

AMENDED IN SENATE SEPTEMBER 4, 2013

AMENDED IN SENATE SEPTEMBER 3, 2013

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 8100, 8102, 8103, 8104, and 8105 of the Welfare and Institutions Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1131, as amended, Skinner. 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. The bill would provide additional procedures for the disposition of a firearm that is not returned to the person, as specified. 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 revise those provisions to require a court to provide specified notices to the department as soon as possible, but not exceeding 2 court days, and would require submission of reports by specified facilities to the department within 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) This bill would incorporate changes to Section 8103 of the Welfare and Institutions Code proposed by SB 755, that would become operative on the date this bill becomes operative only if SB 755 and this bill are both chaptered and become effective on or before January 1, 2014, and this bill is chaptered last.

~~(5)~~

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

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

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

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

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

1 SECTION 1. Section 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 after he
13 or she is discharged from the facility.

1 (b) (1) A person shall not have in his or her possession or under
2 his or her custody or control, or purchase or receive, or attempt to
3 purchase or receive, any firearms whatsoever or any other deadly
4 weapon for a period of five years if, on or after January 1, 2014,
5 he or she communicates to a licensed psychotherapist, as defined
6 in subdivisions (a) to (e), inclusive, of Section 1010 of the Evidence
7 Code, a serious threat of physical violence against a reasonably
8 identifiable victim or victims. The five-year period shall commence
9 from the date that the licensed psychotherapist reports to the local
10 law enforcement agency the identity of the person making the
11 communication. The prohibition provided for in this subdivision
12 shall not apply unless the licensed psychotherapist notifies a local
13 law enforcement agency of the threat by that person. The person,
14 however, may own, possess, have custody or control over, or
15 receive or purchase any firearm if a superior court, pursuant to
16 paragraph (3) and upon petition of the person, has found, by a
17 preponderance of the evidence, that the person is likely to use
18 firearms or other deadly weapons in a safe and lawful manner.

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

23 (A) That he or she is prohibited from possessing, having custody
24 or control over, receiving, or purchasing any firearm or other
25 deadly weapon for a period of five years commencing from the
26 date that the licensed psychotherapist reports to the local law
27 enforcement agency the identity of the person making the
28 communication. The notice shall state the date when the prohibition
29 commences and ends.

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

33 (3) (A) Any person who is subject to paragraph (1) may petition
34 the superior court of his or her county of residence for an order
35 that he or she may own, possess, have custody or control over,
36 receive, or purchase firearms. At the time the petition is filed, the
37 clerk of the court shall set a hearing date and notify the person,
38 the Department of Justice, and the district attorney. The people of
39 the State of California shall be the respondent in the proceeding
40 and shall be represented by the district attorney. Upon motion of

1 the district attorney, or upon its own motion, the superior court
2 may transfer the petition to the county in which the person resided
3 at the time of the statements, or the county in which the person
4 made the statements. Within seven days after receiving notice of
5 the petition, the Department of Justice shall file copies of the
6 reports described in Section 8105 with the superior court. The
7 reports shall be disclosed upon request to the person and to the
8 district attorney. The district attorney shall be entitled to a
9 continuance of the hearing to a date of not less than 14 days after
10 the district attorney is notified of the hearing date by the clerk of
11 the court. The court, upon motion of the petitioner establishing
12 that confidential information is likely to be discussed during the
13 hearing that would cause harm to the person, shall conduct the
14 hearing in camera with only the relevant parties present, unless
15 the court finds that the public interest would be better served by
16 conducting the hearing in public. Notwithstanding any other
17 provision of law, declarations, police reports, including criminal
18 history information, and any other material and relevant evidence
19 that is not excluded under Section 352 of the Evidence Code, shall
20 be admissible at the hearing under this paragraph.

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

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

36 (D) If the district attorney declines or fails to go forward in the
37 hearing, the court shall order that the person shall not be subject
38 to the five-year prohibition required by this subdivision on the
39 ownership, control, receipt, possession, or purchase of firearms,
40 and that person shall comply with the procedure described in

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

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

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

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

21 (e) “Deadly weapon,” as used in this section and in Sections
 22 8101, 8102, and 8103, means any weapon, the possession or
 23 concealed carrying of which is prohibited by any provision listed
 24 in Section 16590 of the Penal Code.

