

AMENDED IN SENATE AUGUST 21, 2014  
AMENDED IN SENATE AUGUST 18, 2014  
AMENDED IN SENATE AUGUST 4, 2014  
AMENDED IN SENATE JULY 2, 2014  
AMENDED IN SENATE JUNE 11, 2014  
AMENDED IN SENATE MAY 28, 2014  
AMENDED IN ASSEMBLY MAY 8, 2013  
AMENDED IN ASSEMBLY APRIL 24, 2013  
AMENDED IN ASSEMBLY APRIL 9, 2013  
AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1014**

---

---

**Introduced by Assembly Members Skinner and Williams**

(Principal coauthor: Senator Jackson)

**(Coauthors: Assembly Members Alejo, Bloom, Bonilla, Bonta, Buchanan, Dickinson, Levine, Lowenthal, Rendon, Stone, Ting, and Wieckowski)**

February 22, 2013

---

---

An act to amend ~~Sections 1524 and 18250 of, Section 1524 of, to amend, repeal, and add Section 18250 of,~~ to add Section 1542.5 to, and to add Division 3.2 (commencing with Section 18100) to Title 2 of Part 6 of, the Penal Code, and to ~~amend~~ *amend, repeal, and add* Section 8105 of the Welfare and Institutions Code, relating to firearms.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1014, as amended, Skinner. Gun violence restraining orders.

(1) Existing law regulates the sale, transfer, possession, and ownership of firearms, including prohibiting specified persons from owning or possessing firearms. Existing law, among other things, prohibits a person subject to a domestic violence protective order from owning or possessing a firearm while that order is in effect and if prohibited by that order.

This bill would authorize a court to issue a temporary emergency gun violence restraining order if a law enforcement officer asserts and a judicial officer finds that there is reasonable cause to believe that the subject of the petition poses an immediate and present danger of causing personal injury to himself, herself, or another by having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm and that the order is necessary to prevent personal injury to himself, herself, or another, as specified. The bill would require a law enforcement officer to serve the order on the restrained person, if the restrained person can reasonably be located, file a copy of the order with the court, and have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice. The bill would require the presiding judge of the superior court of each county to designate at least one judge, commissioner, or referee who is required to be reasonably available to issue temporary emergency gun violence restraining orders when the court is not in session.

This bill would additionally authorize a court to issue an ex parte gun violence restraining order prohibiting the subject of the petition from having in his or her custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or ammunition when it is shown that there is a substantial likelihood that the subject of the petition ~~will cause~~ *poses a significant danger of* harm to himself, herself, or another in the near future by having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm and that the order is necessary to prevent personal injury to himself, herself, or another, as specified. The bill would require the ex parte order to expire no later than 21 days after the date on the order and would require the court to hold a hearing within 21 days of issuing the ex parte gun violence restraining order to determine if a gun violence restraining order that is in effect for one year should be issued. The bill

would require a law enforcement officer or a person at least 18 years of age who is not a party to the action to personally serve the restrained person the ex parte order, if the restrained person can reasonably be located.

The bill would authorize a court to issue a gun violence restraining order prohibiting the subject of the petition from having in his or her custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or ammunition for a period of one year when there is clear and convincing evidence that the subject of the petition, or a person subject to an ex parte gun violence restraining order, as applicable, ~~will cause~~ *poses a significant danger of* personal injury to himself, herself, or another by having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm and that the order is necessary to prevent personal injury to himself, herself, or another, as specified. The bill would authorize the renewal of the order for additional one-year periods and would permit the restrained person to request one hearing to terminate the order during the effective period of the initial order or each renewal period.

The bill would require a court, upon issuance of a gun violence restraining order, to order the restrained person to surrender to the local law enforcement agency all firearms and ammunition in his or her custody or control, or which he or she possesses or owns. The bill would require the local law enforcement agency to retain custody of the firearm or firearms and ammunition for the duration of a gun violence restraining order.

The bill would require the court to notify the Department of Justice ~~and the district attorney and law enforcement agency in the jurisdiction in which a gun violence restraining order was issued~~ when any gun violence restraining order has been issued, renewed, dissolved, or terminated. *The bill would also require the court, when sending that notice, to specify whether the person subject to the gun violence restraining order was present in court to be informed of the contents of the order or if the person failed to appear. The bill would require proof of service of the order to be entered into the California Restraining and Protective Order System, as specified.*

The bill would make it a misdemeanor to file a petition for an ex parte gun violence restraining order or a gun violence restraining order issued after notice and a hearing, knowing the information in the petition to be false or with the intent to harass. The bill would also provide that a person who ~~violates~~ *owns or possesses a firearm or ammunition with*

*the knowledge that he or she is prohibited from doing so by a gun violence restraining order is guilty of a misdemeanor and shall be prohibited from having in his or her custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or ammunition for a 5-year period, commencing upon the expiration of the existing gun violence restraining order.*

By creating new crimes and by requiring new duties of local law enforcement, this bill would impose a state-mandated local program.

(2) Existing law states the grounds upon which a search warrant may be issued, including when the property or things to be seized include a firearm or any other deadly weapon that is owned by, or in the possession of, or in the custody or control of, specified persons.

This bill would allow a search warrant to be issued when the property or things to be seized are firearms or ammunition or both that are owned by, in the possession of, or in the custody or control of, a person who is the subject of a gun violence restraining order if a prohibited firearm or ammunition or both is possessed, owned, in the custody of, or controlled by a person against whom a gun violence restraining order has been issued, the person has been lawfully served with that order, and the person has failed to relinquish the firearm as required by law. The bill would also require the law enforcement officer executing a search warrant issued upon that ground to take custody of any firearm or ammunition that is in the restrained person's custody or control or ~~possession, possession or~~ that is owned by the restrained person, ~~or that~~ *which* is discovered pursuant to a consensual or other lawful search and would provide rules for executing the search warrant when the location to be searched is jointly occupied by the restrained person and one or more other persons.

(3) Existing law requires specified law enforcement officers to take temporary custody of any firearm or deadly weapon in plain sight or discovered pursuant to a lawful search when present at the scene of a domestic violence incident involving a threat to human life or physical assault.

This bill would apply the requirements described above to law enforcement officers serving a gun violence restraining order. The bill would also apply those requirements when the law enforcement officer is a sworn member of the Department of Justice who is a peace officer.

(4) Existing law requires the Department of Justice to request public and private mental hospitals, sanitariums, and institutions to submit to the department information necessary to identify persons who are

admitted to a specified facility because the person is a danger to himself, herself, or others, to own, possess, control, receive, or purchase any firearm. Existing law requires the department to only use the information for certain specified purposes.

This bill would require the department to make use of the above-described information only to determine the eligibility of a person who is the subject to either a gun violence restraining order or a firearm seizure warrant to acquire, carry, or possess firearms, destructive devices, or explosives.

(5) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(6) This bill would incorporate additional changes in Section 18250 of the Penal Code, proposed by SB 1154, to be operative only if SB 1154 and this bill are chaptered and become effective on or before January 1, 2015, and this bill is chaptered last.

(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.

(8) *The provisions of this bill would be effective January 1, 2016.*

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 1524 of the Penal Code is amended to  
2 read:

3 1524. (a) A search warrant may be issued upon any of the  
4 following grounds:

5 (1) When the property was stolen or embezzled.

1 (2) When the property or things were used as the means of  
2 committing a felony.

3 (3) When the property or things are in the possession of any  
4 person with the intent to use them as a means of committing a  
5 public offense, or in the possession of another to whom he or she  
6 may have delivered them for the purpose of concealing them or  
7 preventing them from being discovered.

8 (4) When the property or things to be seized consist of any item  
9 or constitute any evidence that tends to show a felony has been  
10 committed, or tends to show that a particular person has committed  
11 a felony.

