

AMENDED IN ASSEMBLY APRIL 8, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 740

Introduced by Assembly Member Alejo

February 21, 2013

An act to amend Sections 16520, 16730, and ~~29805~~ 27590 of, and to add Sections 27575, 27580, and 27585 to, the Penal Code, and to amend Section 8103 of the Welfare and Institutions Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 740, as amended, Alejo. Firearms.

Existing law provides that certain prohibitions on the transfer of firearms do not apply if the transfer is among other things, infrequent. Existing law defines "infrequent" for these purposes as less than 6 transactions per calendar year for handguns, and occasional and without regularity for firearms other than handguns. Existing law defines "transaction" for these purposes as a single sale, lease, or transfer of any number of handguns.

This bill would define "infrequent" for purposes of these provisions as less than ~~5~~ 6 firearms transactions per calendar year. The bill would revise the definition of "transaction" for these purposes to mean a single sale, lease, or transfer of any number of firearms.

By expanding the definitions of the underlying crimes affected by the definition of infrequent, this bill would impose a state-mandated local program.

Existing law, subject to exceptions, provides that any person who has been convicted of certain misdemeanors may not, within 10 years of the conviction, own, purchase, receive, possess, or have under his or

~~her custody or control, any firearm. Violation of this prohibition is punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding \$1,000, or by both that imprisonment and fine.~~

~~This bill would add to the list of misdemeanors, the conviction for which is subject to those prohibitions, a violation of the above-described 10-year prohibition, as well as the misdemeanor offenses of interfering with a public official, peace officer, or emergency technician interfering with transmissions over a public safety radio frequency; a violation of the provision requiring a person to be a licensed firearms dealer in order to sell, lease, or transfer firearms; possession of ammunition by a person prohibited from possessing firearms; supplying, delivering, selling, or giving possession or control of ammunition to a person prohibited from possessing firearms; and carrying ammunition on school grounds, as specified.~~

~~By expanding the scope of an existing crime, this bill would impose a state-mandated local program.~~

Existing law, subject to exceptions, requires a firearm transaction to be conducted by a licensed firearms dealer. Existing law establishes requirements that dealers must adhere to in conducting firearms transactions and when delivering firearms, including, among others, a 10-day waiting period, purchaser background check, and possession of a handgun safety certificate by the purchaser.

This bill would make it a crime for a person to purchase or receive a firearm from a dealer, knowing or having reasonable cause to believe that the delivery of that firearm by that dealer to that person violates specified provisions regulating the delivery of a firearm by a dealer. The bill would make it a crime for any person, corporation, or dealer to transport or bring into this state a firearm for the purpose of selling, transferring, or loaning the firearm with the intent to avoid the requirement that the transaction be conducted by a dealer, or with the intent to avoid the requirements of any exemption to that dealer requirement. The bill would make additional conforming changes.

~~By creating new crimes, this bill would impose a state-mandated local program.~~

Existing law prohibits a person who, after October 1, 1955, has been adjudicated by a court of any state to be a danger to others as a result of a mental disorder or mental illness, or who has been adjudicated to be a mentally disordered sex offender, from purchasing or receiving, or attempting to purchase or receive, or having in his or her possession,

custody, or control any firearm or any other deadly weapon unless he or she has been issued a certificate by the court of adjudication upon release from treatment or at a later date stating that the person may possess a firearm or any other deadly weapon without endangering others, and the person has not, subsequent to the issuance of the certificate, again been adjudicated by a court to be a danger to others as a result of a mental disorder or mental illness. Existing law similarly prohibits certain other persons from possessing firearms, including, among others, persons found not guilty by reason of insanity of specified crimes, persons found incompetent to stand trial, and persons placed under a conservatorship for specified reasons. Existing law requires the court to notify the Department of Justice regarding these persons and certain other persons prohibited from possessing firearms, as specified.

This bill would require the court to report the required information to the Department of Justice exclusively by electronic means, in a manner prescribed by the department.

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.

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 16520 of the Penal Code is amended to*
2 *read:*
3 16520. (a) As used in this part, “firearm” means a device,
4 designed to be used as a weapon, from which is expelled through
5 a barrel, a projectile by the force of an explosion or other form of
6 combustion.
7 (b) As used in the following provisions, “firearm” includes the
8 frame or receiver of the weapon:
9 (1) Section 16550.
10 (2) Section 16730.
11 (3) Section 16960.
12 (4) Section 16990.
13 (5) Section 17070.