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

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

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

36 (i) Any person admitted and receiving treatment prior to January
 37 1, 1992, shall be governed by this section, as amended by Chapter
 38 1090 of the Statutes of 1990, until discharged from the facility.

39 SEC. 2. Section 8102 of the Welfare and Institutions Code is
 40 amended to read:

1 8102. (a) Whenever a person, who has been detained or
2 apprehended for examination of his or her mental condition or
3 who is a person described in Section 8100 or 8103, is found to
4 own, have in his or her possession or under his or her control, any
5 firearm whatsoever, or any other deadly weapon, the firearm or
6 other deadly weapon shall be confiscated by any law enforcement
7 agency or peace officer, who shall retain custody of the firearm
8 or other deadly weapon.

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

11 (b) (1) Upon confiscation of any firearm or other deadly weapon
12 from a person who has been detained or apprehended for
13 examination of his or her mental condition, the peace officer or
14 law enforcement agency shall issue a receipt describing the deadly
15 weapon or any firearm and listing any serial number or other
16 identification on the firearm and shall notify the person of the
17 procedure for the return, sale, transfer, or destruction of any firearm
18 or other deadly weapon which has been confiscated. A peace officer
19 or law enforcement agency that provides the receipt and notification
20 described in Section 33800 of the Penal Code satisfies the receipt
21 and notice requirements.

22 (2) If the person is released, the professional person in charge
23 of the facility, or his or her designee, shall notify the person of the
24 procedure for the return of any firearm or other deadly weapon
25 which may have been confiscated.

26 (3) Health facility personnel shall notify the confiscating law
27 enforcement agency upon release of the detained person, and shall
28 make a notation to the effect that the facility provided the required
29 notice to the person regarding the procedure to obtain return of
30 any confiscated firearm.

31 (4) For purposes of this subdivision, the procedure for the return,
32 sale, or transfer of confiscated firearms includes the procedures
33 described in this section and the procedures described in Chapter
34 2 (commencing with Section 33850) of Division 11 of Title 4 of
35 Part 6 of the Penal Code.

36 (5) In lieu of destroying a firearm that has been confiscated
37 pursuant to this section that is a nuisance, unclaimed, abandoned,
38 or otherwise subject to destruction, a law enforcement agency may
39 retain or transfer the firearm as provided in Section 34005 of the
40 Penal Code.

1 (c) Upon the release of a person as described in subdivision (b),
2 the confiscating law enforcement agency shall have 30 days to
3 initiate a petition in the superior court for a hearing to determine
4 whether the return of a firearm or other deadly weapon would be
5 likely to result in endangering the person or others, and to send a
6 notice advising the person of his or her right to a hearing on this
7 issue. The law enforcement agency may make an ex parte
8 application stating good cause for an order extending the time to
9 file a petition. Including any extension of time granted in response
10 to an ex parte request, a petition shall be filed within 60 days of
11 the release of the person from a health facility.

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

19 (e) The law enforcement agency shall inform the person that he
20 or she has 30 days to respond to the court clerk to confirm his or
21 her desire for a hearing, and that the failure to respond will result
22 in a default order forfeiting the confiscated firearm or weapon. For
23 a confiscated firearm, the period of forfeiture is 180 days pursuant
24 to Section 33875 of the Penal Code, unless the person contacts the
25 law enforcement agency to facilitate the sale or transfer of the
26 firearm to a licensed dealer pursuant to Section 33870 of the Penal
27 Code. For the purpose of this subdivision, the person's last known
28 address shall be the address provided to the law enforcement officer
29 by the person at the time of the person's detention or apprehension.

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

34 (g) If the person does not respond within 30 days of the notice,
35 the law enforcement agency may file a petition for order of default,
36 allowing the law enforcement agency to destroy the firearm in 180
37 days from the date the court enters default unless the person
38 contacts the law enforcement agency to facilitate the sale or transfer
39 of the firearm to a licensed dealer pursuant to Section 33870 of
40 the Penal Code.

1 (h) If, after a hearing, the court determines that the return of the
2 firearm or other deadly weapon would likely endanger the person
3 or others, the law enforcement agency may destroy the firearm
4 within 180 days from the date that the court makes that
5 determination, unless the person contacts the law enforcement
6 agency to facilitate the sale or transfer of the firearm to a licensed
7 dealer pursuant to Section 33870 of the Penal Code.

