

AMENDED IN ASSEMBLY APRIL 1, 2013
AMENDED IN ASSEMBLY MARCH 14, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1296

Introduced by Assembly Member Skinner

February 22, 2013

An act to amend ~~Section~~ *Sections 8100, 8103, 8104, and 8105* of the Welfare and Institutions Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1296, as amended, Skinner. Firearms: mentally disordered persons.

(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 he or she may possess a firearm to conform with other provisions of existing law.

Existing

(2) *Existing law* allows a person to be taken into custody and placed in an approved facility for a 72-hour treatment and evaluation if the person is a danger to others, or to himself or herself, or is gravely disabled, as a result of a mental disorder. *Existing law allows the person to be certified for a longer duration under certain conditions, as specified.* Existing law prohibits a person who has been taken into custody, assessed, and admitted to a facility pursuant to these provisions from owning, possessing, controlling, receiving, or purchasing a firearm, or from attempting to do the same, for a period of 5 years after the person is released from the facility. Existing law imposes additional penalties for certain crimes involving possession of a firearm by a prohibited person.

This bill would increase the above prohibitory period on having a firearm from 5 years to 10 years. The bill would make conforming changes. By expanding the scope of these crimes, 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 requires the State Department of State Hospitals to maintain records in its possession that are necessary to identify persons who come within the prohibition on possessing firearms due to mental illness and requires the State Department of State Hospitals to make these records available to the Department of Justice upon request.*

This bill would require the State Department of State Hospitals to make these records available to the Department of Justice electronically, within 24 hours

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

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 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 this subdivision once he or she is discharged
13 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~~ *five years* whenever, on or after
18 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
25 prohibition provided for in this subdivision shall not apply unless
26 the licensed psychotherapist notifies a local law enforcement
27 agency of the threat by that person. The person, however, may
28 own, possess, have custody or control over, or receive or purchase
29 any firearm if a superior court, pursuant to paragraph (3) and upon
30 petition of the person, has found, by a preponderance of the
31 evidence, that the person is likely to use firearms or other deadly
32 weapons in a safe and lawful manner.

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

37 (A) That he or she is prohibited from possessing, having custody
38 or control over, receiving, or purchasing any firearm or other

1 deadly weapon for a period of ~~six months~~ *five years* commencing
2 from the date that the licensed psychotherapist reports to the local
3 law enforcement agency the identity of the person making the
4 communication. The notice shall state the date when the prohibition
5 commences and ends.

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

9 (3) (A) Any person who is subject to paragraph (1) may petition
10 the superior court of his or her county of residence for an order
11 that he or she may own, possess, have custody or control over,
12 receive, or purchase firearms. At the time the petition is filed, the
13 clerk of the court shall set a hearing date and notify the person,
14 the Department of Justice, and the district attorney. The people of
15 the State of California shall be the respondent in the proceeding
16 and shall be represented by the district attorney. Upon motion of
17 the district attorney, or upon its own motion, the superior court
18 may transfer the petition to the county in which the person resided
19 at the time of the statements, or the county in which the person
20 made the statements. Within seven days after receiving notice of
21 the petition, the Department of Justice shall file copies of the
22 reports described in Section 8105 with the superior court. The
23 reports shall be disclosed upon request to the person and to the
24 district attorney. The district attorney shall be entitled to a
25 continuance of the hearing to a date of not less than 14 days after
26 the district attorney is notified of the hearing date by the clerk of
27 the court. The court, upon motion of the petitioner establishing
28 that confidential information is likely to be discussed during the
29 hearing that would cause harm to the person, shall conduct the
30 hearing in camera with only the relevant parties present, unless
31 the court finds that the public interest would be better served by
32 conducting the hearing in public. Notwithstanding any other
33 provision of law, declarations, police reports, including criminal
34 history information, and any other material and relevant evidence
35 that is not excluded under Section 352 of the Evidence Code, shall
36 be admissible at the hearing under this paragraph. ~~If the court finds~~
37 ~~by a preponderance of the evidence that the person would be likely~~
38 ~~to use firearms in a safe and lawful manner, the court shall order~~
39 ~~that the person may have custody or control over, receive, possess,~~
40 ~~or purchase firearms. A copy of the order shall be submitted to the~~

1 Department of Justice. Upon receipt of the order, the department
2 shall delete any reference to the prohibition against firearms from
3 the person's state summary criminal history information.

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

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

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

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

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

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

38 (e) "Deadly weapon," as used in this section and in Sections
39 8101, 8102, and 8103, means any weapon, the possession or

1 concealed carrying of which is prohibited by any provision listed
2 in Section 16590 of the Penal Code.

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

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

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

14 (i) Any person admitted and receiving treatment prior to January
15 1, 1992, shall be governed by this section, as amended by Chapter
16 1090 of the Statutes of 1990, until discharged from the facility.

17 ~~SECTION 1.~~

18 *SEC. 2.* Section 8103 of the Welfare and Institutions Code is
19 amended to read:

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

33 (2) The court shall immediately notify the Department of Justice
34 of the court order finding the individual to be a person described
35 in paragraph (1). The court shall also *immediately* notify the
36 Department of Justice of any certificate issued as described in
37 paragraph (1).

