

## Assembly Bill No. 1014

### CHAPTER 872

An act to amend 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, repeal, and add Section 8105 of the Welfare and Institutions Code, relating to firearms.

[Approved by Governor September 30, 2014. Filed with  
Secretary of State September 30, 2014.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1014, 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, generally prohibits a person subject to a domestic violence protective order from owning or possessing a firearm while that order is in effect.

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 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, 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 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 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 or that is owned by the restrained person, 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 prohibited from having a firearm because the person has been admitted to a facility, is receiving inpatient treatment, and is a danger to himself, herself, or others. Existing law requires the department to only use the information for certain specified purposes.

This bill would additionally authorize the department to use the above-described information to determine the eligibility of a person who is the subject of a petition for the issuance of a gun violence restraining order 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.

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

SECTION 1. Section 1524 of the Penal Code is amended to read:

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

(1) When the property was stolen or embezzled.

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

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

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

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

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

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

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

(9) When the property or things to be seized include a firearm or any other deadly weapon at the scene of, or at the premises occupied or under

the control of the person arrested in connection with, a domestic violence incident involving a threat to human life or a physical assault as provided in Section 18250. This section does not affect warrantless seizures otherwise authorized by Section 18250.

(10) 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, a person described in subdivision (a) of Section 8102 of the Welfare and Institutions Code.

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

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

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

(14) Beginning January 1, 2016, 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 that has been issued pursuant to Division 3.2 (commencing with Section 18100) of Title 2 of Part 6, 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.

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

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

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

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

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

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

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

(d) (1) As used in this section, a “special master” is an attorney who is a member in good standing of the California State Bar and who has been selected from a list of qualified attorneys that is maintained by the State Bar particularly for the purposes of conducting the searches described in this section. These attorneys shall serve without compensation. A special master shall be considered a public employee, and the governmental entity that

caused the search warrant to be issued shall be considered the employer of the special master and the applicable public entity, for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, relating to claims and actions against public entities and public employees. In selecting the special master, the court shall make every reasonable effort to ensure that the person selected has no relationship with any of the parties involved in the pending matter. Any information obtained by the special master shall be confidential and may not be divulged except in direct response to inquiry by the court.

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

(e) Any search conducted pursuant to this section by a special master may be conducted in a manner that permits the party serving the warrant or his or her designee to accompany the special master as he or she conducts his or her search. However, that party or his or her designee may not participate in the search nor shall he or she examine any of the items being searched by the special master except upon agreement of the party upon whom the warrant has been served.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## DIVISION 3.2. GUN VIOLENCE RESTRAINING ORDERS

### CHAPTER 1. GENERAL

18100. A gun violence restraining order is an order, in writing, signed by the court, prohibiting and enjoining a named person from having in his or her custody or control, owning, purchasing, possessing, or receiving any firearms or ammunition. This division establishes a civil restraining order process to accomplish that purpose.

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



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

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

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

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

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

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

(d) When notifying the Department of Justice pursuant to subdivision (a) or (b), the court shall indicate in the notice 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 person's presence in court shall constitute proof of service of notice of the terms of the order.

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

(2) Within one business day of receipt of proof of service by a person other than a law enforcement officer, the clerk of the court shall submit the proof of service of a gun violence restraining order directly into the California Restraining and Protective Order System, including the name of the person who served the order. If the court is unable to provide this notification to the Department of Justice by electronic transmission, the

court shall, within one business day of receipt, transmit a copy of the proof of service to a local law enforcement agency. The local law enforcement agency shall submit the proof of service directly into the California Restraining and Protective Order System within one business day of receipt from the court.

18120. (a) A person subject to a gun violence restraining order issued pursuant to this division shall not have in his or her custody or control, own, purchase, possess, or receive any firearms or ammunition while that order is in effect.

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

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

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

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

(c) (1) Any firearms or ammunition surrendered to a law enforcement officer or law enforcement agency pursuant to this section shall be retained by the law enforcement agency until the expiration of any gun violence restraining order that has been issued against the restrained person. Upon expiration of any order, any firearms or ammunition shall be returned to the restrained person in accordance with the provisions of Chapter 2

(commencing with Section 33850) of Division 11 of Title 4. Firearms or ammunition that are not claimed are subject to the requirements of Section 34000.

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

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

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

#### CHAPTER 2. TEMPORARY EMERGENCY GUN VIOLENCE RESTRAINING ORDER

18125. (a) A temporary emergency gun violence restraining order may be issued on an ex parte basis only if a law enforcement officer asserts, and a judicial officer finds, that there is reasonable cause to believe both of the following:

(1) 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.

