

AMENDED IN SENATE JUNE 24, 2013

AMENDED IN ASSEMBLY APRIL 22, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1131

Introduced by Assembly Member Skinner

February 22, 2013

An act to amend Sections ~~26070, 26073, 26080, and 26081~~ of the Public Resources Code, relating to energy, and making an appropriation therefor ~~8100, 8102, 8103, 8104, and 8105~~ of the Welfare and Institutions Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1131, as amended, Skinner. ~~Energy: renewable energy and energy efficiency projects; financial assistance. Firearms.~~

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

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

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

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

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

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

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

(4) Existing law prohibits a person from possessing a firearm or deadly weapon for a period of 6 months when the person has communicated a serious threat of physical violence against a reasonably identifiable victim or victims to a licensed psychotherapist. Existing law requires the licensed psychotherapist to immediately report the identity of the person to a local law enforcement agency, and requires the local law enforcement agency to immediately notify the Department of Justice.

This bill would instead require the licensed psychotherapist to make the report to local law enforcement within 24 hours, in a manner prescribed by the department. The bill would require the local law enforcement agency receiving the report to notify the department

electronically within 24 hours, in a manner prescribed by the department.

(5) 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.

~~(1) Existing law authorizes local governments to assist property owners to finance the installation of distributed generation renewable energy sources, electric vehicle charging infrastructure, or energy or water efficiency improvements through the issuance of bonds that are secured by a voluntary contractual assessment on property (PACE bonds). Existing law requires the California Alternative Energy and Advanced Transportation Financing Authority to develop and administer a program to reduce the overall costs to property owners of PACE bonds by providing a reserve of no more than 10% of the initial principal amount of the PACE bonds. Existing law requires the authority to administer a Clean Energy Upgrade Program to reduce overall costs to property owners of a loan provided by a financial institution to finance the installation of distributed generation renewable energy sources, electric vehicle charging infrastructure, or energy or water efficiency improvements that are permanently fixed to real property by providing a reserve or other financial assistance at a level to be determined by the State Energy Resources Conservation and Development Commission and the authority. Existing law, until January 1, 2015, appropriates up to \$50,000,000 from the Renewable Resource Trust Fund for the above purposes. Existing law requires the authority, until January 1, 2015, to submit a report to the Legislature regarding the implementation of the above programs.~~

~~This bill would extend that appropriation and the reporting requirement to January 1, 2017.~~

~~(2) Existing law requires the authority to administer the Clean Energy Upgrade Program to provide loans for energy-related improvements for a residential project of 3 units or fewer or energy-related commercial projects that cost less than \$25,000. Existing law requires the authority,~~

in evaluating the eligibility of a loan program for the Clean Energy Upgrade Program, to consider, among other things, whether the loans made under the loan program are for less than 10% of the value of the property.

This bill would expand the Clean Energy Upgrade Program to provide financial assistance for residential projects eligible for the program to 4 units or fewer and for energy-related projects for mobilehomes and would delete requirement that the authority consider whether the loan is for less than 10% of the value of the property. By expanding the eligibility of loan programs under the Clean Energy Upgrade Program, this bill would make an appropriation:

Vote: $\frac{2}{3}$ -majority. Appropriation: ~~yes~~-no. Fiscal committee: yes. State-mandated local program: ~~no~~-yes.