- 1 (6) Section 17310.
- 2 (7) Sections 26500 to 26588, inclusive.
- 3 (8) Sections 26600 to 27140, inclusive.
- 4 (9) Sections 27400 to 28000, inclusive.
- 5 (10) Section 28100.
- 6 (11) Sections 28400 to 28415, inclusive.
- 7 (12) Sections 29010 to 29150, inclusive.
- 8 (13) Sections 29610 to 29750, inclusive.
- 9 (14) Sections 29800 to 29905, inclusive.
- 10 (15) Sections 30150 to 30165, inclusive.
- 11 (16) Section 31615.
- 12 (17) Sections 31705 to 31830, inclusive.
- 13 (18) Sections 34355 to 34370, inclusive.
- 14 (19) Sections 8100, 8101, and 8103 of the Welfare and
- 15 Institutions Code.
- 16 (c) As used in the following provisions, “firearm” also includes
- 17 a rocket, rocket propelled projectile launcher, or similar device
- 18 containing an explosive or incendiary material, whether or not the
- 19 device is designed for emergency or distress signaling purposes:
- 20 (1) Section 16750.
- 21 (2) Subdivision (b) of Section 16840.
- 22 (3) Section 25400.
- 23 (4) Sections 25850 to 26025, inclusive.
- 24 (5) Subdivisions (a), (b), and (c) of Section 26030.
- 25 (6) Sections 26035 to 26055, inclusive.
- 26 (d) As used in the following provisions, “firearm” does not
- 27 include an unloaded antique firearm:
- 28 (1) Subdivisions (a) and (c) of Section 16730.
- 29 (2) Section 16550.
- 30 (3) Section 16960.
- 31 (4) Section 17310.
- 32 (5) Chapter 6 (commencing with Section 26350) of Division 5
- 33 of Title 4.
- 34 (6) Chapter 7 (commencing with Section 26400) of Division 5
- 35 of Title 4.
- 36 (7) Sections 26500 to 26588, inclusive.
- 37 (8) Sections 26700 to 26915, inclusive.
- 38 (9) Section 27510.
- 39 (10) Section 27530.
- 40 (11) Section 27540.

1 (12) Section 27545.

2 (13) Sections 27555 to ~~27570~~ 27585, inclusive.

3 (14) Sections 29010 to 29150, inclusive.

4 (e) As used in Sections 34005 and 34010, “firearm” does not
5 include a destructive device.

6 (f) As used in Sections 17280 and 24680, “firearm” has the
7 same meaning as in Section 922 of Title 18 of the United States
8 Code.

9 (g) As used in Sections 29010 to 29150, inclusive, “firearm”
10 includes the unfinished frame or receiver of a weapon that can be
11 readily converted to the functional condition of a finished frame
12 or receiver.

13 ~~SECTION 1.~~

14 *SEC. 2.* Section 16730 of the Penal Code is amended to read:

15 16730. (a) As used in Section 31815 and in Division 6
16 (commencing with Section 26500) of Title 4, “infrequent” means
17 fewer than ~~five~~ six transactions per year.

18 (b) As used in Section 27900, the term “infrequent” shall not
19 be construed to prohibit different local chapters of the same
20 nonprofit corporation from conducting auctions or similar events,
21 provided the individual local chapter conducts the auctions or
22 similar events infrequently. It is the intent of the Legislature that
23 different local chapters, representing different localities, be entitled
24 to invoke the exemption created by Section 27900, notwithstanding
25 the frequency with which other chapters of the same nonprofit
26 corporation may conduct auctions or similar events.

27 (c) As used in this section, “transaction” means a single sale,
28 lease, or transfer of any number of firearms.