12 (5) When the property or things to be seized consist of evidence  
13 that tends to show that sexual exploitation of a child, in violation  
14 of Section 311.3, or possession of matter depicting sexual conduct  
15 of a person under 18 years of age, in violation of Section 311.11,  
16 has occurred or is occurring.

17 (6) When there is a warrant to arrest a person.

18 (7) When a provider of electronic communication service or  
19 remote computing service has records or evidence, as specified in  
20 Section 1524.3, showing that property was stolen or embezzled  
21 constituting a misdemeanor, or that property or things are in the  
22 possession of any person with the intent to use them as a means  
23 of committing a misdemeanor public offense, or in the possession  
24 of another to whom he or she may have delivered them for the  
25 purpose of concealing them or preventing their discovery.

26 (8) When the property or things to be seized include an item or  
27 any evidence that tends to show a violation of Section 3700.5 of  
28 the Labor Code, or tends to show that a particular person has  
29 violated Section 3700.5 of the Labor Code.

30 (9) When the property or things to be seized include a firearm  
31 or any other deadly weapon at the scene of, or at the premises  
32 occupied or under the control of the person arrested in connection  
33 with, a domestic violence incident involving a threat to human life  
34 or a physical assault as provided in Section 18250. This section  
35 does not affect warrantless seizures otherwise authorized by Section  
36 18250.

37 (10) When the property or things to be seized include a firearm  
38 or any other deadly weapon that is owned by, or in the possession  
39 of, or in the custody or control of, a person described in subdivision  
40 (a) of Section 8102 of the Welfare and Institutions Code.

1 (11) When the property or things to be seized include a firearm  
2 that is owned by, or in the possession of, or in the custody or  
3 control of, a person who is subject to the prohibitions regarding  
4 firearms pursuant to Section 6389 of the Family Code, if a  
5 prohibited firearm is possessed, owned, in the custody of, or  
6 controlled by a person against whom a protective order has been  
7 issued pursuant to Section 6218 of the Family Code, the person  
8 has been lawfully served with that order, and the person has failed  
9 to relinquish the firearm as required by law.

10 (12) When the information to be received from the use of a  
11 tracking device constitutes evidence that tends to show that either  
12 a felony, a misdemeanor violation of the Fish and Game Code, or  
13 a misdemeanor violation of the Public Resources Code has been  
14 committed or is being committed, tends to show that a particular  
15 person has committed a felony, a misdemeanor violation of the  
16 Fish and Game Code, or a misdemeanor violation of the Public  
17 Resources Code, or is committing a felony, a misdemeanor  
18 violation of the Fish and Game Code, or a misdemeanor violation  
19 of the Public Resources Code, or will assist in locating an  
20 individual who has committed or is committing a felony, a  
21 misdemeanor violation of the Fish and Game Code, or a  
22 misdemeanor violation of the Public Resources Code. A tracking  
23 device search warrant issued pursuant to this paragraph shall be  
24 executed in a manner meeting the requirements specified in  
25 subdivision (b) of Section 1534.

26 (13) When a sample of the blood of a person constitutes  
27 evidence that tends to show a violation of Section 23140, 23152,  
28 or 23153 of the Vehicle Code and the person from whom the  
29 sample is being sought has refused an officer's request to submit  
30 to, or has failed to complete, a blood test as required by Section  
31 23612 of the Vehicle Code, and the sample will be drawn from  
32 the person in a reasonable, medically approved manner. This  
33 paragraph is not intended to abrogate a court's mandate to  
34 determine the propriety of the issuance of a search warrant on a  
35 case-by-case basis.

36 (14) ~~When Beginning January 1, 2016,~~ the property or things  
37 to be seized are firearms or ammunition or both that are owned  
38 by, in the possession of, or in the custody or control of a person  
39 who is the subject of a gun violence restraining order that has been  
40 issued pursuant to Division 3.2 (commencing with Section 18100)

1 of Title 2 of Part 6, if a prohibited firearm or ammunition or both  
2 is possessed, owned, in the custody of, or controlled by a person  
3 against whom a gun violence restraining order has been issued,  
4 the person has been lawfully served with that order, and the person  
5 has failed to relinquish the firearm as required by law.

6 (b) The property, things, person, or persons described in  
7 subdivision (a) may be taken on the warrant from any place, or  
8 from any person in whose possession the property or things may  
9 be.

10 (c) Notwithstanding subdivision (a) or (b), no search warrant  
11 shall issue for any documentary evidence in the possession or  
12 under the control of any person who is a lawyer as defined in  
13 Section 950 of the Evidence Code, a physician as defined in Section  
14 990 of the Evidence Code, a psychotherapist as defined in Section  
15 1010 of the Evidence Code, or a member of the clergy as defined  
16 in Section 1030 of the Evidence Code, and who is not reasonably  
17 suspected of engaging or having engaged in criminal activity  
18 related to the documentary evidence for which a warrant is  
19 requested unless the following procedure has been complied with:

20 (1) At the time of the issuance of the warrant, the court shall  
21 appoint a special master in accordance with subdivision (d) to  
22 accompany the person who will serve the warrant. Upon service  
23 of the warrant, the special master shall inform the party served of  
24 the specific items being sought and that the party shall have the  
25 opportunity to provide the items requested. If the party, in the  
26 judgment of the special master, fails to provide the items requested,  
27 the special master shall conduct a search for the items in the areas  
28 indicated in the search warrant.

29 (2) (A) If the party who has been served states that an item or  
30 items should not be disclosed, they shall be sealed by the special  
31 master and taken to court for a hearing.

32 (B) At the hearing, the party searched shall be entitled to raise  
33 any issues that may be raised pursuant to Section 1538.5 as well  
34 as a claim that the item or items are privileged, as provided by  
35 law. The hearing shall be held in the superior court. The court shall  
36 provide sufficient time for the parties to obtain counsel and make  
37 any motions or present any evidence. The hearing shall be held  
38 within three days of the service of the warrant unless the court  
39 makes a finding that the expedited hearing is impracticable. In that  
40 case the matter shall be heard at the earliest possible time.

1 (C) If an item or items are taken to court for a hearing, any  
2 limitations of time prescribed in Chapter 2 (commencing with  
3 Section 799) of Title 3 of Part 2 shall be tolled from the time of  
4 the seizure until the final conclusion of the hearing, including any  
5 associated writ or appellate proceedings.

6 (3) The warrant shall, whenever practicable, be served during  
7 normal business hours. In addition, the warrant shall be served  
8 upon a party who appears to have possession or control of the  
9 items sought. If, after reasonable efforts, the party serving the  
10 warrant is unable to locate the person, the special master shall seal  
11 and return to the court, for determination by the court, any item  
12 that appears to be privileged as provided by law.

13 (d) (1) As used in this section, a “special master” is an attorney  
14 who is a member in good standing of the California State Bar and  
15 who has been selected from a list of qualified attorneys that is  
16 maintained by the State Bar particularly for the purposes of  
17 conducting the searches described in this section. These attorneys  
18 shall serve without compensation. A special master shall be  
19 considered a public employee, and the governmental entity that  
20 caused the search warrant to be issued shall be considered the  
21 employer of the special master and the applicable public entity,  
22 for purposes of Division 3.6 (commencing with Section 810) of  
23 Title 1 of the Government Code, relating to claims and actions  
24 against public entities and public employees. In selecting the  
25 special master, the court shall make every reasonable effort to  
26 ensure that the person selected has no relationship with any of the  
27 parties involved in the pending matter. Any information obtained  
28 by the special master shall be confidential and may not be divulged  
29 except in direct response to inquiry by the court.

30 (2) In any case in which the magistrate determines that, after  
31 reasonable efforts have been made to obtain a special master, a  
32 special master is not available and would not be available within  
33 a reasonable period of time, the magistrate may direct the party  
34 seeking the order to conduct the search in the manner described  
35 in this section in lieu of the special master.