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

- 1 SECTION 1. Section 8100 of the Welfare and Institutions Code
- 2 is amended to read:
- 3 8100. (a) A person shall not have in his or her possession or
- 4 under his or her custody or control, or purchase or receive, or
- 5 attempt to purchase or receive, any firearms whatsoever or any
- 6 other deadly weapon, if on or after January 1, 1992, he or she has
- 7 been admitted to a facility and is receiving inpatient treatment and,
- 8 in the opinion of the attending health professional who is primarily
- 9 responsible for the patient’s treatment of a mental disorder, is a
- 10 danger to self or others, as specified by Section 5150, 5250, or
- 11 5300, even though the patient has consented to that treatment. A
- 12 person is not subject to *the prohibition in* this subdivision ~~once~~
- 13 *after* he or she is discharged from the facility.
- 14 (b) (1) A person shall not have in his or her possession or under
- 15 his or her custody or control, or purchase or receive, or attempt to
- 16 purchase or receive, any firearms whatsoever or any other deadly
- 17 weapon for a period of ~~six months~~ *whenever five years if*, on or
- 18 after January 1, ~~1992~~, *2014*, he or she communicates to a licensed
- 19 psychotherapist, as defined in subdivisions (a) to (e), inclusive, of
- 20 Section 1010 of the Evidence Code, a serious threat of physical
- 21 violence against a reasonably identifiable victim or victims. The
- 22 ~~six-month~~ *five-year* period shall commence from the date that the
- 23 licensed psychotherapist reports to the local law enforcement
- 24 agency the identity of the person making the communication. The

1 prohibition provided for in this subdivision shall not apply unless
2 the licensed psychotherapist notifies a local law enforcement
3 agency of the threat by that person. The person, however, may
4 own, possess, have custody or control over, or receive or purchase
5 any firearm if a superior court, pursuant to paragraph (3) and upon
6 petition of the person, has found, by a preponderance of the
7 evidence, that the person is likely to use firearms or other deadly
8 weapons in a safe and lawful manner.

9 (2) Upon receipt of the report from the local law enforcement
10 agency pursuant to subdivision (c) of Section 8105, the Department
11 of Justice shall notify by certified mail, return receipt requested,
12 a person subject to this subdivision of the following:

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

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

23 (3) (A) Any person who is subject to paragraph (1) may petition
24 the superior court of his or her county of residence for an order
25 that he or she may own, possess, have custody or control over,
26 receive, or purchase firearms. At the time the petition is filed, the
27 clerk of the court shall set a hearing date and notify the person,
28 the Department of Justice, and the district attorney. The people of
29 the State of California shall be the respondent in the proceeding
30 and shall be represented by the district attorney. Upon motion of
31 the district attorney, or upon its own motion, the superior court
32 may transfer the petition to the county in which the person resided
33 at the time of the statements, or the county in which the person
34 made the statements. Within seven days after receiving notice of
35 the petition, the Department of Justice shall file copies of the
36 reports described in Section 8105 with the superior court. The
37 reports shall be disclosed upon request to the person and to the
38 district attorney. The district attorney shall be entitled to a
39 continuance of the hearing to a date of not less than 14 days after
40 the district attorney is notified of the hearing date by the clerk of

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

18 *(B) The people shall bear the burden of showing by a
19 preponderance of the evidence that the person would not be likely
20 to use firearms in a safe and lawful manner.*

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

33 *(D) If the district attorney declines or fails to go forward in the
34 hearing, the court shall order that the person shall not be subject
35 to the five-year prohibition required by this subdivision on the
36 ownership, control, receipt, possession, or purchase of firearms,
37 and that person shall comply with the procedure described in
38 Chapter 2 (commencing with Section 33850) of Division 11 of
39 Title 4 of Part 6 of the Penal Code for the return of any firearms.
40 A copy of the order shall be submitted to the Department of Justice.*

1 Upon receipt of the order, the Department of Justice shall, within
2 15 days, delete any reference to the prohibition against firearms
3 from the person's state mental health firearms prohibition system
4 information.

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

11 (c) "Discharge," for the purposes of this section, does not include
12 a leave of absence from a facility.

13 (d) "Attending health care professional," as used in this section,
14 means the licensed health care professional primarily responsible
15 for the person's treatment who is qualified to make the decision
16 that the person has a mental disorder and has probable cause to
17 believe that the person is a danger to self or others.