29 ~~SEC. 2.~~ Section ~~29805~~ of the Penal Code is amended to read:

30 ~~29805.~~ ~~Except as provided in Section 29855 or subdivision (a)~~
31 ~~of Section 29800, any person who has been convicted of a~~
32 ~~misdemeanor violation of this section, Section 71, 76, 136.1, 136.5,~~
33 ~~140, 148, Section 171b, paragraph (1) of subdivision (a) of Section~~
34 ~~171e, 171d, 186.28, 240, 241, 242, 243, 243.4, 244.5, 245, 245.5,~~
35 ~~246.3, 247, 273.5, 273.6, 417, 417.6, 422, 626.9, 646.9, or 830.95,~~
36 ~~subdivision (a) of former Section 12100, as that section read at~~
37 ~~any time from when it was enacted by Section 3 of Chapter 1386~~
38 ~~of the Statutes of 1988 to when it was repealed by Section 18 of~~
39 ~~Chapter 23 of the Statutes of 1994, Section 17500, 17510, 25300,~~
40 ~~25800, 26500, 30305, 30306, 30310, 30315, or 32625, subdivision~~

1 ~~(b) or (d) of Section 26100, or Section 27510, or Section 8100,~~
2 ~~8101, or 8103 of the Welfare and Institutions Code, any~~
3 ~~firearm-related offense pursuant to Sections 871.5 and 1001.5 of~~
4 ~~the Welfare and Institutions Code, or of the conduct punished in~~
5 ~~subdivision (e) of Section 27590, and who, within 10 years of the~~
6 ~~conviction, owns, purchases, receives, or has in possession or under~~
7 ~~custody or control, any firearm is guilty of a public offense, which~~
8 ~~shall be punishable by imprisonment in a county jail not exceeding~~
9 ~~one year or in the state prison, by a fine not exceeding one thousand~~
10 ~~dollars (\$1,000), or by both that imprisonment and fine. The court,~~
11 ~~on forms prescribed by the Department of Justice, shall notify the~~
12 ~~department of persons subject to this section. However, the~~
13 ~~prohibition in this section may be reduced, eliminated, or~~
14 ~~conditioned as provided in Section 29855 or 29860.~~

15 *SEC. 3. Section 27575 is added to the Penal Code, to read:*

16 *27575. (a) A person shall not purchase or receive a firearm*
17 *from a dealer, knowing or having reasonable cause to believe that*
18 *the delivery of that firearm by that dealer to that person violates*
19 *subdivision (a), (c), (d), or (e) of Section 27540.*

20 *(b) The prohibitions of this section are cumulative and do not*
21 *restrict the application of any other law. However, an act or*
22 *omission punishable in different ways by this section and different*
23 *provisions of this code shall not be punished under more than one*
24 *provision.*

25 *SEC. 4. Section 27580 is added to the Penal Code, to read:*

26 *27580. (a) A person, corporation, or dealer shall not transport*
27 *or bring into this state a firearm for the purpose of selling,*
28 *transferring, or loaning the firearm with the intent to avoid the*
29 *requirements of Section 27545, or the intent to avoid the*
30 *requirements of any exemption to Section 27545.*

31 *(b) A dealer shall not transport or bring into this state a firearm*
32 *for the purpose of selling, transferring, or loaning the firearm with*
33 *the intent to violate Section 27510 or 27540.*

34 *(c) The prohibitions of this section are cumulative and do not*
35 *restrict the application of any other law. However, an act or*
36 *omission punishable in different ways by this section and different*
37 *provisions of this code shall not be punished under more than one*
38 *provision.*

39 *SEC. 5. Section 27585 is added to the Penal Code, to read:*

1 27585. (a) A California resident who seeks to own and possess
2 within the state a firearm acquired from outside the state shall
3 have that firearm delivered to a dealer in this state for delivery to
4 that resident pursuant to the procedures set forth in Section 27540.

5 (b) Subdivision (a) does not apply to or affect any of the
6 following:

7 (1) A licensed collector who is subject to and complies with
8 Section 27565.

9 (2) A dealer, where the dealer is receiving the firearm in the
10 course and scope of his or her activities as a dealer.

11 (3) A wholesaler where the wholesaler is receiving the firearm
12 in the course and scope of his or her activities as a wholesaler.

13 (4) A person licensed as an importer of firearms or ammunition
14 or licensed as a manufacturer of firearms or ammunition, pursuant
15 to Section 921 et seq. of Title 18 of the United States Code and the
16 regulations issued pursuant thereto if the importer or manufacturer
17 is receiving the firearm in the course and scope of his or her
18 activities as a licensed importer or manufacturer.

19 (5) A personal firearm importer who is subject to and complies
20 with Section 27560.