36 (e) Any search conducted pursuant to this section by a special  
37 master may be conducted in a manner that permits the party serving  
38 the warrant or his or her designee to accompany the special master  
39 as he or she conducts his or her search. However, that party or his  
40 or her designee may not participate in the search nor shall he or

1 she examine any of the items being searched by the special master  
2 except upon agreement of the party upon whom the warrant has  
3 been served.

4 (f) As used in this section, “documentary evidence” includes,  
5 but is not limited to, writings, documents, blueprints, drawings,  
6 photographs, computer printouts, microfilms, X-rays, files,  
7 diagrams, ledgers, books, tapes, audio and video recordings, films,  
8 and papers of any type or description.

9 (g) No warrant shall issue for any item or items described in  
10 Section 1070 of the Evidence Code.

11 (h) Notwithstanding any other law, no claim of attorney work  
12 product as described in Chapter 4 (commencing with Section  
13 2018.010) of Title 4 of Part 4 of the Code of Civil Procedure shall  
14 be sustained where there is probable cause to believe that the  
15 lawyer is engaging or has engaged in criminal activity related to  
16 the documentary evidence for which a warrant is requested unless  
17 it is established at the hearing with respect to the documentary  
18 evidence seized under the warrant that the services of the lawyer  
19 were not sought or obtained to enable or aid anyone to commit or  
20 plan to commit a crime or a fraud.

21 (i) Nothing in this section is intended to limit an attorney’s  
22 ability to request an in camera hearing pursuant to the holding of  
23 the Supreme Court of California in *People v. Superior Court (Laff)*  
24 (2001) 25 Cal.4th 703.

25 (j) In addition to any other circumstance permitting a magistrate  
26 to issue a warrant for a person or property in another county, when  
27 the property or things to be seized consist of any item or constitute  
28 any evidence that tends to show a violation of Section 530.5, the  
29 magistrate may issue a warrant to search a person or property  
30 located in another county if the person whose identifying  
31 information was taken or used resides in the same county as the  
32 issuing court.

33 (k) This section shall not be construed to create a cause of action  
34 against any foreign or California corporation, its officers,  
35 employees, agents, or other specified persons for providing location  
36 information.

37 SEC. 2. Section 1542.5 is added to the Penal Code, immediately  
38 following Section 1542, to read:

1 1542.5. Notwithstanding any other law, with regards to a search  
2 warrant issued upon the grounds specified in paragraph (14) of  
3 subdivision (a) of Section 1524, the following shall apply:

4 (a) The law enforcement officer executing the warrant shall take  
5 custody of any firearm or ammunition that is in the restrained  
6 person’s custody or control or ~~possession~~, *possession* or that is  
7 owned by the restrained person, ~~or that~~ *which* is discovered  
8 pursuant to a consensual or other lawful search.

9 (b) (1) If the location to be searched during the execution of  
10 the warrant is jointly occupied by the restrained person and one  
11 or more other persons and a law enforcement officer executing the  
12 warrant finds a firearm or ammunition *in the restrained person’s*  
13 *custody or control or possession*, but that is owned by a person  
14 other than the restrained person, the firearm or ammunition shall  
15 not be seized if both of the following conditions are satisfied:

16 (A) The firearm or ammunition is *removed from the restrained*  
17 *person’s custody or control or possession* and stored in a manner  
18 that the restrained person does not have access to or control of the  
19 firearm or ammunition.

20 (B) There is no evidence of unlawful possession of the firearm  
21 *or ammunition* by the owner of the firearm *or ammunition*.

22 (2) If the location to be searched during the execution of the  
23 warrant is jointly occupied by the restrained person and one or  
24 more other persons and a *locked* gun safe is located that is owned  
25 by a person other than the restrained person, the contents of the  
26 gun safe shall not be searched except in the owner’s presence, and  
27 with his or her consent or with a valid search warrant for the gun  
28 safe.

29 (c) *This section shall become operative on January 1, 2016.*

30 SEC. 3. Division 3.2 (commencing with Section 18100) is  
31 added to Title 2 of Part 6 of the Penal Code, to read:

32

33 DIVISION 3.2. GUN VIOLENCE RESTRAINING ORDERS

34

35 CHAPTER 1. GENERAL

36

37 18100. A gun violence restraining order is an order, in writing,  
38 signed by the court, prohibiting and enjoining a named person  
39 from having in his or her custody or control, owning, purchasing,  
40 possessing, or receiving any firearms or ammunition. This division

1 establishes a civil restraining order process to accomplish that  
2 purpose.

3 18105. The Judicial Council shall prescribe the form of the  
4 petitions and orders and any other documents, and shall promulgate  
5 any rules of court, necessary to implement this division.

6 18107. A petition for a gun violence restraining order shall  
7 describe the number, types, and locations of any firearms and  
8 ammunition presently believed by the petitioner to be possessed  
9 or controlled by the subject of the petition.

10 18109. Nothing in this division shall be interpreted to require  
11 a law enforcement agency or a law enforcement officer to seek a  
12 gun violence restraining order in any case, including, but not  
13 limited to, in a case in which the agency or officer concludes, after  
14 investigation, that the criteria for issuance of a gun violence  
15 restraining order are not satisfied.

16 18110. Prior to a hearing on the issuance, renewal, or  
17 termination of an order under Chapter 3 (commencing with Section  
18 18150) or Chapter 4 (commencing with Section 18170), the court  
19 shall ensure that a search as described in subdivision (a) of Section  
20 6306 of the Family Code is conducted. After issuing its ruling, the  
21 court shall provide the advisement described in subdivision (c) of  
22 Section 6306 of the Family Code and shall keep information  
23 obtained from a search conducted pursuant to this section  
24 confidential in accordance with subdivision (d) of Section 6306  
25 of the Family Code.

26 18115. (a) ~~(1)-(A)~~ The court shall notify the Department of  
27 Justice when a gun violence restraining order has been issued or  
28 renewed under this division no later than one court day after issuing  
29 or renewing the order.

30 ~~(B)~~

31 (b) The court shall notify the Department of Justice when a gun  
32 violence restraining order has been dissolved or terminated under  
33 this division no later than five court days after dissolving or  
34 terminating the order. Upon receipt of either ~~of these notices~~, a  
35 *notice of dissolution or a notice of termination of a gun violence*  
36 *restraining order*, the Department of Justice shall, within 15 days,  
37 note *document* the updated status of any order issued under this  
38 division.

39 ~~(2)~~

1 (c) The notices required to be submitted to the Department of  
2 Justice pursuant to ~~paragraph (1) this section~~ shall be submitted  
3 in an electronic format, in a manner prescribed by the department.

4 ~~(b) (1) The court shall notify the district attorney and law  
5 enforcement agency in the jurisdiction in which a gun violence  
6 restraining order was issued when a gun violence order has been  
7 issued or renewed under this division no later than one court day  
8 after issuing or renewing the order.~~

9 ~~(2) The court shall notify the district attorney and law  
10 enforcement agency in the jurisdiction in which a gun violence  
11 restraining order was dissolved or terminated when a gun violence  
12 restraining order has been dissolved or terminated under this  
13 division, no later than five court days after dissolving or  
14 terminating the order.~~

15 (d) When notifying the Department of Justice pursuant to  
16 subdivision (a) or (b), the court shall indicate in the notice whether  
17 the person subject to the gun violence restraining order was present  
18 in court to be informed of the contents of the order or if the person  
19 failed to appear. The person's presence in court shall constitute  
20 proof of service of notice of the terms of the order.

21 (e) (1) Within one business day of service, a law enforcement  
22 officer who served a gun violence restraining order shall submit  
23 the proof of service directly into the California Restraining and  
24 Protective Order System, including his or her name and law  
25 enforcement agency, and shall transmit the original proof of service  
26 form to the issuing court.