18 (e) "Deadly weapon," as used in this section and in Sections
19 8101, 8102, and 8103, means any weapon, the possession or
20 concealed carrying of which is prohibited by any provision listed
21 in Section 16590 of the Penal Code.

22 (f) "Danger to self," as used in subdivision (a), means a
23 voluntary person who has made a serious threat of, or attempted,
24 suicide with the use of a firearm or other deadly weapon.

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

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

33 (i) Any person admitted and receiving treatment prior to January
34 1, 1992, shall be governed by this section, as amended by Chapter
35 1090 of the Statutes of 1990, until discharged from the facility.

36 *SEC. 2. Section 8102 of the Welfare and Institutions Code is*
37 *amended to read:*

38 8102. (a) Whenever a person, who has been detained or
39 apprehended for examination of his or her mental condition or
40 who is a person described in Section 8100 or 8103, is found to

1 own, have in his or her possession or under his or her control, any
2 firearm whatsoever, or any other deadly weapon, the firearm or
3 other deadly weapon shall be confiscated by any law enforcement
4 agency or peace officer, who shall retain custody of the firearm
5 or other deadly weapon.

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

8 (b) (1) Upon confiscation of any firearm or other deadly
9 weapon from a person who has been detained or apprehended for
10 examination of his or her mental condition, the peace officer or
11 law enforcement agency shall notify the person of the procedure
12 for the return of any firearm or other deadly weapon which has
13 been confiscated.

14 ~~Where~~

15 (2) *If* the person is released, the professional person in charge
16 of the facility, or his or her designee, shall notify the person of the
17 procedure for the return of any firearm or other deadly weapon
18 which may have been confiscated.

19 ~~Health~~

20 (3) *Health* facility personnel shall notify the confiscating law
21 enforcement agency upon release of the detained person, and shall
22 make a notation to the effect that the facility provided the required
23 notice to the person regarding the procedure to obtain return of
24 any confiscated firearm.

25 (4) *For purposes of this subdivision, the procedure for the return*
26 *of confiscated firearms includes the procedures described in this*
27 *section and the procedures described in Chapter 2 (commencing*
28 *with Section 33850) of Division 11 of Title 4 of Part 6 of the Penal*
29 *Code.*

30 (c) Upon the release of a person as described in subdivision (b),
31 the confiscating law enforcement agency shall have 30 days to
32 initiate a petition in the superior court for a hearing to determine
33 whether the return of a firearm or other deadly weapon would be
34 likely to result in endangering the person or others, and to send a
35 notice advising the person of his or her right to a hearing on this
36 issue. The law enforcement agency may make an ex parte
37 application stating good cause for an order extending the time to
38 file a petition. Including any extension of time granted in response
39 to an ex parte request, a petition ~~must~~ *shall* be filed within 60 days
40 of the release of the person from a health facility.

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

8 (e) The law enforcement agency shall inform the person that he
9 or she has 30 days to respond to the court clerk to confirm his or
10 her desire for a hearing, and that the failure to respond will result
11 in a default order forfeiting the confiscated firearm or weapon.
12 *For a confiscated firearm, the period of forfeiture is 180 days*
13 *pursuant to Section 33875 of the Penal Code, unless the person*
14 *contacts the law enforcement agency to facilitate the sale or*
15 *transfer of the firearm to a licensed dealer pursuant to Section*
16 *33870 of the Penal Code.* For the purpose of this subdivision, the
17 person's last known address shall be the address provided to the
18 law enforcement officer by the person at the time of the person's
19 detention or apprehension.