8 SEC. 3. Section 8103 of the Welfare and Institutions Code is
9 amended to read:

10 8103. (a) (1) No person who after October 1, 1955, has been
11 adjudicated by a court of any state to be a danger to others as a
12 result of a mental disorder or mental illness, or who has been
13 adjudicated to be a mentally disordered sex offender, shall purchase
14 or receive, or attempt to purchase or receive, or have in his or her
15 possession, custody, or control any firearm or any other deadly
16 weapon unless there has been issued to the person a certificate by
17 the court of adjudication upon release from treatment or at a later
18 date stating that the person may possess a firearm or any other
19 deadly weapon without endangering others, and the person has
20 not, subsequent to the issuance of the certificate, again been
21 adjudicated by a court to be a danger to others as a result of a
22 mental disorder or mental illness.

23 (2) The court shall notify the Department of Justice of the court
24 order finding the individual to be a person described in paragraph
25 (1) as soon as possible, but not later than two court days after
26 issuing the order. The court shall also notify the Department of
27 Justice of any certificate issued as described in paragraph (1) as
28 soon as possible, but not later than two court days after issuing the
29 certificate.

30 (b) (1) No person who has been found, pursuant to Section
31 1026 of the Penal Code or the law of any other state or the United
32 States, not guilty by reason of insanity of murder, mayhem, a
33 violation of Section 207, 209, or 209.5 of the Penal Code in which
34 the victim suffers intentionally inflicted great bodily injury,
35 carjacking or robbery in which the victim suffers great bodily
36 injury, a violation of Section 451 or 452 of the Penal Code
37 involving a trailer coach, as defined in Section 635 of the Vehicle
38 Code, or any dwelling house, a violation of paragraph (1) or (2)
39 of subdivision (a) of Section 262 or paragraph (2) or (3) of
40 subdivision (a) of Section 261 of the Penal Code, a violation of

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

13 (2) The court shall notify the Department of Justice of the court
14 order finding the person to be a person described in paragraph (1)
15 as soon as possible, but not later than two court days after issuing
16 the order.

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

26 (2) The court shall notify the Department of Justice of the court
27 order finding the person to be a person described in paragraph (1)
28 as soon as possible, but not later than two court days after issuing
29 the order. The court shall also notify the Department of Justice
30 when it finds that the person has recovered his or her sanity as
31 soon as possible, but not later than two court days after making
32 the finding.

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

1 court, pursuant to Section 1372 of the Penal Code or the law of
2 any other state or the United States.

3 (2) The court shall notify the Department of Justice of the court
4 order finding the person to be mentally incompetent as described
5 in paragraph (1) as soon as possible, but not later than two court
6 days after issuing the order. The court shall also notify the
7 Department of Justice when it finds that the person has recovered
8 his or her competence as soon as possible, but not later than two
9 court days after making the finding.

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

24 (2) The court shall notify the Department of Justice of the court
25 order placing the person under conservatorship and prohibiting
26 firearm or any other deadly weapon possession by the person as
27 described in paragraph (1) as soon as possible, but not later than
28 two court days after placing the person under conservatorship. The
29 notice shall include the date the conservatorship was imposed and
30 the date the conservatorship is to be terminated. If the
31 conservatorship is subsequently terminated before the date listed
32 in the notice to the Department of Justice or the court subsequently
33 finds that possession of a firearm or any other deadly weapon by
34 the person would no longer present a danger to the safety of the
35 person or others, the court shall notify the Department of Justice
36 as soon as possible, but not later than two court days after
37 terminating the conservatorship.

38 (3) All information provided to the Department of Justice
39 pursuant to paragraph (2) shall be kept confidential, separate, and
40 apart from all other records maintained by the Department of

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

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

22 (2) (A) For each person subject to this subdivision, the facility
23 shall, within 24 hours of the time of admission, submit a report to
24 the Department of Justice, on a form prescribed by the Department
25 of Justice, containing information that includes, but is not limited
26 to, the identity of the person and the legal grounds upon which the
27 person was admitted to the facility.

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

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

35 (3) Prior to, or concurrent with, the discharge, the facility shall
36 inform a person subject to this subdivision that he or she is
37 prohibited from owning, possessing, controlling, receiving, or
38 purchasing any firearm for a period of five years. Simultaneously,
39 the facility shall inform the person that he or she may request a
40 hearing from a court, as provided in this subdivision, for an order

1 permitting the person to own, possess, control, receive, or purchase
2 a firearm. The facility shall provide the person with a form for a
3 request for a hearing. The Department of Justice shall prescribe
4 the form. Where the person requests a hearing at the time of
5 discharge, the facility shall forward the form to the superior court
6 unless the person states that he or she will submit the form to the
7 superior court.