21 (c) The prohibitions of this section are cumulative and do not
22 restrict the application of any other law. However, an act or
23 omission punishable in different ways by this section and different
24 provisions of this code shall not be punished under more than one
25 provision.

26 SEC. 6. Section 27590 of the Penal Code is amended to read:

27 27590. (a) Except as provided in subdivision (b), (c), or (e),
28 a violation of this article is a misdemeanor.

29 (b) If any of the following circumstances apply, a violation of
30 this article is punishable by imprisonment pursuant to subdivision
31 (h) of Section 1170 for two, three, or four years.

32 (1) If the violation is of subdivision (a) of Section 27500.

33 (2) If the defendant has a prior conviction of violating the
34 provisions, other than Section 27535, Section 27560 involving a
35 firearm that is not a handgun, or Section 27565 involving a firearm
36 that is not a handgun, of this article or former Section 12100 of
37 this code, as Section 12100 read at any time from when it was
38 enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to
39 when it was repealed by Section 18 of Chapter 23 of the Statutes
40 of 1994, or Section 8101 of the Welfare and Institutions Code.

1 (3) If the defendant has a prior conviction of violating any
2 offense specified in Section 29905 or of a violation of Section
3 32625 or 33410, or of former Section 12560, as that section read
4 at any time from when it was enacted by Section 4 of Chapter 931
5 of the Statutes of 1965 to when it was repealed by Section 14 of
6 Chapter 9 of the Statutes of 1990, or of any provision listed in
7 Section 16590.

8 (4) If the defendant is in a prohibited class described in Chapter
9 2 (commencing with Section 29800) or Chapter 3 (commencing
10 with Section 29900) of Division 9 of this title, or Section 8100 or
11 8103 of the Welfare and Institutions Code.

12 (5) A violation of this article by a person who actively
13 participates in a “criminal street gang” as defined in Section 186.22.

14 (6) A violation of Section 27510 involving the delivery of any
15 firearm to a person who the dealer knows, or should know, is a
16 minor.

17 (c) If any of the following circumstances apply, a violation of
18 this article shall be punished by imprisonment in a county jail not
19 exceeding one year or pursuant to subdivision (h) of Section 1170,
20 or by a fine not to exceed one thousand dollars (\$1,000), or by
21 both that fine and imprisonment.

22 (1) A violation of Section 27515, 27520, 27580, or subdivision
23 (b) of Section 27500.

24 (2) A violation of Section 27505 involving the sale, loan, or
25 transfer of a handgun to a minor.

26 (3) A violation of Section 27510 involving the delivery of a
27 handgun.

28 (4) A violation of subdivision (a), (c), (d), (e), or (f) of Section
29 27540 involving a handgun.

30 (5) A violation of Section 27545 involving a handgun.

31 (6) A violation of Section 27550.

32 (7) *A violation of Section 27575 involving a handgun.*

33 (8) *A violation of Section 27585 involving a handgun.*

34 (d) If both of the following circumstances apply, an additional
35 term of imprisonment pursuant to subdivision (h) of Section 1170
36 for one, two, or three years shall be imposed in addition and
37 consecutive to the sentence prescribed.

38 (1) A violation of Section 27510 or subdivision (b) of Section
39 27500.

1 (2) The firearm transferred in violation of Section 27510 or
2 subdivision (b) of Section 27500 is used in the subsequent
3 commission of a felony for which a conviction is obtained and the
4 prescribed sentence is imposed.

5 (e) (1) A first violation of Section 27535 is an infraction
6 punishable by a fine of fifty dollars (\$50).

7 (2) A second violation of Section 27535 is an infraction
8 punishable by a fine of one hundred dollars (\$100).

9 (3) A third or subsequent violation of Section 27535 is a
10 misdemeanor.

11 (4) For purposes of this subdivision each application to purchase
12 a handgun in violation of Section 27535 shall be deemed a separate
13 offense.