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

24 (g) If the person does not respond within 30 days of the notice,
25 the law enforcement agency may file a petition for order of default,
26 *allowing the law enforcement agency to destroy the firearm in 180*
27 *days from the date the court enters default unless the person*
28 *contacts the law enforcement agency to facilitate the sale or*
29 *transfer of the firearm to a licensed dealer pursuant to Section*
30 *33870 of the Penal Code.*

31 *SEC. 3. Section 8103 of the Welfare and Institutions Code is*
32 *amended to read:*

33 8103. (a) (1) No person who after October 1, 1955, has been
34 adjudicated by a court of any state to be a danger to others as a
35 result of a mental disorder or mental illness, or who has been
36 adjudicated to be a mentally disordered sex offender, shall purchase
37 or receive, or attempt to purchase or receive, or have in his or her
38 possession, custody, or control any firearm or any other deadly
39 weapon unless there has been issued to the person a certificate by
40 the court of adjudication upon release from treatment or at a later

1 date stating that the person may possess a firearm or any other
2 deadly weapon without endangering others, and the person has
3 not, subsequent to the issuance of the certificate, again been
4 adjudicated by a court to be a danger to others as a result of a
5 mental disorder or mental illness.

6 (2) The court shall immediately notify the Department of Justice
7 of the court order finding the individual to be a person described
8 in paragraph (1). The court shall also *immediately* notify the
9 Department of Justice of any certificate issued as described in
10 paragraph (1).

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

34 (2) The court shall immediately notify the Department of Justice
35 of the court order finding the person to be a person described in
36 paragraph (1).

37 (c) (1) No person who has been found, pursuant to Section 1026
38 of the Penal Code or the law of any other state or the United States,
39 not guilty by reason of insanity of any crime other than those
40 described in subdivision (b) shall purchase or receive, or attempt

1 to purchase or receive, or shall have in his or her possession,
2 custody, or control any firearm or any other deadly weapon unless
3 the court of commitment has found the person to have recovered
4 sanity, pursuant to Section 1026.2 of the Penal Code or the law of
5 any other state or the United States.

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

10 (d) (1) No person found by a court to be mentally incompetent
11 to stand trial, pursuant to Section 1370 or 1370.1 of the Penal Code
12 or the law of any other state or the United States, shall purchase
13 or receive, or attempt to purchase or receive, or shall have in his
14 or her possession, custody, or control, any firearm or any other
15 deadly weapon, unless there has been a finding with respect to the
16 person of restoration to competence to stand trial by the committing
17 court, pursuant to Section 1372 of the Penal Code or the law of
18 any other state or the United States.

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

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

38 (2) The court shall immediately notify the Department of Justice
39 of the court order placing the person under conservatorship and
40 prohibiting firearm or any other deadly weapon possession by the

1 person as described in paragraph (1). The notice shall include the
2 date the conservatorship was imposed and the date the
3 conservatorship is to be terminated. If the conservatorship is
4 subsequently terminated before the date listed in the notice to the
5 Department of Justice or the court subsequently finds that
6 possession of a firearm or any other deadly weapon by the person
7 would no longer present a danger to the safety of the person or
8 others, the court shall immediately notify the Department of Justice.

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

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

33 (2) (A) For each person subject to this subdivision, the facility
34 shall immediately, on the date of admission, submit a report to the
35 Department of Justice, on a form prescribed by the Department of
36 Justice, containing information that includes, but is not limited to,
37 the identity of the person and the legal grounds upon which the
38 person was admitted to the facility.

39 Any report submitted pursuant to this paragraph shall be
40 confidential, except for purposes of the court proceedings described

1 in this subdivision and for determining the eligibility of the person
2 to own, possess, control, receive, or purchase a firearm.

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

6 (3) Prior to, or concurrent with, the discharge, the facility shall
7 inform a person subject to this subdivision that he or she is
8 prohibited from owning, possessing, controlling, receiving, or
9 purchasing any firearm for a period of five years. Simultaneously,
10 the facility shall inform the person that he or she may request a
11 hearing from a court, as provided in this subdivision, for an order
12 permitting the person to own, possess, control, receive, or purchase
13 a firearm. The facility shall provide the person with a form for a
14 request for a hearing. The Department of Justice shall prescribe
15 the form. Where the person requests a hearing at the time of
16 discharge, the facility shall forward the form to the superior court
17 unless the person states that he or she will submit the form to the
18 superior court.