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

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

1 attorney. The court, upon motion of the person subject to paragraph
2 (1) establishing that confidential information is likely to be
3 discussed during the hearing that would cause harm to the person,
4 shall conduct the hearing in camera with only the relevant parties
5 present, unless the court finds that the public interest would be
6 better served by conducting the hearing in public. Notwithstanding
7 any other 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 section.

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

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

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

38 (9) Nothing in this subdivision shall prohibit the use of reports
39 filed pursuant to this section to determine the eligibility of persons
40 to own, possess, control, receive, or purchase a firearm if the person

1 is the subject of a criminal investigation, a part of which involves
2 the ownership, possession, control, receipt, or purchase of a
3 firearm.

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

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

12 (2) (A) For each person certified for intensive treatment under
13 paragraph (1), the facility shall, within 24 hours of the certification,
14 submit a report to the Department of Justice, on a form prescribed
15 by the department, containing information regarding the person,
16 including, but not limited to, the legal identity of the person and
17 the legal grounds upon which the person was certified. Any report
18 submitted pursuant to this paragraph shall only be used for the
19 purposes specified in paragraph (2) of subdivision (f).

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

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

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

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

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

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

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

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

9 (k) Any notice or report required to be submitted to the
10 Department of Justice pursuant to this section shall be submitted
11 in an electronic format, in a manner prescribed by the Department
12 of Justice.

13 *SEC. 3.5. Section 8103 of the Welfare and Institutions Code*
14 *is amended to read:*

15 8103. (a) (1) No person who after October 1, 1955, has been
16 adjudicated by a court of any state to be a danger to others as a
17 result of a mental disorder or mental illness, or who has been
18 adjudicated to be a mentally disordered sex offender, shall purchase
19 or receive, or attempt to purchase or receive, or have in his or her
20 possession, custody, or control any firearm or any other deadly
21 weapon unless there has been issued to the person a certificate by
22 the court of adjudication upon release from treatment or at a later
23 date stating that the person may possess a firearm or any other
24 deadly weapon without endangering others, and the person has
25 not, subsequent to the issuance of the certificate, again been
26 adjudicated by a court to be a danger to others as a result of a
27 mental disorder or mental illness.

28 (2) The court shall ~~immediately~~ notify the Department of Justice
29 of the court order finding the individual to be a person described
30 in paragraph (1) *as soon as possible, but not later than two court*
31 *days after issuing the order.* The court shall also notify the
32 Department of Justice of any certificate issued as described in
33 paragraph (1) *as soon as possible, but not later than two court*
34 *days after issuing the certificate.*

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

1 injury, a violation of Section 451 or 452 of the Penal Code
2 involving a trailer coach, as defined in Section 635 of the Vehicle
3 Code, or any dwelling house, a violation of paragraph (1) or (2)
4 of subdivision (a) of Section 262 or paragraph (2) or (3) of
5 subdivision (a) of Section 261 of the Penal Code, a violation of
6 Section 459 of the Penal Code in the first degree, assault with
7 intent to commit murder, a violation of Section 220 of the Penal
8 Code in which the victim suffers great bodily injury, a violation
9 of Section 18715, 18725, 18740, 18745, 18750, or 18755 of the
10 Penal Code, or of a felony involving death, great bodily injury, or
11 an act which poses a serious threat of bodily harm to another
12 person, or a violation of the law of any other state or the United
13 States that includes all the elements of any of the above felonies
14 as defined under California law, shall purchase or receive, or
15 attempt to purchase or receive, or have in his or her possession or
16 under his or her custody or control any firearm or any other deadly
17 weapon.