14 *SEC. 7. Section 8103 of the Welfare and Institutions Code is*
15 *amended to read:*

16 8103. (a) (1) No person who after October 1, 1955, has been
17 adjudicated by a court of any state to be a danger to others as a
18 result of a mental disorder or mental illness, or who has been
19 adjudicated to be a mentally disordered sex offender, shall purchase
20 or receive, or attempt to purchase or receive, or have in his or her
21 possession, custody, or control any firearm or any other deadly
22 weapon unless there has been issued to the person a certificate by
23 the court of adjudication upon release from treatment or at a later
24 date stating that the person may possess a firearm or any other
25 deadly weapon without endangering others, and the person has
26 not, subsequent to the issuance of the certificate, again been
27 adjudicated by a court to be a danger to others as a result of a
28 mental disorder or mental illness.

29 (2) The court shall immediately notify the Department of Justice
30 of the court order finding the individual to be a person described
31 in paragraph (1). The court shall also notify the Department of
32 Justice of any certificate issued as described in paragraph (1).

33 (b) (1) No person who has been found, pursuant to Section
34 1026 of the Penal Code or the law of any other state or the United
35 States, not guilty by reason of insanity of murder, mayhem, a
36 violation of Section 207, 209, or 209.5 of the Penal Code in which
37 the victim suffers intentionally inflicted great bodily injury,
38 carjacking or robbery in which the victim suffers great bodily
39 injury, a violation of Section 451 or 452 of the Penal Code
40 involving a trailer coach, as defined in Section 635 of the Vehicle

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

16 (2) The court shall immediately notify the Department of Justice
17 of the court order finding the person to be a person described in
18 paragraph (1).

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

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

32 (d) (1) No person found by a court to be mentally incompetent
33 to stand trial, pursuant to Section 1370 or 1370.1 of the Penal Code
34 or the law of any other state or the United States, shall purchase
35 or receive, or attempt to purchase or receive, or shall have in his
36 or her possession, custody, or control, any firearm or any other
37 deadly weapon, unless there has been a finding with respect to the
38 person of restoration to competence to stand trial by the committing
39 court, pursuant to Section 1372 of the Penal Code or the law of
40 any other state or the United States.

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

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

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

31 (3) All information provided to the Department of Justice
32 pursuant to paragraph (2) shall be kept confidential, separate, and
33 apart from all other records maintained by the Department of
34 Justice, and shall be used only to determine eligibility to purchase
35 or possess firearms or other deadly weapons. Any person who
36 knowingly furnishes that information for any other purpose is
37 guilty of a misdemeanor. All the information concerning any person
38 shall be destroyed upon receipt by the Department of Justice of
39 notice of the termination of conservatorship as to that person
40 pursuant to paragraph (2).

1 (f) (1) No person who has been (A) taken into custody as
2 provided in Section 5150 because that person is a danger to himself,
3 herself, or to others, (B) assessed within the meaning of Section
4 5151, and (C) admitted to a designated facility within the meaning
5 of Sections 5151 and 5152 because that person is a danger to
6 himself, herself, or others, shall own, possess, control, receive, or
7 purchase, or attempt to own, possess, control, receive, or purchase
8 any firearm for a period of five years after the person is released
9 from the facility. A person described in the preceding sentence,
10 however, may own, possess, control, receive, or purchase, or
11 attempt to own, possess, control, receive, or purchase any firearm
12 if the superior court has, pursuant to paragraph (5), found that the
13 people of the State of California have not met their burden pursuant
14 to paragraph (6).

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

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

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

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

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

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

1 history information, and any other material and relevant evidence
2 that is not excluded under Section 352 of the Evidence Code shall
3 be admissible at the hearing under this section.

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

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

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

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

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

35 Any person who meets the criteria contained in subdivision (e)
36 or (f) who is released from intensive treatment shall nevertheless,
37 if applicable, remain subject to the prohibition contained in
38 subdivision (e) or (f).

39 (2) (A) For each person certified for intensive treatment under
40 paragraph (1), the facility shall immediately submit a report to the

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

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

10 (3) Prior to, or concurrent with, the discharge of each person
11 certified for intensive treatment under paragraph (1), the facility
12 shall inform the person of that information specified in paragraph
13 (3) of subdivision (f).

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

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

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

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

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

31 (j) *If a court is required to report information to the Department*
32 *of Justice pursuant to this section, that court shall submit that*
33 *information exclusively by electronic means, in a manner*
34 *prescribed by the department.*

35 (j)

36 (k) "Deadly weapon," as used in this section, has the meaning
37 prescribed by Section 8100.

38 ~~SEC. 3.~~

39 ~~SEC. 8.~~ No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

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