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

26 (5) Any person who is subject to paragraph (1) who has
27 requested a hearing from the superior court of his or her county
28 of residence for an order that he or she may own, possess, control,
29 receive, or purchase firearms shall be given a hearing. The clerk
30 of the court shall set a hearing date and notify the person, the
31 Department of Justice, and the district attorney. The people of the
32 State of California shall be the plaintiff in the proceeding and shall
33 be represented by the district attorney. Upon motion of the district
34 attorney, or on its own motion, the superior court may transfer the
35 hearing to the county in which the person resided at the time of
36 his or her detention, the county in which the person was detained,
37 or the county in which the person was evaluated or treated. Within
38 seven days after the request for a hearing, the Department of Justice
39 shall file copies of the reports described in this section with the
40 superior court. The reports shall be disclosed upon request to the

1 person and to the district attorney. The court shall set the hearing
2 within 30 days of receipt of the request for a hearing. Upon
3 showing good cause, the district attorney shall be entitled to a
4 continuance not to exceed 14 days after the district attorney was
5 notified of the hearing date by the clerk of the court. If additional
6 continuances are granted, the total length of time for continuances
7 shall not exceed 60 days. The district attorney may notify the
8 county mental health director of the hearing who shall provide
9 information about the detention of the person that may be relevant
10 to the court and shall file that information with the superior court.
11 That information shall be disclosed to the person and to the district
12 attorney. The court, upon motion of the person subject to paragraph
13 (1) establishing that confidential information is likely to be
14 discussed during the hearing that would cause harm to the person,
15 shall conduct the hearing in camera with only the relevant parties
16 present, unless the court finds that the public interest would be
17 better served by conducting the hearing in public. Notwithstanding
18 any other law, declarations, police reports, including criminal
19 history information, and any other material and relevant evidence
20 that is not excluded under Section 352 of the Evidence Code shall
21 be admissible at the hearing under this section.

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

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

37 (8) Where the district attorney declines or fails to go forward
38 in the hearing, the court shall order that the person shall not be
39 subject to the five-year prohibition required by this subdivision
40 on the ownership, control, receipt, possession, or purchase of

1 firearms. A copy of the order shall be submitted to the Department
2 of Justice. Upon receipt of the order, the Department of Justice
3 shall, within 15 days, delete any reference to the prohibition against
4 firearms from the person's state mental health firearms prohibition
5 system information, *and that person shall comply with the*
6 *procedure described in Chapter 2 (commencing with Section*
7 *33850) of Division 11 of Title 4 of Part 6 of the Penal Code for*
8 *the return of any firearms.*

9 (9) Nothing in this subdivision shall prohibit the use of reports
10 filed pursuant to this section to determine the eligibility of persons
11 to own, possess, control, receive, or purchase a firearm if the person
12 is the subject of a criminal investigation, a part of which involves
13 the ownership, possession, control, receipt, or purchase of a
14 firearm.

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

19 Any person who meets the criteria contained in subdivision (e)
20 or (f) who is released from intensive treatment shall nevertheless,
21 if applicable, remain subject to the prohibition contained in
22 subdivision (e) or (f).

23 (2) (A) For each person certified for intensive treatment under
24 paragraph (1), the facility shall immediately submit a report to the
25 Department of Justice, on a form prescribed by the department,
26 containing information regarding the person, including, but not
27 limited to, the legal identity of the person and the legal grounds
28 upon which the person was certified. Any report submitted pursuant
29 to this paragraph shall only be used for the purposes specified in
30 paragraph (2) of subdivision (f).

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

34 (3) Prior to, or concurrent with, the discharge of each person
35 certified for intensive treatment under paragraph (1), the facility
36 shall inform the person of that information specified in paragraph
37 (3) of subdivision (f).