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

(b) A temporary emergency gun violence restraining order issued pursuant to this chapter shall prohibit 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, and shall expire 21 days from the date the order is issued.

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

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

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

- (b) The date and time the order expires.
- (c) The address of the superior court for the county in which the restrained party resides.
- (d) The following statement:

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

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

- (a) If the order is obtained orally, memorialize the order of the court on the form approved by the Judicial Council.
- (b) Serve the order on the restrained person, if the restrained person can reasonably be located.
- (c) File a copy of the order with the court as soon as practicable after issuance.
- (d) Have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice.

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

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

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

### CHAPTER 3. EX PARTE GUN VIOLENCE RESTRAINING ORDER

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

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

(b) A court may issue an ex parte gun violence restraining order if the petition, supported by an affidavit made in writing and signed by the petitioner under oath, or an oral statement taken pursuant to paragraph (2) of subdivision (a) of Section 18155, and any additional information provided to the court shows that there is a substantial likelihood that both of the following are true:

(1) The subject of the petition poses a significant danger, in the near future, of personal injury to himself, herself, or another by having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm as determined by considering the factors listed in Section 18155.

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

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

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

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

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

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

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

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

(C) A violation of an emergency protective order issued pursuant to Section 646.91 or Part 3 (commencing with Section 6240) of Division 10 of the Family Code that is in effect at the time the court is considering the petition.

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

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

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

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

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

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

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

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

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

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

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

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

(c) If the court determines that there grounds to issue an ex parte gun violence restraining order exist, it shall issue an ex parte gun violence restraining order that prohibits 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, and expires no later than 21 days from the date of the order.

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

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

(2) The date and time the order expires.

(3) The address of the superior court in which any responsive pleading should be filed.

(4) The date and time of the scheduled hearing.

(5) The following statement:

“To the restrained person: This order is valid until the expiration date and time noted above. You are required to surrender all firearms and ammunition that you own or possess in accordance with Section 18120 of the Penal Code and you may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive a firearm or ammunition, while

this order is in effect. A hearing will be held on the date and at the time noted above to determine if a more permanent gun violence restraining order should be issued. Failure to appear at that hearing may result in a court making an order against you that is valid for a year. You may seek the advice of an attorney as to any matter connected with the order. The attorney should be consulted promptly so that the attorney may assist you in any matter connected with the order.”

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

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

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

#### CHAPTER 4. GUN VIOLENCE RESTRAINING ORDER ISSUED AFTER NOTICE AND HEARING

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

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

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

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

(1) The subject of the petition, or a person subject to an ex parte gun violence restraining order, as applicable, 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 or ammunition.

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

(c) (1) If the court finds that there is clear and convincing evidence to issue a gun violence restraining order, the court shall issue a gun violence restraining order that prohibits 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.

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

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

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

- (1) A statement of the grounds supporting the issuance of the order.
- (2) The date and time the order expires.
- (3) The address of the superior court for the county in which the restrained party resides.
- (4) The following statement:

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

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

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



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

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

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

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

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

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

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

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

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

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

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

#### CHAPTER 5. OFFENSES

18200. Every person who files a petition for an ex parte gun violence restraining order pursuant to Chapter 3 (commencing with Section 18150)

or a gun violence restraining order issued after notice and a hearing pursuant to Chapter 4 (commencing with Section 18170), knowing the information in the petition to be false or with the intent to harass, is guilty of a misdemeanor.

18205. Every person who owns or possesses a firearm or ammunition with knowledge that he or she is prohibited from doing so by a temporary emergency gun violence restraining order issued pursuant to Chapter 2 (commencing with Section 18125), an ex parte gun violence restraining order issued pursuant to Chapter 3 (commencing with Section 18150), or a gun violence restraining order issued after notice and a hearing issued pursuant to Chapter 4 (commencing with Section 18170), 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 five-year period, to commence upon the expiration of the existing gun violence restraining order.

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

18250. (a) If any of the following persons is at the scene of a domestic violence incident involving a threat to human life or a physical assault, or is serving a protective order as defined in Section 6218 of the Family Code, that person shall take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual or other lawful search as necessary for the protection of the peace officer or other persons present:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Upon request of the Department of Justice pursuant to subdivision (a), each public and private mental hospital, sanitarium, and institution shall submit to the department information the department deems necessary to identify those persons who are subject to the prohibition specified by

subdivision (a) of Section 8100, in order to carry out its duties in relation to firearms, destructive devices, and explosives.

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

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

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

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

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

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

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

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

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

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

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may

be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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