18 (2) The court shall ~~immediately~~ notify the Department of Justice
19 of the court order finding the person to be a person described in
20 paragraph (1) *as soon as possible, but not later than two court*
21 *days after issuing the order.*

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

31 (2) The court shall ~~immediately~~ notify the Department of Justice
32 of the court order finding the person to be a person described in
33 paragraph (1) *as soon as possible, but not later than two court*
34 *days after issuing the order.* The court shall also notify the
35 Department of Justice when it finds that the person has recovered
36 his or her sanity *as soon as possible, but not later than two court*
37 *days after making the finding.*

38 (d) (1) No person found by a court to be mentally incompetent
39 to stand trial, pursuant to Section 1370 or 1370.1 of the Penal Code
40 or the law of any other state or the United States, shall purchase

1 or receive, or attempt to purchase or receive, or shall have in his
2 or her possession, custody, or control, any firearm or any other
3 deadly weapon, unless there has been a finding with respect to the
4 person of restoration to competence to stand trial by the committing
5 court, pursuant to Section 1372 of the Penal Code or the law of
6 any other state or the United States.

7 (2) The court shall ~~immediately~~ notify the Department of Justice
8 of the court order finding the person to be mentally incompetent
9 as described in paragraph (1) *as soon as possible, but not later*
10 *than two court days after issuing the order*. The court shall also
11 notify the Department of Justice when it finds that the person has
12 recovered his or her competence *as soon as possible, but not later*
13 *than two court days after making the finding*.

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

28 (2) The court shall ~~immediately~~ notify the Department of Justice
29 of the court order placing the person under conservatorship and
30 prohibiting firearm or any other deadly weapon possession by the
31 person as described in paragraph (1) *as soon as possible, but not*
32 *later than two court days after placing the person under*
33 *conservatorship*. The notice shall include the date the
34 conservatorship was imposed and the date the conservatorship is
35 to be terminated. If the conservatorship is subsequently terminated
36 before the date listed in the notice to the Department of Justice or
37 the court subsequently finds that possession of a firearm or any
38 other deadly weapon by the person would no longer present a
39 danger to the safety of the person or others, the court shall
40 ~~immediately~~ notify the Department of Justice *as soon as possible*,

1 *but not later than two court days after terminating the*
2 *conservatorship.*

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

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

27 (2) (A) For each person subject to this subdivision, the facility
28 shall ~~immediately, on the date,~~ *within 24 hours of the time* of
29 admission, submit a report to the Department of Justice, on a form
30 prescribed by the Department of Justice, containing information
31 that includes, but is not limited to, the identity of the person and
32 the legal grounds upon which the person was admitted to the
33 facility.

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

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

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

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

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

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

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

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

32 (8) Where the district attorney declines or fails to go forward
33 in the hearing, the court shall order that the person shall not be
34 subject to the five-year prohibition required by this subdivision
35 on the ownership, control, receipt, possession, or purchase of
36 firearms. A copy of the order shall be submitted to the Department
37 of Justice. Upon receipt of the order, the Department of Justice
38 shall, within 15 days, delete any reference to the prohibition against
39 firearms from the person's state mental health firearms prohibition
40 system information, *and that person shall comply with the*

1 *procedure described in Chapter 2 (commencing with Section*
2 *33850) of Division 11 of Title 4 of Part 6 of the Penal Code for*
3 *the return of any firearms.*

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

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

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

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

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

30 (3) Prior to, or concurrent with, the discharge of each person
31 certified for intensive treatment under paragraph (1), the facility
32 shall inform the person of that information specified in paragraph
33 (3) of subdivision (f).

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

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

38 (h) (1) For all persons identified in subdivisions (f) and (g),
39 facilities shall report to the Department of Justice as specified in
40 those subdivisions, except facilities shall not report persons under

1 subdivision (g) if the same persons previously have been reported
2 under subdivision (f).

3 ~~Additionally,~~

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

9 (i) (1) *No person who has been ordered by a court to obtain*
10 *assisted outpatient treatment pursuant to Article 9 (commencing*
11 *with Section 5345) of Chapter 2 of Part 1 of Division 5 shall*
12 *purchase or receive, or attempt to purchase or receive, or shall*
13 *have in his or her possession, custody, or control, any firearm or*
14 *any other deadly weapon while subject to assisted outpatient*
15 *treatment. Upon placing any person under assisted outpatient*
16 *treatment, the court shall notify the person of this prohibition.*

17 (2) *The court shall notify the Department of Justice of the court*
18 *order placing the person in assisted outpatient treatment and*
19 *prohibiting firearm or any other deadly weapon possession by the*
20 *person described in paragraph (1) within two days of the order.*
21 *The court shall also notify the Department of Justice when the*
22 *person subject to paragraph (1) is no longer subject to assisted*
23 *outpatient treatment. Any report submitted pursuant to this*
24 *paragraph shall be confidential, except for purposes of the court*
25 *proceedings specified in this subdivision and for purposes of*
26 *determining the eligibility of the person to own, possess, control,*
27 *receive, or purchase a firearm.*