27 (2) Within one business day of receipt of proof of service by a  
28 person other than a law enforcement officer, the clerk of the court  
29 shall submit the proof of service of a gun violence restraining  
30 order directly into the California Restraining and Protective Order  
31 System, including the name of the person who served the order. If  
32 the court is unable to provide this notification to the Department  
33 of Justice by electronic transmission, the court shall, within one  
34 business day of receipt, transmit a copy of the proof of service to  
35 a local law enforcement agency. The local law enforcement agency  
36 shall submit the proof of service directly into the California  
37 Restraining and Protective Order System within one business day  
38 of receipt from the court.

39 18120. (a) A person subject to a gun violence restraining order  
40 issued pursuant to this division shall not have in his or her custody

1 or control, own, purchase, possess, or receive any firearms or  
2 ammunition while that order is in effect.

3 (b) (1) Upon issuance of a gun violence restraining order issued  
4 pursuant to this division, the court shall order the restrained person  
5 to surrender to the local law enforcement agency all firearms and  
6 ammunition in the restrained person’s custody or control, or which  
7 the restrained person possesses or owns.

8 (2) The surrender ordered pursuant to paragraph (1) shall occur  
9 by immediately surrendering all firearms and ammunition in a safe  
10 manner, upon request of any law enforcement officer, to the control  
11 of the officer, after being served with the restraining order. A law  
12 enforcement officer serving a gun violence restraining order that  
13 indicates that the restrained person possesses any firearms or  
14 ammunition shall request that all firearms and ammunition be  
15 immediately surrendered. Alternatively, if no request is made by  
16 a law enforcement officer, the surrender shall occur within 24  
17 hours of being served with the order, by either surrendering all  
18 firearms and ammunition in a safe manner to the control of the  
19 local law enforcement agency, or by selling all firearms and  
20 ammunition to a licensed gun dealer, as specified in Article 1  
21 (commencing with Section 26700) and Article 2 (commencing  
22 with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part  
23 6 of the Penal Code. The law enforcement officer or licensed gun  
24 dealer taking possession of any firearms or ammunition pursuant  
25 to this subdivision shall issue a receipt to the person surrendering  
26 the firearm or firearms or ammunition or both at the time of  
27 surrender. A person ordered to surrender all firearms and  
28 ammunition pursuant to this subdivision shall, within 48 hours  
29 after being served with the order, do both of the following:

30 (A) File with the court that issued the gun violence restraining  
31 order the original receipt showing all firearms and ammunition  
32 have been surrendered to a local law enforcement agency or sold  
33 to a licensed gun dealer. Failure to timely file a receipt shall  
34 constitute a violation of the restraining order.

35 (B) File a copy of the receipt described in subparagraph (A)  
36 with the law enforcement agency that served the gun violence  
37 restraining order. Failure to timely file a copy of the receipt shall  
38 constitute a violation of the restraining order.

39 (c) (1) Any firearms or ammunition surrendered to a law  
40 enforcement officer or law enforcement agency pursuant to this

1 section shall be retained by the law enforcement agency until the  
2 expiration of any gun violence restraining order that has been  
3 issued against the restrained person. Upon expiration of any order,  
4 any firearms or ammunition shall be returned to the restrained  
5 person in accordance with the provisions of Chapter 2  
6 (commencing with Section 33850) of Division 11 of Title 4.  
7 Firearms or ammunition that are not claimed are subject to the  
8 requirements of Section 34000.

9 (2) A restrained person who owns any firearms or ammunition  
10 that are in the custody of a law enforcement agency pursuant to  
11 this section and who does not wish to have the firearm or firearms  
12 or ammunition returned is entitled to sell or transfer title of any  
13 firearms or ammunition to a licensed dealer provided that the  
14 firearm or firearms or ammunition are otherwise legal to own or  
15 possess and the restrained person otherwise has right to title of the  
16 firearm or firearms or ammunition.

17 ~~(d) If the restrained person declines to relinquish possession of~~  
18 ~~any firearms or ammunition based on the assertion of the right~~  
19 ~~against self-incrimination, as provided by the Fifth Amendment~~  
20 ~~to the United States Constitution and Section 15 of Article I of the~~  
21 ~~California Constitution, the court shall notify the district attorney,~~  
22 ~~and, upon the request of the district attorney, may grant use~~  
23 ~~immunity for the act of relinquishing the firearms or ammunition~~  
24 ~~required under this section.~~

25 (e)

26 (d) If a person other than the restrained person claims title to  
27 any firearms or ammunition surrendered pursuant to this section,  
28 and he or she is determined by the law enforcement agency to be  
29 the lawful owner of the firearm or firearms or ammunition, the  
30 firearm or firearms or ammunition shall be returned to ~~the~~ him or  
31 her pursuant to Chapter 2 (commencing with Section 33850) of  
32 Division 11 of Title 4.

33 *18122. This division shall become operative on January 1,*  
34 *2016.*

35

36 CHAPTER 2. TEMPORARY EMERGENCY GUN VIOLENCE  
37 RESTRAINING ORDER

38

39 18125. (a) A temporary emergency gun violence restraining  
40 order may be issued on an ex parte basis only if a law enforcement

1 officer asserts, and a judicial officer finds, that there is reasonable  
2 cause to believe both of the following:

3 (1) The subject of the petition poses an immediate and present  
4 danger of causing personal injury to himself, herself, or another  
5 by having in his or her custody or control, owning, purchasing,  
6 possessing, or receiving a firearm.

7 (2) A temporary emergency gun violence restraining order is  
8 necessary to prevent personal injury to the subject of the petition  
9 or another because less restrictive alternatives either have been  
10 tried and found to be ineffective, or have been determined to be  
11 inadequate or inappropriate for the circumstances of the subject  
12 of the petition.

13 (b) A temporary emergency gun violence restraining order issued  
14 pursuant to this chapter shall prohibit the subject of the petition  
15 from having in his or her custody or control, owning, purchasing,  
16 possessing, or receiving, or attempting to purchase or receive, a  
17 firearm or ammunition, and shall expire 21 days from the date the  
18 order is issued.

19 18130. A temporary emergency gun violence restraining order  
20 is valid only if it is issued by a judicial officer after making the  
21 findings required by Section 18125 and pursuant to a specific  
22 request by a law enforcement officer.

23 18135. A temporary emergency gun violence restraining order  
24 issued under this chapter shall include all of the following:

25 (a) A statement of the grounds supporting the issuance of the  
26 order.

27 (b) The date and time the order expires.

28 (c) The address of the superior court for the county in which  
29 the restrained party resides.

30 (d) The following statement:

31  
32 “To the restrained person: This order will last until the date and  
33 time noted above. You are required to surrender all firearms and  
34 ammunition that you own or possess in accordance with Section  
35 18120 of the Penal Code and you may not have in your custody  
36 or control, own, purchase, possess, or receive, or attempt to  
37 purchase or receive a firearm or ammunition, while this order is  
38 in effect. However, a more permanent gun violence restraining  
39 order may be obtained from the court. You may seek the advice  
40 of an attorney as to any matter connected with the order. The

1 attorney should be consulted promptly so that the attorney may  
2 assist you in any matter connected with the order.”

3  
4 18140. A law enforcement officer who requests a temporary  
5 emergency gun violence restraining order shall do all of the  
6 following:

7 (a) If the order is obtained orally, memorialize the order of the  
8 court on the form approved by the Judicial Council.

9 (b) Serve the order on the restrained person, if the restrained  
10 person can reasonably be located.

11 (c) File a copy of the order with the court as soon as practicable  
12 after issuance.

13 (d) Have the order entered into the computer database system  
14 for protective and restraining orders maintained by the Department  
15 of Justice.

16 18145. (a) (1) Except as provided in paragraph (2), the petition  
17 for a temporary emergency gun violence restraining order shall be  
18 obtained by submitting a written petition to the court.

