

AMENDED IN SENATE APRIL 11, 2013

**SENATE BILL**

**No. 38**

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**Introduced by Senator De León**

December 5, 2012

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An act to add Section 30009 to the Penal Code, relating to ~~domestic violence~~ firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 38, as amended, De León. ~~Domestic violence: fees. Firearms: prohibited persons.~~

*Existing law requires the Attorney General to establish and maintain an online database, known as the Prohibited Armed Persons File, to cross-reference persons who have ownership or possession of a firearm and who, subsequent to the date of that ownership or possession, became a person who is prohibited from owning or possessing a firearm.*

*This bill would, no later than July 1, 2014, require the Department of Justice to establish a 15-day amnesty period during which a person prohibited from possessing a firearm may surrender his or her firearms to a local law enforcement agency without being charged with illegal possession of a firearm, except as specified. The bill would require a local law enforcement agency that receives a firearm from a prohibited person during the amnesty period to report specified information to the department. The bill would require the department to use the specified information to create a record of each surrendered firearm in the Prohibited Armed Persons File. The bill would also impose a civil fine up to \$2,500 per firearm on a person prohibited from possessing a firearm who still maintains possession of his or her firearms after the amnesty period. The bill would authorize the department to conduct a*

*public awareness campaign in conjunction with local law enforcement to promote the amnesty period, as specified.*

*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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

~~Existing law imposes a fee of \$500 on every person who is granted probation for a crime of domestic violence. Two-thirds of the fee is deposited in the county's domestic violence programs special fund, to be expended in support of domestic violence shelter programs, as specified.~~

~~This bill would state the intent of the Legislature to enact legislation that would clarify whether the assessment on domestic violence probationers is a fine or a fee and clarify the allocation of the collected funds.~~

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

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

1     SECTION 1. Section 30009 is added to the Penal Code, to  
2     read:  
3     30009. (a) In order to reduce the number of firearms possessed  
4     by prohibited persons listed in the Prohibited Armed Persons File,  
5     a 15-day amnesty period shall be established, commencing on a  
6     date to be determined by the Department of Justice but not later  
7     than July 1, 2014, during which a person prohibited from  
8     possessing a firearm may surrender his or her firearms to a local  
9     law enforcement agency without being charged with illegal  
10    possession of firearms, as provided in subdivision (d). No person  
11    convicted of a felony shall be permitted to participate in the  
12    amnesty period.  
13    (b) For each instance in which a local law enforcement agency  
14    receives a firearm from a prohibited person during the amnesty  
15    period described in subdivision (a), the agency shall submit to the  
16    department the following information:

1 (1) *The name of the prohibited person who surrendered the*  
2 *firearm.*

3 (2) *The person’s date of birth.*

4 (3) *A description of the firearm or firearms surrendered.*

5 (4) *The serial number of the firearm or firearms surrendered.*

6 (5) *Any other information deemed necessary by the department.*

7 (c) *The department shall enter the information received pursuant*  
8 *to subdivision (b) in the Prohibited Armed Persons File to create*  
9 *a record of each firearm surrendered during the amnesty period.*

10 (d) *A prohibited person who surrenders a firearm pursuant to*  
11 *subdivision (a) shall not be charged with illegal possession of*  
12 *firearms for any firearm the department has on record as having*  
13 *been surrendered pursuant to subdivision (c).*

14 (e) *At the expiration of the 15-day amnesty period described in*  
15 *subdivision (a), a person prohibited from possessing a firearm*  
16 *who still maintains possession of his or her firearms shall be*  
17 *subject to a civil fine of up to two thousand five hundred dollars*  
18 *(\$2,500) per firearm in addition to criminal penalties authorized*  
19 *by law, including, but not limited to, penalties described in Chapter*  
20 *3 (commencing with Section 29900) of this code and Sections 8100*  
21 *and 8103 of the Welfare and Institutions Code.*

22 (f) *The department may conduct a public awareness campaign*  
23 *in conjunction with local law enforcement to promote the amnesty*  
24 *period described in this section and to educate prohibited persons*  
25 *on how to surrender firearms to law enforcement in a safe and*  
26 *secure manner.*

27 *SEC. 2. If the Commission on State Mandates determines that*  
28 *this act contains costs mandated by the state, reimbursement to*  
29 *local agencies and school districts for those costs shall be made*  
30 *pursuant to Part 7 (commencing with Section 17500) of Division*  
31 *4 of Title 2 of the Government Code.*

32 ~~SECTION 1. It is the intent of the Legislature to enact~~  
33 ~~legislation that would clarify whether the assessment on domestic~~  
34 ~~violence probationers pursuant to Section 1203.097 of the Penal~~  
35 ~~Code is a fine or a fee and clarify the allocation of the collected~~  
36 ~~funds.~~