38 (4) Any person who is subject to paragraph (1) may petition the
39 superior court of his or her county of residence for an order that
40 he or she may own, possess, control, receive, or purchase firearms.

1 At the time the petition is filed, the clerk of the court shall set a
2 hearing date and notify the person, the Department of Justice, and
3 the district attorney. The people of the State of California shall be
4 the respondent in the proceeding and shall be represented by the
5 district attorney. Upon motion of the district attorney, or on its
6 own motion, the superior court may transfer the petition to the
7 county in which the person resided at the time of his or her
8 detention, the county in which the person was detained, or the
9 county in which the person was evaluated or treated. Within seven
10 days after receiving notice of the petition, the Department of Justice
11 shall file copies of the reports described in this section with the
12 superior court. The reports shall be disclosed upon request to the
13 person and to the district attorney. The district attorney shall be
14 entitled to a continuance of the hearing to a date of not less than
15 14 days after the district attorney was notified of the hearing date
16 by the clerk of the court. The district attorney may notify the county
17 mental health director of the petition, and the county mental health
18 director shall provide information about the detention of the person
19 that may be relevant to the court and shall file that information
20 with the superior court. That information shall be disclosed to the
21 person and to the district attorney. The court, upon motion of the
22 person subject to paragraph (1) establishing that confidential
23 information is likely to be discussed during the hearing that would
24 cause harm to the person, shall conduct the hearing in camera with
25 only the relevant parties present, unless the court finds that the
26 public interest would be better served by conducting the hearing
27 in public. Notwithstanding any other provision of law, any
28 declaration, police reports, including criminal history information,
29 and any other material and relevant evidence that is not excluded
30 under Section 352 of the Evidence Code, shall be admissible at
31 the hearing under this section. If the court finds by a preponderance
32 of the evidence that the person would be likely to use firearms in
33 a safe and lawful manner, the court may order that the person may
34 own, control, receive, possess, or purchase firearms, *and that*
35 *person shall comply with the procedure described in Chapter 2*
36 *(commencing with Section 33850) of Division 11 of Title 4 of Part*
37 *6 of the Penal Code for the return of any firearms.* A copy of the
38 order shall be submitted to the Department of Justice. Upon receipt
39 of the order, the Department of Justice shall delete any reference

1 to the prohibition against firearms from the person’s state mental
2 health firearms prohibition system information.

3 (h) (1) For all persons identified in subdivisions (f) and (g),
4 facilities shall report to the Department of Justice as specified in
5 those subdivisions, except facilities shall not report persons under
6 subdivision (g) if the same persons previously have been reported
7 under subdivision (f).

8 **Additionally,**

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

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

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

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

24 (l) *Any notice or report required to be submitted to the*
25 *Department of Justice pursuant to this section shall be submitted*
26 *in an electronic format, in a manner prescribed by the Department*
27 *of Justice.*

28 *SEC. 4. Section 8104 of the Welfare and Institutions Code is*
29 *amended to read:*

30 8104. The State Department of State Hospitals shall maintain
31 in a convenient central location and shall make available to the
32 Department of Justice those records that the State Department of
33 State Hospitals has in its possession that are necessary to identify
34 persons who come within Section 8100 or 8103. ~~These records~~
35 ~~shall be made~~ *Upon request of the Department of Justice, the State*
36 *Department of State Hospitals shall make these records available*
37 *to the Department of Justice—upon in electronic format within*
38 *twenty-four hours of receiving the request.* The Department of
39 Justice shall make these requests only with respect to its duties
40 with regard to applications for permits for, or to carry, or the

