

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 755

Introduced by Senator Wolk

(Principal coauthor: Assembly Member Alejo)

(Coauthors: Senators De León, DeSaulnier, Hancock, and Yee)

February 22, 2013

An act to amend ~~Sections 29805 and 29900~~ *Section 29805* of the Penal Code, and to amend Section 8103 of the Welfare and Institutions Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 755, as amended, Wolk. Firearms: prohibited persons.

(1) Existing law, subject to exceptions, provides that any person who has been convicted of certain misdemeanors may not, within 10 years of the conviction, own, purchase, receive, possess, or have under his or her custody or control, any firearm. Violation of this prohibition is punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding \$1,000, or by both that imprisonment and fine.

This bill would add to the list of misdemeanors, the conviction for which is subject to those prohibitions, misdemeanor offenses of *violating the above provisions as well as* threatening a peace officer, removing a weapon from the person of a peace officer, hazing, transferring a firearm without completing the transaction through a licensed firearms dealer, furnishing ammunition to a minor, possession of ammunition by a person prohibited from having a firearm, furnishing ammunition to a person prohibited from possessing ammunition, carrying ammunition onto school grounds, carrying a loaded or concealed weapon if the person has been previously convicted of a crime against a person

or property, or of a narcotics or dangerous drug violation, or if the firearm is not registered, participation in any criminal street gang, a public offense committed for the benefit of a criminal street gang, *and* disobedience to the terms of an injunction that restrains the activities of a criminal street gang. ~~By changing the definition of a crime, this bill would impose a state-mandated local program.~~

~~(2) Under existing law it is a felony for any person who has been previously convicted of any specified violent offenses to own or have possession or custody or control of any firearm.~~

~~This bill would additionally make it a felony for any person to own or possess a firearm if the person has been convicted of 2 or more crimes within a 3-year period and was found to have been under the influence of drugs or alcohol during the commission of the crimes, if the person has been convicted of possessing any controlled substance for sale, or if the person has violated any protective order that was issued due to a threat of violence. By expanding the definition of a crime, this bill would impose a state-mandated local program.~~

~~The bill would also apply the above 10-year prohibition to a person who has been convicted of 2 or more specified crimes in a 3-year period involving intoxication and a person who has been convicted of possessing any controlled substance for sale. By changing the definition of a crime, this bill would impose a state-mandated local program.~~

~~(3)~~

(2) Existing law prohibits certain specified individuals, including a person who has been adjudicated a danger to others as a result of a mental disorder or mental illness, a person who has been adjudicated a mentally disordered sex offender, a person who has been found not guilty by reason of insanity, or a person who has been placed under conservatorship by a court, among others, from possessing firearms or deadly weapons.

Existing law authorizes a court to order a person to obtain assisted outpatient treatment if certain criteria are met, including that the person is suffering from a mental illness and is unlikely to survive safely in the community without supervision.

This bill would prohibit a person who has been ordered by a court to obtain assisted outpatient treatment from purchasing or possessing any firearm or other deadly weapon while subject to assisted outpatient treatment. The bill would require the court to notify the Department of Justice of the order prohibiting the person from possessing a firearm or other deadly weapon within 2 days of the order, and to notify the

Department of Justice when the person is no longer subject to assisted outpatient treatment. Because a violation of this provision would be a crime, this bill would impose a state-mandated local program.

(4)

(3) Existing constitutional provisions require that a statute that limits the right of access to meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by that limitation and the need for protecting that interest.

This bill would make a legislative finding and declaration relating to the necessity of treating reports to the Department of Justice as confidential in order to protect the privacy of individuals ordered to obtain assisted outpatient treatment.

(5)

(4) 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. The Legislature finds and declares that in order
2 to protect the privacy of individuals ordered to obtain assisted
3 outpatient treatment, it is necessary that reports made by a court
4 to the Department of Justice pursuant to Section 4 3 of this act be
5 confidential, except as provided in this act.