38 (b) (1) No person who has been found, pursuant to Section
39 1026 of the Penal Code or the law of any other state or the United
40 States, not guilty by reason of insanity of murder, mayhem, a

violation of Section 207, 209, or 209.5 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, carjacking or robbery in which the victim suffers great bodily injury, a violation of Section 451 or 452 of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of paragraph (1) or (2) of subdivision (a) of Section 262 or paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 18715, 18725, 18740, 18745, 18750, or 18755 of the Penal Code, or of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, or a violation of the law of any other state or the United States that includes all the elements of any of the above felonies as defined under California law, shall purchase or receive, or attempt to purchase or receive, or have in his or her possession or under his or her custody or control any firearm or any other deadly weapon.

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

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

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

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

1 or her possession, custody, or control, any firearm or any other
2 deadly weapon, unless there has been a finding with respect to the
3 person of restoration to competence to stand trial by the committing
4 court, pursuant to Section 1372 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 mentally incompetent
8 as described in paragraph (1). The court shall also notify the
9 Department of Justice when it finds that the person has recovered
10 his or her competence.

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

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

36 (3) All information provided to the Department of Justice
37 pursuant to paragraph (2) shall be kept confidential, separate, and
38 apart from all other records maintained by the Department of
39 Justice, and shall be used only to determine eligibility to purchase
40 or possess firearms or other deadly weapons. Any person who

1 knowingly furnishes that information for any other purpose is
2 guilty of a misdemeanor. All the information concerning any person
3 shall be destroyed upon receipt by the Department of Justice of
4 notice of the termination of conservatorship as to that person
5 pursuant to paragraph (2).

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

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

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

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

33 (3) Prior to, or concurrent with, the discharge, the facility shall
34 inform a person subject to this subdivision that he or she is
35 prohibited from owning, possessing, controlling, receiving, or
36 purchasing any firearm for a period of 10 years. Simultaneously,
37 the facility shall inform the person that he or she may request a
38 hearing from a court, as provided in this subdivision, for an order
39 permitting the person to own, possess, control, receive, or purchase
40 a firearm. The facility shall provide the person with a form for a

1 request for a hearing. The Department of Justice shall prescribe
2 the form. Where the person requests a hearing at the time of
3 discharge, the facility shall forward the form to the superior court
4 unless the person states that he or she will submit the form to the
5 superior court.

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

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

1 discussed during the hearing that would cause harm to the person,
2 shall conduct the hearing in camera with only the relevant parties
3 present, unless the court finds that the public interest would be
4 better served by conducting the hearing in public. Notwithstanding
5 any other law, declarations, police reports, including criminal
6 history information, and any other material and relevant evidence
7 that is not excluded under Section 352 of the Evidence Code shall
8 be admissible at the hearing under this section.

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

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

21 (8) Where the district attorney declines or fails to go forward
22 in the hearing, the court shall order that the person shall not be
23 subject to the 10-year prohibition required by this subdivision on
24 the ownership, control, receipt, possession, or purchase of firearms.
25 A copy of the order shall be submitted to the Department of Justice.
26 Upon receipt of the order, the Department of Justice shall, within
27 15 days, delete any reference to the prohibition against firearms
28 from the person's state mental health firearms prohibition system
29 information.

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

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

1 Any person who meets the criteria contained in subdivision (e)
2 or (f) who is released from intensive treatment shall nevertheless,
3 if applicable, remain subject to the prohibition contained in
4 subdivision (e) or (f).

5 (2) (A) For each person certified for intensive treatment under
6 paragraph (1), the facility shall immediately submit a report to the
7 Department of Justice, on a form prescribed by the department,
8 containing information regarding the person, including, but not
9 limited to, the legal identity of the person and the legal grounds
10 upon which the person was certified. Any report submitted pursuant
11 to this paragraph shall only be used for the purposes specified in
12 paragraph (2) of subdivision (f).

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

16 (3) Prior to, or concurrent with, the discharge of each person
17 certified for intensive treatment under paragraph (1), the facility
18 shall inform the person of that information specified in paragraph
19 (3) of subdivision (f).

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

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

21 (h) For all persons identified in subdivisions (f) and (g), facilities
22 shall report to the Department of Justice as specified in those
23 subdivisions, except facilities shall not report persons under
24 subdivision (g) if the same persons previously have been reported
25 under subdivision (f).

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

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

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

39 (k) *For purposes of this section, "immediately" means a period*
40 *of time not exceeding 24 hours.*

1 (l) Any notice or report required to be submitted to the
2 Department of Justice pursuant to this section shall be submitted
3 in an electronic format, in a manner prescribed by the Department
4 of Justice.

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

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

1 and machineguns, or to determine the eligibility of a person to
2 acquire, carry, or possess a firearm, explosive, or destructive device
3 by a person who is subject to a criminal investigation, a part of
4 which involves the acquisition, carrying, or possession of a firearm
5 by that person.

6 *SEC. 4. Section 8105 of the Welfare and Institutions Code is*
7 *amended to read:*

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

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

21 (c) A licensed psychotherapist shall immediately report to a
22 local law enforcement agency the identity of a person subject to
23 subdivision (b) of Section 8100. Upon receipt of the report, the
24 local law enforcement agency, ~~on a form~~ *in an electronic format,*
25 *in a manner* prescribed by the Department of Justice, shall
26 immediately notify the department of the person who is subject to
27 subdivision (b) of Section 8100.

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

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

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

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

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

9 (f) *For purposes of this section, “immediately” means a period*
10 *of time not exceeding 24 hours.*

11 ~~SEC. 2.~~

12 *SEC. 5.* No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.