1 possession, purchase, or transfer of, explosives as defined in
2 Section 12000 of the Health and Safety Code, devices defined in
3 Section 16250, 16530, or 16640 of the Penal Code, in subdivisions
4 (a) to (d), inclusive, of Section 16520 of the Penal Code, or in
5 subdivision (a) of Section 16840 of the Penal Code, machineguns
6 as defined in Section 16880 of the Penal Code, short-barreled
7 shotguns or short-barreled rifles as defined in Sections 17170 and
8 17180 of the Penal Code, assault weapons as defined in Section
9 30510 of the Penal Code, and destructive devices as defined in
10 Section 16460 of the Penal Code, or to determine the eligibility
11 of a person to acquire, carry, or possess a firearm, explosive, or
12 destructive device by a person who is subject to a criminal
13 investigation, a part of which involves the acquisition, carrying,
14 or possession of a firearm by that person. These records shall not
15 be furnished or made available to any person unless the department
16 determines that disclosure of any information in the records is
17 necessary to carry out its duties with respect to applications for
18 permits for, or to carry, or the possession, purchase, or transfer of,
19 explosives, destructive devices, devices as defined in Section
20 16250, 16530, or 16640 of the Penal Code, in subdivisions (a) to
21 (d), inclusive, of Section 16520 of the Penal Code, or in subdivision
22 (a) of Section 16840 of the Penal Code, short-barreled shotguns,
23 short-barreled rifles, assault weapons, and machineguns, or to
24 determine the eligibility of a person to acquire, carry, or possess
25 a firearm, explosive, or destructive device by a person who is
26 subject to a criminal investigation, a part of which involves the
27 acquisition, carrying, or possession of a firearm by that person.

28 *SEC. 5. Section 8105 of the Welfare and Institutions Code is*
29 *amended to read:*

30 8105. (a) The Department of Justice shall request each public
31 and private mental hospital, sanitarium, and institution to submit
32 to the department that information that the department deems
33 necessary to identify those persons who are within subdivision (a)
34 of Section 8100, in order to carry out its duties in relation to
35 firearms, destructive devices, and explosives.

36 (b) Upon request of the Department of Justice pursuant to
37 subdivision (a), each public and private mental hospital, sanitarium,
38 and institution shall submit to the department that information
39 which the department deems necessary to identify those persons
40 who are within subdivision (a) of Section 8100, in order to carry

1 out its duties in relation to firearms, destructive devices, and
2 explosives.

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

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

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

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

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

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

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

1 meaning of Section 6 of Article XIII B of the California
 2 Constitution.

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

8 SECTION 1. ~~Section 26070 of the Public Resources Code is~~
 9 ~~amended to read:~~

10 26070. ~~The authority shall administer a Clean Energy Upgrade~~
 11 ~~Program to reduce overall costs to the property owners of a loan~~
 12 ~~provided by an applicant to finance the installation of distributed~~
 13 ~~generation renewable energy sources, electric vehicle charging~~
 14 ~~infrastructure, or energy or water efficiency improvements that~~
 15 ~~are permanently fixed to real property by providing a reserve or~~
 16 ~~other financial assistance at a level to be determined by the State~~
 17 ~~Energy Resources Conservation and Development Commission~~
 18 ~~and the authority. Improvements financed pursuant to this program~~
 19 ~~shall be for a residential project of four units or fewer, a project~~
 20 ~~for a mobilehome, as defined in Section 18008 of the Health and~~
 21 ~~Safety Code, or a commercial project that costs less than~~
 22 ~~twenty-five thousand dollars (\$25,000) in total.~~

23 SEC. 2. ~~Section 26073 of the Public Resources Code is~~
 24 ~~amended to read:~~

25 26073. (a) ~~In evaluating eligibility, the authority shall consider~~
 26 ~~whether the applicant's loan program includes the following~~
 27 ~~conditions:~~

- 28 (1) ~~Loan recipients are legal owners of underlying property.~~
- 29 (2) ~~Loan recipients are current on mortgage and property tax~~
 30 ~~payments.~~
- 31 (3) ~~Loan recipients are not in default or in bankruptcy~~
 32 ~~proceedings.~~
- 33 (4) ~~The program offers financing for energy and water efficiency~~
 34 ~~improvements.~~
- 35 (5) ~~Improvements financed by the program follow applicable~~
 36 ~~standards of energy efficiency retrofit work, including any~~
 37 ~~guidelines adopted by the State Energy Resources Conservation~~
 38 ~~and Development Commission.~~