6 SEC. 2. Section 29805 of the Penal Code is amended to read:

7 29805. (a) Except as provided in Section 29855 or subdivision
8 (a) of Section 29800, any person who has been convicted of a
9 misdemeanor violation of *this section*, Section 69, 71, 76, 136.1,
10 136.5, or 140, subdivision (b) or (d) of Section 148, paragraph
11 (10) of subdivision (a) of Section 166, Section 171b, paragraph
12 (1) of subdivision (a) of Section 171c, *Section* 171d, subdivision
13 (a) or (d) of Section 186.22, *Section* 186.28, 240, 241, 242, 243,
14 243.4, 244.5, 245, 245.5, 245.6, 246.3, 247, 273.5, 273.6, 417,
15 417.6, 422, 626.9, 646.9, or 830.95, subdivision (a) of former
16 Section 12100, as that section read at any time from when it was

1 enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to
2 when it was repealed by Section 18 of Chapter 23 of the Statutes
3 of 1994, Section 17500, 17510, 25300, 25800, 26500, 30300,
4 30305, 30306, 30310, 30315, or 32625, subdivision (b) or (d) of
5 Section 26100, or Section 27510, or Section 8100, 8101, or 8103
6 of the Welfare and Institutions Code, any firearm-related offense
7 pursuant to Sections 871.5 and 1001.5 of the Welfare and
8 Institutions Code, Section 25400 that is punishable pursuant to
9 paragraph (5) or (6) of subdivision (c) of Section 25400, Section
10 25850 that is punishable pursuant to paragraph (5) or (6) of
11 subdivision (c) of Section 25850, or of the conduct punished in
12 subdivision (c) of Section 27590, and who, within 10 years of the
13 conviction, owns, purchases, receives, or has in possession or under
14 custody or control, any firearm is guilty of a public offense, which
15 shall be punishable by imprisonment in a county jail not exceeding
16 one year or in the state prison, by a fine not exceeding one thousand
17 dollars (\$1,000), or by both that imprisonment and fine. ~~The court,~~
18 ~~on forms prescribed by the Department of Justice, shall notify the~~
19 ~~department of persons subject to this section. However, the~~
20 ~~prohibition in this section may be reduced, eliminated, or~~
21 ~~conditioned as provided in Section 29855 or 29860.~~

22 *(b) Except as provided in Section 29855 or subdivision (a) of*
23 *Section 29800, any person who has been convicted of any of the*
24 *following offenses and who, within 10 years of the conviction,*
25 *owns, purchases, receives, or has in possession or under custody*
26 *or control, any firearm is guilty of a public offense, which shall*
27 *be punishable by imprisonment in a county jail not exceeding one*
28 *year or in the state prison, by a fine not exceeding one thousand*
29 *dollars (\$1,000), or by both that imprisonment and fine:*

30 *(1) The person has been convicted of a misdemeanor violation*
31 *of two or more of the following offenses within a three-year period:*

32 *(A) Subdivision (e) of Section 1700 of the Business and*
33 *Professions Code.*

34 *(B) Subdivision (e) of Section 1958 of the Business and*
35 *Professions Code.*

36 *(C) Section 2280 of the Business and Professions Code.*

37 *(D) Section 4327 of the Business and Professions Code.*

38 *(E) Subdivision (b), (c), (d), or (f) of Section 655 of the Harbors*
39 *and Navigation Code.*