19 (2) If time and circumstances do not permit the submission of  
20 a written petition, a temporary emergency gun violence restraining  
21 order may be issued in accordance with the procedures for  
22 obtaining an oral search warrant described in Section 1526.

23 (b) The presiding judge of the superior court of each county  
24 shall designate at least one judge, commissioner, or referee who  
25 shall be reasonably available to issue temporary emergency gun  
26 violence restraining orders when the court is not in session.

27

28 CHAPTER 3. EX PARTE GUN VIOLENCE RESTRAINING ORDER

29

30 18150. (a) (1) An immediate family member of a person or  
31 a law enforcement officer may file a petition requesting that the  
32 court issue an ex parte gun violence restraining order enjoining  
33 the subject of the petition from having in his or her custody or  
34 control, owning, purchasing, possessing, or receiving a firearm or  
35 ammunition.

36 (2) For purposes of this subdivision, “immediate family  
37 member” has the same meaning as in paragraph (3) of subdivision  
38 (b) of Section 422.4.

39 (b) A court may issue an ex parte gun violence restraining order  
40 if the petition, supported by an affidavit made in writing and signed

1 by the petitioner under oath, or an oral statement taken pursuant  
2 to paragraph (2) of subdivision (a) of Section 18155, and any  
3 additional information provided to the court shows that there is a  
4 substantial likelihood that both of the following are true:

5 (1) The subject of the petition ~~will,~~ *poses a significant danger,*  
6 ~~in the near future, cause of~~ personal injury to himself, herself, or  
7 another by having in his or her custody or control, owning,  
8 purchasing, possessing, or receiving a firearm as determined by  
9 considering the factors listed in Section ~~18155 and any other~~  
10 ~~relevant evidence.~~ *18155.*

11 (2) An ex parte gun violence restraining order is necessary to  
12 prevent personal injury to the subject of the petition or another  
13 because less restrictive alternatives either have been tried and  
14 found to be ineffective, or are inadequate or inappropriate for the  
15 circumstances of the subject of the petition.

16 (c) An affidavit supporting a petition for the issuance of an ex  
17 parte gun violence restraining order shall set forth the facts tending  
18 to establish the grounds of the petition, or the reason for believing  
19 that they exist.

20 (d) An ex parte order under this chapter shall be issued or denied  
21 on the same day that the petition is submitted to the court, unless  
22 the petition is filed too late in the day to permit effective review,  
23 in which case the order shall be issued or denied on the next day  
24 of judicial business in sufficient time for the order to be filed that  
25 day with the clerk of the court.

26 18155. (a) (1) The court, before issuing an ex parte gun  
27 violence restraining order, shall examine on oath, the petitioner  
28 and any witness the petitioner may produce.

29 (2) In lieu of examining the petitioner and any witness the  
30 petitioner may produce, the court may require the petitioner and  
31 any witness to submit a written affidavit signed under oath.

32 (b) (1) In determining whether grounds for a gun violence  
33 restraining order exist, the court shall consider all evidence of the  
34 following:

35 (A) A recent threat of violence or act of violence by the subject  
36 of the petition directed toward another.

37 (B) A recent threat of violence or act of violence by the subject  
38 of the petition directed toward himself or herself.

39 (C) A violation of an emergency protective order issued pursuant  
40 to Section 646.91 or Part 3 (commencing with Section 6240) of

1 Division 10 of the Family Code that is in effect at the time the  
2 court is considering the petition.

3 (D) A recent violation of an unexpired protective order issued  
4 pursuant to Part 4 (commencing with Section 6300) of Division  
5 10 of the Family Code, Section 136.2, Section 527.6 of the Code  
6 of Civil Procedure, or Section 213.5 or 15657.03 of the Welfare  
7 and Institutions Code.

8 (E) A conviction for any offense listed in Section 29805.

9 (F) A pattern of violent acts or violent threats within the past  
10 12 months, including, but not limited to, threats of violence or acts  
11 of violence by the subject of the petition directed toward himself,  
12 herself, or another.

13 (2) In determining whether grounds for a gun violence  
14 restraining order exist, the court may consider any other evidence  
15 of an increased risk for violence, including, but not limited to,  
16 evidence of any of the following:

17 (A) The unlawful and reckless use, display, or brandishing of  
18 a firearm by the subject of the petition.

19 (B) The history of use, attempted use, or threatened use of  
20 physical force by the subject of the petition against another person.

21 (C) Any prior arrest of the subject of the petition for a felony  
22 offense.

23 (D) Any history of a violation by the subject of the petition of  
24 an emergency protective order issued pursuant to Section 646.91  
25 or Part 3 (commencing with Section 6240) of Division 10 of the  
26 Family Code.

27 (E) Any history of a violation by the subject of the petition of  
28 a protective order issued pursuant to Part 4 (commencing with  
29 Section 6300) of Division 10 of the Family Code, Section 136.2,  
30 Section 527.6 of the Code of Civil Procedure, or Section 213.5 or  
31 15657.03 of the Welfare and Institutions Code.

32 (F) ~~Evidence of recent~~ *Documentary evidence, including, but*  
33 *not limited to, police reports and records of convictions, of either*  
34 *recent criminal offenses by the subject of the petition that involve*  
35 *controlled substances or alcohol* or ongoing abuse of controlled  
36 substances or alcohol by the subject of the petition.

37 (G) Evidence of recent acquisition of firearms, ammunition, or  
38 other deadly weapons.

39 (3) For the purposes of this subdivision, “recent” means within  
40 the six months prior to the date the petition was filed.

1 (c) If the court determines that there grounds to issue an ex parte  
 2 gun violence restraining order exist, it shall issue an ex parte gun  
 3 violence restraining order that prohibits the subject of the petition  
 4 from having in his or her custody or control, owning, purchasing,  
 5 possessing, or receiving, or attempting to purchase or receive, a  
 6 firearm or ammunition, and expires no later than 21 days from the  
 7 date of the order.

8 18160. (a) An ex parte gun violence restraining order issued  
 9 under this chapter shall include all of the following:

- 10 (1) A statement of the grounds supporting the issuance of the  
 11 order.
- 12 (2) The date and time the order expires.
- 13 (3) The address of the superior court in which any responsive  
 14 pleading should be filed.
- 15 (4) The date and time of the scheduled hearing.
- 16 (5) The following statement:

17  
 18 “To the restrained person: This order is valid until the expiration  
 19 date and time noted above. You are required to surrender all  
 20 firearms and ammunition that you own or possess in accordance  
 21 with Section 18120 of the Penal Code and you may not have in  
 22 your custody or control, own, purchase, possess, or receive, or  
 23 attempt to purchase or receive a firearm or ammunition, while this  
 24 order is in effect. A hearing will be held on the date and at the time  
 25 noted above to determine if a more permanent gun violence  
 26 restraining order should be issued. Failure to appear at that hearing  
 27 may result in a court making an order against you that is valid for  
 28 a year. You may seek the advice of an attorney as to any matter  
 29 connected with the order. The attorney should be consulted  
 30 promptly so that the attorney may assist you in any matter  
 31 connected with the order.”

32  
 33 (b) (1) An ex parte gun violence restraining order shall be  
 34 personally served on the restrained person by a law enforcement  
 35 officer, or any person who is at least 18 years of age and not a  
 36 party to the action, as provided in Section 414.10 of the Code of  
 37 Civil Procedure, if the restrained person can reasonably be located.

38 (2) When serving a gun violence restraining order, ~~the~~ a law  
 39 enforcement officer shall inform the restrained person of the  
 40 hearing scheduled pursuant to Section 18165.

1 18165. Within 21 days after the date on the order, before the  
2 court that issued the order or another court in the same jurisdiction,  
3 the court shall hold a hearing pursuant to Section 18175 to  
4 determine if a gun violence restraining order should be issued  
5 under Chapter 4 (commencing with Section 18170).

