, purchase, or transfer of, explosives as defined in  
34 Section 12000 of the Health and Safety Code, devices defined in  
35 Section 16250, 16530, or 16640 of the Penal Code, in subdivisions  
36 (a) to (d), inclusive, of Section 16520 of the Penal Code, or in  
37 subdivision (a) of Section 16840 of the Penal Code, machineguns  
38 as defined in Section 16880 of the Penal Code, short-barreled  
39 shotguns or short-barreled rifles as defined in Sections 17170 and  
40 17180 of the Penal Code, assault weapons as defined in Section

1 30510 of the Penal Code, and destructive devices as defined in  
2 Section 16460 of the Penal Code, or to determine the eligibility  
3 of a person to acquire, carry, or possess a firearm, explosive, or  
4 destructive device by a person who is subject to a criminal  
5 investigation, a part of which involves the acquisition, carrying,  
6 or possession of a firearm by that person. These records shall not  
7 be furnished or made available to any person unless the department  
8 determines that disclosure of any information in the records is  
9 necessary to carry out its duties with respect to applications for  
10 permits for, or to carry, or the possession, purchase, or transfer of,  
11 explosives, destructive devices, devices as defined in Section  
12 16250, 16530, or 16640 of the Penal Code, in subdivisions (a) to  
13 (d), inclusive, of Section 16520 of the Penal Code, or in subdivision  
14 (a) of Section 16840 of the Penal Code, short-barreled shotguns,  
15 short-barreled rifles, assault weapons, and machineguns, or to  
16 determine the eligibility of a person to acquire, carry, or possess  
17 a firearm, explosive, or destructive device by a person who is  
18 subject to a criminal investigation, a part of which involves the  
19 acquisition, carrying, or possession of a firearm by that person.

20 *SEC. 12. Section 8105 of the Welfare and Institutions Code is*  
21 *amended to read:*

22 8105. (a) The Department of Justice shall request each public  
23 and private mental hospital, sanitarium, and institution to submit  
24 to the department that information that the department deems  
25 necessary to identify those persons who are within subdivision (a)  
26 of Section 8100, in order to carry out its duties in relation to  
27 firearms, destructive devices, and explosives.

28 (b) Upon request of the Department of Justice pursuant to  
29 subdivision (a), each public and private mental hospital, sanitarium,  
30 and institution shall submit to the department that information  
31 which the department deems necessary to identify those persons  
32 who are within subdivision (a) of Section 8100, in order to carry  
33 out its duties in relation to firearms, destructive devices, and  
34 explosives.

35 (c) A licensed psychotherapist shall immediately report to a  
36 local law enforcement agency the identity of a person subject to  
37 subdivision (b) of Section 8100. Upon receipt of the report, the  
38 local law enforcement agency, ~~on a form~~ *in an electronic format,*  
39 *in a manner* prescribed by the Department of Justice, shall

1 immediately notify the department of the person who is subject to  
2 subdivision (b) of Section 8100.

3 (d) All information provided to the Department of Justice  
4 pursuant to this section shall be kept confidential, separate and  
5 apart from all other records maintained by the department. The  
6 information provided to the Department of Justice pursuant to this  
7 section shall be used only for any of the following purposes:

8 (1) By the department to determine eligibility of a person to  
9 acquire, carry, or possess firearms, destructive devices, or  
10 explosives.

11 (2) For the purposes of the court proceedings described in  
12 subdivision (b) of Section 8100 to determine the eligibility of the  
13 person who is bringing the petition pursuant to paragraph (3) of  
14 subdivision (b) of Section 8100.

15 (3) To determine the eligibility of a person to acquire, carry, or  
16 possess firearms, destructive devices, or explosives who is the  
17 subject of a criminal investigation, if a part of the criminal  
18 investigation involves the acquisition, carrying, or possession of  
19 firearms, explosives, or destructive devices by that person.

20 (e) Reports shall not be required or requested under this section  
21 where the same person has been previously reported pursuant to  
22 Section 8103 or 8104.

23 *SEC. 13. Section 4 of this bill shall become operative only if*  
24 *Senate Bill 53 of the 2013–14 Regular Session is enacted and*  
25 *becomes operative.*

26 *SEC. 14. No reimbursement is required by this act pursuant*  
27 *to Section 6 of Article XIII B of the California Constitution for*  
28 *certain costs that may be incurred by a local agency or school*  
29 *district because, in that regard, this act creates a new crime or*  
30 *infraction, eliminates a crime or infraction, or changes the penalty*  
31 *for a crime or infraction, within the meaning of Section 17556 of*  
32 *the Government Code, or changes the definition of a crime within*  
33 *the meaning of Section 6 of Article XIII B of the California*  
34 *Constitution.*

35 *However, if the Commission on State Mandates determines that*  
36 *this act contains other costs mandated by the state, reimbursement*  
37 *to local agencies and school districts for those costs shall be made*  
38 *pursuant to Part 7 (commencing with Section 17500) of Division*  
39 *4 of Title 2 of the Government Code.*

1 ~~SEC. 13. No reimbursement is required by this act pursuant to~~  
2 ~~Section 6 of Article XIII B of the California Constitution because~~  
3 ~~the only costs that may be incurred by a local agency or school~~  
4 ~~district will be incurred because this act creates a new crime or~~  
5 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
6 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
7 ~~the Government Code, or changes the definition of a crime within~~  
8 ~~the meaning of Section 6 of Article XIII B of the California~~  
9 ~~Constitution.~~

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