

ASSEMBLY BILL

No. 950

Introduced by Assembly Member Melendez
(Principal coauthor: Senator Pan)

February 26, 2015

An act to amend Sections 18120 and 29830 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 950, as introduced, Melendez. Firearms: gun violence restraining orders.

Existing law allows an immediate family member or a law enforcement officer to request a court to issue a gun violence restraining order to enjoin a person from owning or possessing a firearm or ammunition for a period of one year upon a showing that the person poses a significant danger of personal injury to himself, herself, or another and that a gun violence restraining order is necessary to prevent that injury. Existing law requires a person who is subject to a gun violence restraining order to surrender his or her firearms and ammunition immediately upon request of any law enforcement officer. If no request is made, existing law requires the person to surrender his or her firearms or ammunition to a local law enforcement agency or to sell his or her firearms or ammunition to a licensed firearms dealer within 24 hours.

Existing law allows any person who is prohibited from owning or possessing a firearm to transfer his or her firearms to a licensed firearms dealer for the duration of the prohibition.

This bill would allow a person who is subject to a gun violence restraining order to transfer his or her firearms or ammunition to a

licensed firearms dealer for the duration of the prohibition. If the firearms or ammunition have been surrendered to a law enforcement agency, the bill would entitle the owner to have them transferred to a licensed firearms dealer. The bill would additionally provide for the transfer of ammunition to a licensed firearms dealer by any person who is prohibited from owning or possessing ammunition. By imposing additional duties on local law enforcement, this bill would impose a state-mandated local program.

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.

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 18120 of the Penal Code is amended to
- 2 read:
- 3 18120. (a) A person subject to a gun violence restraining order
- 4 issued pursuant to this division shall not have in his or her custody
- 5 or control, own, purchase, possess, or receive any firearms or
- 6 ammunition while that order is in effect.
- 7 (b) (1) Upon issuance of a gun violence restraining order issued
- 8 pursuant to this division, the court shall order the restrained person
- 9 to ~~surrender to the local law enforcement agency~~ all firearms and
- 10 ammunition in the restrained person’s custody or control, or which
- 11 the restrained person possesses or ~~owns~~. *owns pursuant to*
- 12 *paragraph (2).*
- 13 (2) The surrender ordered pursuant to paragraph (1) shall occur
- 14 by immediately surrendering all firearms and ammunition in a safe
- 15 manner, upon request of any law enforcement officer, to the control
- 16 of the officer, after being served with the restraining order. A law
- 17 enforcement officer serving a gun violence restraining order that
- 18 indicates that the restrained person possesses any firearms or
- 19 ammunition shall request that all firearms and ammunition be
- 20 immediately surrendered. Alternatively, if no request is made by

1 a law enforcement officer, the surrender shall occur within 24
2 hours of being served with the order, by either surrendering all
3 firearms and ammunition in a safe manner to the control of the
4 local law enforcement agency, ~~or by selling all firearms and~~
5 ~~ammunition to a licensed gun dealer, as specified in Article 1~~
6 ~~(commencing with Section 26700) and Article 2 (commencing~~
7 ~~with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part~~
8 ~~6 of the Penal Code: firearms dealer, or transferring all firearms~~
9 ~~and ammunition to a licensed firearms dealer in accordance with~~
10 ~~Section 29830.~~ The law enforcement officer or licensed ~~gun~~
11 ~~firearms~~ dealer taking possession of any firearms or ammunition
12 pursuant to this subdivision shall issue a receipt to the person
13 surrendering the firearm or firearms or ammunition or both at the
14 time of surrender. A person ordered to surrender all firearms and
15 ammunition pursuant to this subdivision shall, within 48 hours
16 after being served with the order, do both of the following:

17 (A) File with the court that issued the gun violence restraining
18 order the original receipt showing all firearms and ammunition
19 have been surrendered to a local law enforcement agency or sold
20 *or transferred* to a licensed ~~gun~~ *firearms* dealer. Failure to timely
21 file a receipt shall constitute a violation of the restraining order.

22 (B) File a copy of the receipt described in subparagraph (A)
23 with the law enforcement agency that served the gun violence
24 restraining order. Failure to timely file a copy of the receipt shall
25 constitute a violation of the restraining order.

26 (c) (1) Any firearms or ammunition surrendered to a law
27 enforcement officer or law enforcement agency pursuant to this
28 section shall be retained by the law enforcement agency until the
29 expiration of any gun violence restraining order that has been
30 issued against the restrained person. Upon expiration of any order,
31 any firearms or ammunition shall be returned to the restrained
32 person in accordance with the provisions of Chapter 2
33 (commencing with Section 33850) of Division 11 of Title 4.
34 Firearms or ammunition that are not claimed are subject to the
35 requirements of Section 34000.

36 (2) A restrained person who owns any firearms or ammunition
37 that are in the custody of a law enforcement agency pursuant to
38 this section ~~and who does not wish to have the firearm or firearms~~
39 ~~or ammunition returned~~ is entitled to sell *any firearms or*
40 *ammunition to a licensed firearms dealer* or transfer ~~title of~~ any

1 firearms or ammunition to a licensed *firearms* dealer *in accordance*
2 *with Section 29830*, provided that the firearm or firearms or
3 ammunition are otherwise legal to own or possess and the
4 restrained person otherwise has right to title of the firearm or
5 firearms or ammunition.

6 (d) If a person other than the restrained person claims title to
7 any firearms or ammunition surrendered pursuant to this section,
8 and he or she is determined by the law enforcement agency to be
9 the lawful owner of the firearm or firearms or ammunition, the
10 firearm or firearms or ammunition shall be returned to him or her
11 pursuant to Chapter 2 (commencing with Section 33850) of
12 Division 11 of Title 4.

13 SEC. 2. Section 29830 of the Penal Code is amended to read:

14 29830. (a) Any person who is prohibited from owning or
15 possessing a firearm *or ammunition* pursuant to this article, or who
16 is prohibited from owning or possessing a firearm *or ammunition*
17 pursuant to any other law, may transfer or cause to be transferred,
18 any firearm or firearms *or ammunition* in his or her possession, or
19 of which he or she is the owner, to a firearms dealer licensed
20 pursuant to Section 26700 to 26915, inclusive, for storage during
21 the duration of the prohibition, if the prohibition on owning or
22 possessing the firearm will expire on a date specified in the court
23 order.

24 (b) A firearms dealer who stores a firearm or firearms *or*
25 *ammunition* pursuant to subdivision (a), may charge the owner a
26 *reasonable* fee for the storage of the firearm or ~~firearms~~ *firearms*
27 *or ammunition*.

28 (c) A firearms dealer who stores a firearm or firearms *or*
29 *ammunition* pursuant to subdivision (a) shall notify the Department
30 of Justice of the date that the firearms dealer has taken possession
31 of the firearm or ~~firearms~~ *firearms or ammunition*.

32 (d) Any firearm that is returned by a dealer to the owner of the
33 firearm pursuant to this section shall be returned in accordance
34 with the procedures set forth in Section 27540 and Article 1
35 (commencing with Section 26700) and Article 2 (commencing
36 with Section 26800) of Chapter 2 of Division 6.

37 SEC. 3. If the Commission on State Mandates determines that
38 this act contains costs mandated by the state, reimbursement to
39 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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