6  
7 CHAPTER 4. GUN VIOLENCE RESTRAINING ORDER ISSUED AFTER  
8 NOTICE AND HEARING  
9

10 18170. (a) An immediate family member of a person or a law  
11 enforcement officer may request that a court, after notice and a  
12 hearing, issue a gun violence restraining order enjoining the subject  
13 of the petition from having in his or her custody or control, owning,  
14 purchasing, possessing, or receiving a firearm or ammunition for  
15 a period of one year.

16 (b) For purposes of this subdivision, “immediate family  
17 member” has the same meaning as in paragraph (3) of subdivision  
18 (b) of Section 422.4.

19 18175. (a) In determining whether to issue a gun violence  
20 restraining order under this chapter, the court shall consider  
21 evidence of the facts identified in paragraph (1) of subdivision (b)  
22 of Section 18155 and may consider any other evidence of an  
23 increased risk for violence, including, but not limited to, evidence  
24 of the facts identified in paragraph (2) of subdivision (b) of Section  
25 18155.

26 (b) At the hearing, the petitioner shall have the burden of  
27 proving, by clear and convincing evidence, that both of the  
28 following are true:

29 (1) The subject of the petition, or a person subject to an ex parte  
30 gun violence restraining order, as applicable, ~~will cause~~ *poses a*  
31 *significant danger of* personal injury to himself, herself, or another  
32 by having in his or her custody or control, owning, purchasing,  
33 possessing, or receiving a firearm or ammunition.

34 (2) A gun violence restraining order is necessary to prevent  
35 personal injury to the subject of the petition, or the person subject  
36 to an ex parte gun violence restraining order, as applicable, or  
37 another because less restrictive alternatives either have been tried  
38 and found to be ineffective, or are inadequate or inappropriate for  
39 the circumstances of the subject of the petition, or the person  
40 subject to an ex parte gun violence restraining order, as applicable.

1 (c) (1) If the court finds that there is clear and convincing  
2 evidence to issue a gun violence restraining order, the court shall  
3 issue a gun violence restraining order that prohibits the subject of  
4 the petition from having in his or her custody or control, owning,  
5 purchasing, possessing, or receiving, or attempting to purchase or  
6 receive, a firearm or ammunition.

7 (2) If the court finds that there is not clear and convincing  
8 evidence to support the issuance of a gun violence restraining  
9 order, the court shall dissolve any temporary emergency or ex  
10 parte gun violence restraining order then in effect.

11 (d) The gun violence restraining order issued under this chapter  
12 shall have a duration of one year, subject to termination by further  
13 order of the court at a hearing held pursuant to Section 18185 and  
14 renewal by further order of the court pursuant to Section 18190.

15 18180. (a) A gun violence restraining order issued pursuant  
16 to this chapter shall include all of the following:

17 (1) A statement of the grounds supporting the issuance of the  
18 order.

19 (2) The date and time the order expires.

20 (3) The address of the superior court for the county in which  
21 the restrained party resides.

22 (4) The following statement:

23  
24 “To the restrained person: This order will last until the date and  
25 time noted above. If you have not done so already, you must  
26 surrender all firearms and ammunition that you own or possess in  
27 accordance with Section 18120 of the Penal Code. You may not  
28 have in your custody or control, own, purchase, possess, or receive,  
29 or attempt to purchase or receive a firearm or ammunition, while  
30 this order is in effect. Pursuant to Section 18185, you have the  
31 right to request one hearing to terminate this order at any time  
32 during its effective period. You may seek the advice of an attorney  
33 as to any matter connected with the order.”

34  
35 (b) When the court issues a gun violence restraining order under  
36 this chapter, the court shall inform the restrained person that he or  
37 she is entitled to one hearing to request a termination of the order,  
38 pursuant to Section 18185, and shall provide the restrained person  
39 with a form to request a hearing.

1 18185. (a) A person subject to a gun violence restraining order  
2 issued under this chapter may submit one written request at any  
3 time during the effective period of the order for a hearing to  
4 terminate the order.

5 (b) If the court finds after the hearing that there is no longer  
6 clear and convincing evidence to believe that paragraphs (1) and  
7 (2) of subdivision (b) of Section 18175 are true, the court shall  
8 terminate the order.

9 18190. (a) (1) An immediate family member of a restrained  
10 person or a law enforcement officer may request a renewal of a  
11 gun violence restraining order at any time within the three months  
12 before the expiration of a gun violence restraining order.

13 (2) For purposes of this subdivision, “immediate family  
14 member” has the same meaning as in paragraph (3) of subdivision  
15 (b) of Section 422.4.

16 (b) A court may, after notice and a hearing, renew a gun violence  
17 restraining order issued under this chapter if the petitioner proves,  
18 by clear and convincing evidence, that paragraphs (1) and (2) of  
19 subdivision (b) of Section 18175 continue to be true.

20 (c) In determining whether to renew a gun violence restraining  
21 order issued under this chapter, the court shall consider evidence  
22 of the facts identified in paragraph (1) of subdivision (b) of Section  
23 18155 and any other evidence of an increased risk for violence,  
24 including, but not limited to, evidence of any of the facts identified  
25 in paragraph (2) of subdivision (b) of Section 18155.

26 (d) At the hearing, the petitioner shall have the burden of  
27 proving, by clear and convincing evidence, that paragraphs (1)  
28 and (2) of subdivision (b) of Section 18175 are true.

29 (e) If the renewal petition is supported by clear and convincing  
30 evidence, the court shall renew the gun violence restraining order  
31 issued under this chapter.

32 (f) The renewal of a gun violence restraining order issued  
33 pursuant to this section shall have a duration of one year, subject  
34 to termination by further order of the court at a hearing held  
35 pursuant to Section 18185 and further renewal by further order of  
36 the court pursuant to this section.

37 (g) A gun violence restraining order renewed pursuant to this  
38 section shall include the information identified in subdivision (a)  
39 of Section 18180.

1 18195. Any hearing held pursuant to this chapter may be  
 2 continued upon a showing of good cause. Any existing order issued  
 3 pursuant to this division shall remain in full force and effect during  
 4 the period of continuance.

5 18197. *If a person subject to a gun violence restraining order*  
 6 *issued or renewed pursuant to this chapter was not present in court*  
 7 *at the time the order was issued or renewed, the gun violence*  
 8 *restraining order shall be personally served on the restrained*  
 9 *person by a law enforcement officer or any person who is at least*  
 10 *18 years of age and not a party to the action, as provided in Section*  
 11 *414.10 of the Code of Civil Procedure, if the restrained person*  
 12 *can reasonably be located.*

13  
 14 CHAPTER 5. OFFENSES  
 15

16 18200. Every person who files a petition for an ex parte gun  
 17 violence restraining order pursuant to Chapter 3 (commencing  
 18 with Section 18150) or a gun violence restraining order issued  
 19 after notice and a hearing pursuant to Chapter 4 (commencing with  
 20 Section 18170), knowing the information in the petition to be false  
 21 or with the intent to harass, is guilty of a misdemeanor.

22 18205. Every person who ~~violates~~ *owns or possesses a firearm*  
 23 *or ammunition with knowledge that he or she is prohibited from*  
 24 *doing so by a temporary emergency gun violence restraining order*  
 25 *issued pursuant to Chapter 2 (commencing with Section 18125),*  
 26 *an ex parte gun violence restraining order issued pursuant to*  
 27 *Chapter 3 (commencing with Section 18150), or a gun violence*  
 28 *restraining order issued after notice and a hearing issued pursuant*  
 29 *to Chapter 4 (commencing with Section 18170), is guilty of a*  
 30 *misdemeanor and shall be prohibited from having in his or her*  
 31 *custody or control, owning, purchasing, possessing, or receiving,*  
 32 *or attempting to purchase or receive, a firearm or ammunition for*  
 33 *a five-year period, to commence upon the expiration of the existing*  
 34 *gun violence restraining order.*

35 SEC. 4. Section 18250 of the Penal Code is amended to read:

36 18250. (a) If any of the following persons is at the scene of  
 37 a domestic violence incident involving a threat to human life or a  
 38 physical assault, *or is serving a protective order as defined in*  
 39 *Section 6218 of the Family Code,* ~~is serving a gun violence~~  
 40 ~~restraining order issued pursuant to Division 3.2 (commencing~~

1 ~~with Section 18100~~); that person shall take temporary custody of  
2 any firearm or other deadly weapon in plain sight or discovered  
3 pursuant to a consensual or other lawful search as necessary for  
4 the protection of the peace officer or other persons present:

5 ~~(a)~~

6 (1) A sheriff, undersheriff, deputy sheriff, marshal, deputy  
7 marshal, or police officer of a city, as defined in subdivision (a)  
8 of Section 830.1.