28 (i)

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

35 (j)

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

38 (l) *Any notice or report required to be submitted to the*
39 *Department of Justice pursuant to this section shall be submitted*

1 *in an electronic format, in a manner prescribed by the Department*
2 *of Justice.*

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

5 8104. The State Department of State Hospitals shall maintain
6 in a convenient central location and shall make available to the
7 Department of Justice those records that the State Department of
8 State Hospitals has in its possession that are necessary to identify
9 persons who come within Section 8100 or 8103. Upon request of
10 the Department of Justice, the State Department of State Hospitals
11 shall make these records available to the Department of Justice in
12 electronic format within 24 hours of receiving the request. The
13 Department of Justice shall make these requests only with respect
14 to its duties with regard to applications for permits for, or to carry,
15 or the possession, purchase, or transfer of, explosives as defined
16 in Section 12000 of the Health and Safety Code, devices defined
17 in Section 16250, 16530, or 16640 of the Penal Code, in
18 subdivisions (a) to (d), inclusive, of Section 16520 of the Penal
19 Code, or in subdivision (a) of Section 16840 of the Penal Code,
20 machineguns as defined in Section 16880 of the Penal Code,
21 short-barreled shotguns or short-barreled rifles as defined in
22 Sections 17170 and 17180 of the Penal Code, assault weapons as
23 defined in Section 30510 of the Penal Code, and destructive devices
24 as defined in Section 16460 of the Penal Code, or to determine the
25 eligibility of a person to acquire, carry, or possess a firearm,
26 explosive, or destructive device by a person who is subject to a
27 criminal investigation, a part of which involves the acquisition,
28 carrying, or possession of a firearm by that person. These records
29 shall not be furnished or made available to any person unless the
30 department determines that disclosure of any information in the
31 records is necessary to carry out its duties with respect to
32 applications for permits for, or to carry, or the possession, purchase,
33 or transfer of, explosives, destructive devices, devices as defined
34 in Section 16250, 16530, or 16640 of the Penal Code, in
35 subdivisions (a) to (d), inclusive, of Section 16520 of the Penal
36 Code, or in subdivision (a) of Section 16840 of the Penal Code,
37 short-barreled shotguns, short-barreled rifles, assault weapons,
38 and machineguns, or to determine the eligibility of a person to
39 acquire, carry, or possess a firearm, explosive, or destructive device
40 by a person who is subject to a criminal investigation, a part of

1 which involves the acquisition, carrying, or possession of a firearm
2 by that person.

3 SEC. 5. Section 8105 of the Welfare and Institutions Code is
4 amended to read:

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

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

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

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

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

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

38 (3) To determine the eligibility of a person to acquire, carry, or
39 possess firearms, destructive devices, or explosives who is the
40 subject of a criminal investigation, if a part of the criminal

1 investigation involves the acquisition, carrying, or possession of
2 firearms, explosives, or destructive devices by that person.

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

6 *SEC. 6. Section 3.5 of this bill incorporates amendments to*
7 *Section 8103 of the Welfare and Institutions Code proposed by*
8 *both this bill and Senate Bill 755. It shall only become operative*
9 *if (1) both bills are enacted and become effective on or before*
10 *January 1, 2014, (2) each bill amends Section 8103 of the Welfare*
11 *and Institutions Code, and (3) this bill is enacted after Senate Bill*
12 *755, in which case Section 3 of this bill shall not become operative.*

13 ~~SEC. 6.~~

14 *SEC. 7. No reimbursement is required by this act pursuant to*
15 *Section 6 of Article XIII B of the California Constitution for certain*
16 *costs that may be incurred by a local agency or school district*
17 *because, in that regard, this act creates a new crime or infraction,*
18 *eliminates a crime or infraction, or changes the penalty for a crime*
19 *or infraction, within the meaning of Section 17556 of the*
20 *Government Code, or changes the definition of a crime within the*
21 *meaning of Section 6 of Article XIII B of the California*
22 *Constitution.*

23 However, if the Commission on State Mandates determines that
24 this act contains other costs mandated by the state, reimbursement
25 to local agencies and school districts for those costs shall be made
26 pursuant to Part 7 (commencing with Section 17500) of Division
27 4 of Title 2 of the Government Code.