39 (b) ~~In evaluating an application, the authority shall consider all~~
 40 ~~of the following factors:~~

1 ~~(1) The use by the loan program of best practices, adopted by~~
2 ~~the authority, to qualify eligible properties for participation in~~
3 ~~underwriting the loan program.~~

4 ~~(2) The cost efficiency of the applicant's loan program.~~

5 ~~(3) The projected number of jobs created by the loan program.~~

6 ~~(4) The applicant's loan program requirements for quality~~
7 ~~assurance and consumer protection, as related to achieving~~
8 ~~efficiency and clean energy production, in accordance with the~~
9 ~~standards developed pursuant to subdivision (b) of Section 26072.~~

10 ~~(5) The mechanisms by which savings produced by this program~~
11 ~~are passed on to the property owners.~~

12 ~~(6) Any other factors deemed appropriate by the authority.~~

13 ~~(e) The authority may approve a loan program that offers~~
14 ~~financing for electric vehicle charging infrastructure if the electric~~
15 ~~vehicle charging infrastructure is part of a project to install energy~~
16 ~~efficiency improvements and distributed generation renewable~~
17 ~~energy resources and is designed so that the project does not~~
18 ~~increase peak energy demand.~~

19 ~~SEC. 3. Section 26080 of the Public Resources Code is~~
20 ~~amended to read:~~

21 ~~26080. (a) Until January 1, 2017, an amount of up to fifty~~
22 ~~million dollars (\$50,000,000) from the Renewable Resource Trust~~
23 ~~Fund, established pursuant to Section 25751, is hereby appropriated~~
24 ~~to the authority for the purposes of this chapter. The moneys~~
25 ~~appropriated shall remain in the Renewable Resource Trust Fund~~
26 ~~until the funds are needed by the authority pursuant to this chapter.~~

27 ~~(b) Of the moneys appropriated in subdivision (a), up to five~~
28 ~~hundred fifty thousand dollars (\$550,000) may be expended by~~
29 ~~the authority for the initial administrative costs in implementing~~
30 ~~this chapter.~~

31 ~~(c) All repayments of moneys disbursed pursuant to this chapter~~
32 ~~shall be deposited into the Renewable Resource Trust Fund.~~

33 ~~SEC. 4. Section 26081 of the Public Resources Code is~~
34 ~~amended to read:~~

35 ~~26081. (a) On March 31, 2011, and annually thereafter, the~~
36 ~~authority shall submit to the Legislature a report pursuant to Section~~
37 ~~9795 of the Government Code on all of the following:~~

38 ~~(1) The status of the account.~~

39 ~~(2) A summary of the PACE bonds that received assistance~~
40 ~~pursuant to Article 2 (commencing with Section 26060) and a~~

- 1 summary of the loans that received assistance pursuant to Article
- 2 3 (commencing with Section 26070):
- 3 (3) ~~A summary of the benefits provided by this division,~~
- 4 ~~including reduced interest rates on the PACE bonds or on loans~~
- 5 ~~receiving assistance pursuant to this division.~~
- 6 (4) ~~The number of jobs created by the PACE programs or loans~~
- 7 ~~that received assistance pursuant to this chapter.~~
- 8 (5) ~~Information on energy and water savings resulting from the~~
- 9 ~~PACE programs or loans that received assistance pursuant to this~~
- 10 ~~chapter.~~
- 11 (6) ~~Other information deemed appropriate by the authority.~~
- 12 (b) ~~This section shall remain in effect only until January 1, 2017,~~
- 13 ~~and as of that date is repealed, unless a later enacted statute, that~~
- 14 ~~is enacted before January 1, 2017, deletes or extends that date.~~