9 ~~(b)~~

10 (2) A peace officer of the Department of the California Highway  
11 Patrol, as defined in subdivision (a) of Section 830.2.

12 ~~(c)~~

13 (3) A member of the University of California Police Department,  
14 as defined in subdivision (b) of Section 830.2.

15 ~~(d)~~

16 (4) An officer listed in Section 830.6, while acting in the course  
17 and scope of the officer's employment as a peace officer.

18 ~~(e)~~

19 (5) A member of a California State University Police  
20 Department, as defined in subdivision (c) of Section 830.2.

21 ~~(f)~~

22 (6) A peace officer of the Department of Parks and Recreation,  
23 as defined in subdivision (f) of Section 830.2.

24 ~~(g)~~

25 (7) A peace officer, as defined in subdivision (d) of Section  
26 830.31.

27 ~~(h)~~

28 (8) A peace officer, as defined in subdivisions (a) and (b) of  
29 Section 830.32.

30 ~~(i)~~

31 (9) A peace officer, as defined in Section 830.5.

32 ~~(j) A sworn member of the Department of Justice who is a peace  
33 officer, as defined in Section 830.1.~~

34 (b) *This section shall remain in effect only until January 1, 2016,*  
35 *and as of that date is repealed, unless a later enacted statute, that*  
36 *is enacted before January 1, 2016, deletes or extends that date.*

37 SEC. 4.5. Section 18250 of the Penal Code is amended to read:

38 18250. (a) If any of the following persons is at the scene of  
39 a domestic violence incident involving a threat to human life or a  
40 physical assault, is serving a protective order as defined in Section

1 6218 of the Family Code, or is serving a gun violence restraining  
2 order issued pursuant to Division 3.2 (commencing with Section  
3 18100), that person shall take temporary custody of any firearm  
4 or other deadly weapon in plain sight or discovered pursuant to a  
5 consensual or other lawful search as necessary for the protection  
6 of the peace officer or other persons present:

7 (a)

8 (1) A sheriff, undersheriff, deputy sheriff, marshal, deputy  
9 marshal, or police officer of a city, as defined in subdivision (a)  
10 of Section 830.1.

11 (b)

12 (2) A peace officer of the Department of the California Highway  
13 Patrol, as defined in subdivision (a) of Section 830.2.

14 (c)

15 (3) A member of the University of California Police Department,  
16 as defined in subdivision (b) of Section 830.2.

17 (d)

18 (4) An officer listed in Section 830.6, while acting in the course  
19 and scope of the officer’s employment as a peace officer.

20 (e)

21 (5) A member of a California State University Police  
22 Department, as defined in subdivision (c) of Section 830.2.

23 (f)

24 (6) A peace officer of the Department of Parks and Recreation,  
25 as defined in subdivision (f) of Section 830.2.

26 (g)

27 (7) A peace officer, as defined in subdivision (d) of Section  
28 830.31.

29 (h)

30 (8) A peace officer, as defined in subdivisions (a) and (b) of  
31 Section 830.32.

32 (i)

33 (9) A peace officer, as defined in Section 830.5.

34 (j)

35 (10) A sworn member of the Department of Justice who is a  
36 peace officer, as defined in Section 830.1.

37 (k)

38 (11) A member of the San Francisco Bay Area Rapid Transit  
39 District Police Department, as defined in subdivision (a) of Section  
40 830.33.

1 (b) This section shall remain in effect only until January 1, 2016,  
2 and as of that date is repealed, unless a later enacted statute, that  
3 is enacted before January 1, 2016, deletes or extends that date.

4 SEC. 5. Section 18250 is added to the Penal Code, to read:

5 18250. (a) If any of the following persons is at the scene of a  
6 domestic violence incident involving a threat to human life or a  
7 physical assault, is serving a protective order as defined in Section  
8 6218 of the Family Code, or is serving a gun violence restraining  
9 order issued pursuant to Division 3.2 (commencing with Section  
10 18100), that person shall take temporary custody of any firearm  
11 or other deadly weapon in plain sight or discovered pursuant to  
12 a consensual or other lawful search as necessary for the protection  
13 of the peace officer or other persons present:

14 (1) A sheriff, undersheriff, deputy sheriff, marshal, deputy  
15 marshal, or police officer of a city, as defined in subdivision (a)  
16 of Section 830.1.

17 (2) A peace officer of the Department of the California Highway  
18 Patrol, as defined in subdivision (a) of Section 830.2.

19 (3) A member of the University of California Police Department,  
20 as defined in subdivision (b) of Section 830.2.

21 (4) An officer listed in Section 830.6, while acting in the course  
22 and scope of the officer's employment as a peace officer.

23 (5) A member of a California State University Police  
24 Department, as defined in subdivision (c) of Section 830.2.

25 (6) A peace officer of the Department of Parks and Recreation,  
26 as defined in subdivision (f) of Section 830.2.

27 (7) A peace officer, as defined in subdivision (d) of Section  
28 830.31.

29 (8) A peace officer, as defined in subdivisions (a) and (b) of  
30 Section 830.32.

31 (9) A peace officer, as defined in Section 830.5.

32 (10) A sworn member of the Department of Justice who is a  
33 peace officer, as defined in Section 830.1.

34 (b) This section shall become operative on January 1, 2016.

35 SEC. 5.5. Section 18250 is added to the Penal Code, to read:

36 18250. (a) If any of the following persons is at the scene of a  
37 domestic violence incident involving a threat to human life or a  
38 physical assault, is serving a protective order as defined in Section  
39 6218 of the Family Code, or is serving a gun violence restraining  
40 order issued pursuant to Division 3.2 (commencing with Section

1 18100), that person shall take temporary custody of any firearm  
 2 or other deadly weapon in plain sight or discovered pursuant to  
 3 a consensual or other lawful search as necessary for the protection  
 4 of the peace officer or other persons present:

5 (1) A sheriff, undersheriff, deputy sheriff, marshal, deputy  
 6 marshal, or police officer of a city, as defined in subdivision (a)  
 7 of Section 830.1.

8 (2) A peace officer of the Department of the California Highway  
 9 Patrol, as defined in subdivision (a) of Section 830.2.

10 (3) A member of the University of California Police Department,  
 11 as defined in subdivision (b) of Section 830.2.

12 (4) An officer listed in Section 830.6, while acting in the course  
 13 and scope of the officer's employment as a peace officer.

14 (5) A member of a California State University Police  
 15 Department, as defined in subdivision (c) of Section 830.2.

16 (6) A peace officer of the Department of Parks and Recreation,  
 17 as defined in subdivision (f) of Section 830.2.

18 (7) A peace officer, as defined in subdivision (d) of Section  
 19 830.31.

20 (8) A peace officer, as defined in subdivisions (a) and (b) of  
 21 Section 830.32.

22 (9) A peace officer, as defined in Section 830.5.

23 (10) A sworn member of the Department of Justice who is a  
 24 peace officer, as defined in Section 830.1.

25 (11) A member of the San Francisco Bay Area Rapid Transit  
 26 District Police Department, as defined in subdivision (a) of Section  
 27 830.33.