40 *(F) Section 655.4 of the Harbors and Navigation Code.*

- 1 (G) Section 11550 of the Health and Safety Code.
- 2 (H) Section 191.5.
- 3 (I) Subdivision (f) of Section 647.
- 4 (J) Section 21407.1 of the Public Utilities Code.
- 5 (K) Section 21200.5 of the Vehicle Code.
- 6 (L) Section 23152 of the Vehicle Code.
- 7 (M) Section 23153 of the Vehicle Code.
- 8 (N) Section 23154 of the Vehicle Code.
- 9 (2) The person has been convicted of possessing any controlled
- 10 substance for sale.
- 11 (c) The court, on forms prescribed by the Department of Justice,
- 12 shall notify the department of persons subject to this section.
- 13 However, the prohibition in this section may be reduced,
- 14 eliminated, or conditioned as provided in Section 29855 or 29860.
- 15 ~~SEC. 3. Section 29900 of the Penal Code is amended to read:~~
- 16 ~~29900. (a) (1) Notwithstanding subdivision (a) of Section~~
- 17 ~~29800, any person who has been previously convicted of any of~~
- 18 ~~the offenses listed in Section 29905 and who owns or has in~~
- 19 ~~possession or under custody or control any firearm is guilty of a~~
- 20 ~~felony.~~
- 21 ~~(2) A dismissal of an accusatory pleading pursuant to Section~~
- 22 ~~1203.4a involving an offense set forth in Section 29905 does not~~
- 23 ~~affect the finding of a previous conviction.~~
- 24 ~~(3) If probation is granted, or if the imposition or execution of~~
- 25 ~~sentence is suspended, it shall be a condition of the probation or~~
- 26 ~~suspension that the defendant serve at least six months in a county~~
- 27 ~~jail.~~
- 28 ~~(b) (1) Any person previously convicted of any of the offenses~~
- 29 ~~listed in Section 29905 which conviction results from certification~~
- 30 ~~by the juvenile court for prosecution as an adult in adult court~~
- 31 ~~under the provisions of Section 707 of the Welfare and Institutions~~
- 32 ~~Code, who owns or has in possession or under custody or control~~
- 33 ~~any firearm, is guilty of a felony.~~
- 34 ~~(2) If probation is granted, or if the imposition or execution of~~
- 35 ~~sentence is suspended, it shall be a condition of the probation or~~
- 36 ~~suspension that the defendant serve at least six months in a county~~
- 37 ~~jail.~~
- 38 ~~(c) Any person to whom one of the following applies and who~~
- 39 ~~owns or has in possession or under custody or control any firearm~~
- 40 ~~is guilty of a felony:~~

1 ~~(1) The person has been convicted of two or more crimes within~~
2 ~~a three-year period and was found to have been under the influence~~
3 ~~of drugs or alcohol during the commission of the crimes.~~

4 ~~(2) The person has been convicted of possessing any controlled~~
5 ~~substance for sale.~~

6 ~~(3) The person has violated any protective order that was issued~~
7 ~~due to a threat of violence.~~

8 ~~(d) The court shall apply the minimum sentence as specified in~~
9 ~~subdivisions (a), (b), and (c) except in unusual cases where the~~
10 ~~interests of justice would best be served by granting probation or~~
11 ~~suspending the imposition or execution of sentence without the~~
12 ~~imprisonment required by subdivisions (a), (b), and (c) or by~~
13 ~~granting probation or suspending the imposition or execution of~~
14 ~~sentence with conditions other than those set forth in subdivisions~~
15 ~~(a), (b), and (c) in which case the court shall specify on the record~~
16 ~~and shall enter on the minutes the circumstances indicating that~~
17 ~~the interests of justice would best be served by the disposition.~~

18 ~~SEC. 4.~~

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

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

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

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

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

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

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

37 (d) (1) No person found by a court to be mentally incompetent
38 to stand trial, pursuant to Section 1370 or 1370.1 of the Penal Code
39 or the law of any other state or the United States, shall purchase
40 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 five 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 five 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 five-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 five-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 five-year prohibition required by this subdivision
24 on the ownership, control, receipt, possession, or purchase of
25 firearms. A copy of the order shall be submitted to the Department
26 of Justice. Upon receipt of the order, the Department of Justice
27 shall, within 15 days, delete any reference to the prohibition against
28 firearms from the person's state mental health firearms prohibition
29 system 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 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) (1) No person who has been ordered by a court to obtain
32 assisted outpatient treatment pursuant to Article 9 (commencing
33 with Section 5345) of Chapter 2 of Part 1 of Division 5 shall
34 purchase or receive, or attempt to purchase or receive, or shall
35 have in his or her possession, custody, or control, any firearm or
36 any other deadly weapon while subject to assisted outpatient
37 treatment. Upon placing any person under assisted outpatient
38 treatment, the court shall notify the person of this prohibition.

39 (2) The court shall notify the Department of Justice of the court
40 order placing the person in assisted outpatient treatment and

1 prohibiting firearm or any other deadly weapon possession by the
2 person described in paragraph (1) within two days of the order.
3 The court shall also notify the Department of Justice when the
4 person subject to paragraph (1) is no longer subject to assisted
5 outpatient treatment. Any report submitted pursuant to this
6 paragraph shall be confidential, except for purposes of the court
7 proceedings specified in this subdivision and for purposes of
8 determining the eligibility of the person to own, possess, control,
9 receive, or purchase a firearm.

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

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

18 ~~SEC. 5.~~

19 *SEC. 4.* No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.