28 (b) This section shall become operative on January 1, 2016.

29 ~~SEC. 5.~~

30 SEC. 6. Section 8105 of the Welfare and Institutions Code is  
 31 amended to read:

32 8105. (a) The Department of Justice shall request each public  
 33 and private mental hospital, sanitarium, and institution to submit  
 34 to the department information the department deems necessary to  
 35 identify those persons who are subject to the prohibition specified  
 36 by subdivision (a) of Section 8100, in order to carry out its duties  
 37 in relation to firearms, destructive devices, and explosives.

38 (b) Upon request of the Department of Justice pursuant to  
 39 subdivision (a), each public and private mental hospital, sanitarium,  
 40 and institution shall submit to the department information the

1 department deems necessary to identify those persons who are  
2 subject to the prohibition specified by subdivision (a) of Section  
3 8100, in order to carry out its duties in relation to firearms,  
4 destructive devices, and explosives.

5 (c) A licensed psychotherapist shall report to a local law  
6 enforcement agency, within 24 hours, in a manner prescribed by  
7 the Department of Justice, the identity of a person subject to the  
8 prohibition specified by subdivision (b) of Section 8100. Upon  
9 receipt of the report, the local law enforcement agency, on a form  
10 prescribed by the Department of Justice, shall notify the department  
11 electronically, within 24 hours, in a manner prescribed by the  
12 department, of the person who is subject to the prohibition specified  
13 by subdivision (b) of Section 8100.

14 (d) All information provided to the Department of Justice  
15 pursuant to this section shall be kept confidential, separate, and  
16 apart from all other records maintained by the department. The  
17 information provided to the Department of Justice pursuant to this  
18 section shall be used only for any of the following purposes:

19 (1) By the department to determine eligibility of a person to  
20 acquire, carry, or possess firearms, destructive devices, or  
21 explosives.

22 (2) For the purposes of the court proceedings described in  
23 subdivision (b) of Section 8100, to determine the eligibility of the  
24 person who is bringing the petition pursuant to paragraph (3) of  
25 subdivision (b) of Section 8100.

26 (3) To determine the eligibility of a person to acquire, carry, or  
27 possess firearms, destructive devices, or explosives who is the  
28 subject of a criminal investigation, ~~or who is the subject of a~~  
29 ~~petition for the issuance of a gun violence restraining order issued~~  
30 ~~pursuant to Division 3.2 (commencing with Section 18100) of~~  
31 ~~Title 2 of Part 6 of the Penal Code~~, if a part of the *criminal*  
32 investigation involves the acquisition, carrying, or possession of  
33 firearms, explosives, or destructive devices by that person.

34 (e) Reports shall not be required or requested under this section  
35 if the same person has been previously reported pursuant to Section  
36 8103 or 8104.

37 (f) *This section shall remain in effect only until January 1, 2016,*  
38 *and as of that date is repealed, unless a later enacted statute, that*  
39 *is enacted before January 1, 2016, deletes or extends that date.*

1     *SEC. 7. Section 8105 is added to the Welfare and Institutions*  
2     *Code, to read:*

3     8105. (a) *The Department of Justice shall request each public*  
4     *and private mental hospital, sanitarium, and institution to submit*  
5     *to the department information the department deems necessary to*  
6     *identify those persons who are subject to the prohibition specified*  
7     *by subdivision (a) of Section 8100, in order to carry out its duties*  
8     *in relation to firearms, destructive devices, and explosives.*

9     (b) *Upon request of the Department of Justice pursuant to*  
10    *subdivision (a), each public and private mental hospital,*  
11    *sanitarium, and institution shall submit to the department*  
12    *information the department deems necessary to identify those*  
13    *persons who are subject to the prohibition specified by subdivision*  
14    *(a) of Section 8100, in order to carry out its duties in relation to*  
15    *firearms, destructive devices, and explosives.*

16    (c) *A licensed psychotherapist shall report to a local law*  
17    *enforcement agency, within 24 hours, in a manner prescribed by*  
18    *the Department of Justice, the identity of a person subject to the*  
19    *prohibition specified by subdivision (b) of Section 8100. Upon*  
20    *receipt of the report, the local law enforcement agency, on a form*  
21    *prescribed by the Department of Justice, shall notify the department*  
22    *electronically, within 24 hours, in a manner prescribed by the*  
23    *department, of the person who is subject to the prohibition specified*  
24    *by subdivision (b) of Section 8100.*

25    (d) *All information provided to the Department of Justice*  
26    *pursuant to this section shall be kept confidential, separate, and*  
27    *apart from all other records maintained by the department. The*  
28    *information provided to the Department of Justice pursuant to this*  
29    *section shall be used only for any of the following purposes:*

30    (1) *By the department to determine eligibility of a person to*  
31    *acquire, carry, or possess firearms, destructive devices, or*  
32    *explosives.*

33    (2) *For the purposes of the court proceedings described in*  
34    *subdivision (b) of Section 8100, to determine the eligibility of the*  
35    *person who is bringing the petition pursuant to paragraph (3) of*  
36    *subdivision (b) of Section 8100.*

37    (3) *To determine the eligibility of a person to acquire, carry,*  
38    *or possess firearms, destructive devices, or explosives who is the*  
39    *subject of a criminal investigation, or who is the subject of a*  
40    *petition for the issuance of a gun violence restraining order issued*

1 pursuant to Division 3.2 (commencing with Section 18100) of Title  
2 2 of Part 6 of the Penal Code, if a part of the investigation involves  
3 the acquisition, carrying, or possession of firearms, explosives, or  
4 destructive devices by that person.

5 (e) Reports shall not be required or requested under this section  
6 if the same person has been previously reported pursuant to Section  
7 8103 or 8104.

8 (f) This section shall become operative on January 1, 2016.

9 ~~SEC. 6.~~

10 SEC. 8. The Legislature finds and declares that Section 3 of  
11 this act, which adds Section 18110 to the Penal Code, imposes a  
12 limitation on the public’s right of access to the meetings of public  
13 bodies or the writings of public officials and agencies within the  
14 meaning of Section 3 of Article I of the California Constitution.  
15 Pursuant to that constitutional provision, the Legislature makes  
16 the following findings to demonstrate the interest protected by this  
17 limitation and the need for protecting that interest:

18 In order to protect the privacy rights of a person subject to a  
19 search pursuant to Section 18110 of the Penal Code.

20 ~~SEC. 7.—Section 4.5~~

21 SEC. 9. Sections 4.5 and 5.5 of this bill ~~incorporates~~  
22 ~~incorporate~~ amendments to Section 18250 of the Penal Code  
23 proposed by both this bill and Senate Bill 1154. ~~It~~ They shall only  
24 become operative if (1) both bills are enacted and become effective  
25 on or before January 1, 2015, (2) each bill amends Section 18250  
26 of the Penal Code, and (3) this bill is enacted after Senate Bill  
27 1154, in which case ~~Section 4~~ Sections 4 and 5 of this bill shall  
28 not become operative.

29 ~~SEC. 8.~~

30 SEC. 10. No reimbursement is required by this act pursuant to  
31 Section 6 of Article XIII B of the California Constitution for certain  
32 costs that may be incurred by a local agency or school district  
33 because, in that regard, this act creates a new crime or infraction,  
34 eliminates a crime or infraction, or changes the penalty for a crime  
35 or infraction, within the meaning of Section 17556 of the  
36 Government Code, or changes the definition of a crime within the  
37 meaning of Section 6 of Article XIII B of the California  
38 Constitution.

39 However, if the Commission on State Mandates determines that  
40 this act contains other costs mandated by the state, reimbursement

- 1 to local agencies and school districts for those costs shall be made
- 2 pursuant to Part 7 (commencing with Section 17500) of Division
- 3 4 of Title 2 of the Government Code.

O