

AMENDED IN SENATE JUNE 30, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 950**

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

February 26, 2015

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An act to amend Sections ~~18120 and 29830~~ *18120, 29830, and 33880* of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 950, as amended, 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:~~

*Existing law allows a city, county, or city and county to impose a charge relating to the seizure, impounding, storage, or release of a firearm, which may not exceed the actual costs incurred for expenses directly related to taking possession of a firearm, storing the firearm, and surrendering possession of the firearm to a licensed firearm dealer or to the owner.*

*This bill would extend the authority to impose this charge for the above specified activities in regard to ammunition.*

*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 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

1 or control, own, purchase, possess, or receive any firearms or  
2 ammunition while that order is in effect.

3 (b) (1) Upon issuance of a gun violence restraining order issued  
4 pursuant to this division, the court shall order the restrained person  
5 to surrender all firearms and ammunition in the restrained person's  
6 custody or control, or which the restrained person possesses or  
7 owns pursuant to paragraph (2).

8 (2) The surrender ordered pursuant to paragraph (1) shall occur  
9 by immediately surrendering all firearms and ammunition in a safe  
10 manner, upon request of any law enforcement officer, to the control  
11 of the officer, after being served with the restraining order. A law  
12 enforcement officer serving a gun violence restraining order that  
13 indicates that the restrained person possesses any firearms or  
14 ammunition shall request that all firearms and ammunition be  
15 immediately surrendered. Alternatively, if no request is made by  
16 a law enforcement officer, the surrender shall occur within 24  
17 hours of being served with the order, by surrendering all firearms  
18 and ammunition in a safe manner to the control of the local law  
19 enforcement agency, selling all firearms and ammunition to a  
20 licensed firearms dealer, or transferring all firearms and  
21 ammunition to a licensed firearms dealer in accordance with  
22 Section 29830. The law enforcement officer or licensed firearms  
23 dealer taking possession of any firearms or ammunition pursuant  
24 to this subdivision shall issue a receipt to the person surrendering  
25 the firearm or firearms or ammunition or both at the time of  
26 surrender. A person ordered to surrender all firearms and  
27 ammunition pursuant to this subdivision shall, within 48 hours  
28 after being served with the order, do both of the following:

29 (A) File with the court that issued the gun violence restraining  
30 order the original receipt showing all firearms and ammunition  
31 have been surrendered to a local law enforcement agency or sold  
32 or transferred to a licensed firearms dealer. Failure to timely file  
33 a receipt shall constitute a violation of the restraining order.

34 (B) File a copy of the receipt described in subparagraph (A)  
35 with the law enforcement agency that served the gun violence  
36 restraining order. Failure to timely file a copy of the receipt shall  
37 constitute a violation of the restraining order.

38 (c) (1) ~~Any~~ Except as provided in paragraph (2), any firearms  
39 or ammunition surrendered to a law enforcement officer or law  
40 enforcement agency pursuant to this section shall be retained by

1 the law enforcement agency until the expiration of any gun violence  
2 restraining order that has been issued against the restrained person.  
3 Upon expiration of any order, any firearms or ammunition shall  
4 be returned to the restrained person in accordance with the  
5 provisions of Chapter 2 (commencing with Section 33850) of  
6 Division 11 of Title 4. Firearms or ammunition that are not claimed  
7 are subject to the requirements of Section 34000.

8 (2) A restrained person who owns any firearms or ammunition  
9 that are in the custody of a law enforcement agency pursuant to  
10 this section is entitled to sell any firearms or ammunition to a  
11 licensed firearms dealer or transfer any firearms or ammunition  
12 to a licensed firearms dealer in accordance with Section 29830,  
13 provided that the firearm or firearms or ammunition are otherwise  
14 legal to own or possess and the restrained person otherwise has  
15 right to title of the firearm or firearms or ammunition.

16 (d) If a person other than the restrained person claims title to  
17 any firearms or ammunition surrendered pursuant to this section,  
18 and he or she is determined by the law enforcement agency to be  
19 the lawful owner of the firearm or firearms or ammunition, the  
20 firearm or firearms or ammunition shall be returned to him or her  
21 pursuant to Chapter 2 (commencing with Section 33850) of  
22 Division 11 of Title 4.

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

24 29830. (a) Any person who is prohibited from owning or  
25 possessing a firearm or ammunition pursuant to this article, or who  
26 is prohibited from owning or possessing a firearm or ammunition  
27 pursuant to any other law, may transfer or cause to be transferred,  
28 any firearm or firearms or ammunition in his or her possession, or  
29 of which he or she is the owner, to a firearms dealer licensed  
30 pursuant to Section 26700 to 26915, inclusive, for storage during  
31 the duration of the prohibition, if the prohibition on owning or  
32 possessing the firearm will expire on a date specified in the court  
33 order.

34 (b) A firearms dealer who stores a firearm or firearms or  
35 ammunition pursuant to subdivision (a), may charge the owner a  
36 reasonable fee for the storage of the firearm or firearms or  
37 ammunition.

38 (c) A firearms dealer who stores a firearm or firearms or  
39 ammunition pursuant to subdivision (a) shall notify the Department

1 of Justice of the date that the firearms dealer has taken possession  
2 of the firearm or firearms or ammunition.

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

8 ~~SEC. 3. If the Commission on State Mandates determines that  
9 this act contains costs mandated by the state, reimbursement to  
10 local agencies and school districts for those costs shall be made  
11 pursuant to Part 7 (commencing with Section 17500) of Division  
12 4 of Title 2 of the Government Code.~~

13 *SEC. 3. Section 33880 of the Penal Code is amended to read:*  
14 33880. (a) A city, county, or city and county, or a state agency  
15 may adopt a regulation, ordinance, or resolution imposing a charge  
16 equal to its administrative costs relating to the seizure, impounding,  
17 storage, or release of a ~~firearm~~; *firearm or ammunition*.

18 (b) The fee under subdivision (a) shall not exceed the actual  
19 costs incurred for the expenses directly related to taking possession  
20 of a *firearm or ammunition*, storing the ~~firearm~~; *firearm or  
21 ammunition*, and surrendering possession of the *firearm or  
22 ammunition* to a licensed firearms dealer or to the owner.

23 (c) The administrative costs described in subdivisions (a) and  
24 (b) may be waived by the local or state agency upon verifiable  
25 proof that the *firearm or ammunition* was reported stolen at the  
26 time the firearm came into the custody or control of the law  
27 enforcement agency.

28 (d) The following apply to any charges imposed for  
29 administrative costs pursuant to this section:

30 (1) The charges shall only be imposed on the person claiming  
31 title to the ~~firearm~~; *firearm or ammunition*.

32 (2) Any charges shall be collected by the local or state authority  
33 only from the person claiming title to the ~~firearm~~; *firearm or  
34 ammunition*.

35 (3) The charges shall be in addition to any other charges  
36 authorized or imposed pursuant to this code.

37 (4) ~~No charge may be~~ *A charge may not be* imposed for ~~any a~~  
38 hearing or appeal relating to the removal, impound, storage, or  
39 release of a *firearm or ammunition*, unless that hearing or appeal  
40 was requested in writing by the legal owner of the ~~firearm~~; *firearm*

1 *or ammunition*. In addition, the charge may be imposed only upon  
2 the person requesting that hearing or appeal.

3 (e) ~~No costs for any~~ *Costs for a* hearing or appeal related to the  
4 release of a firearm ~~shall or ammunition shall not~~ be charged to  
5 the legal owner who redeems the ~~firearm,~~ *firearm or ammunition*,  
6 unless the legal owner voluntarily requests the post-storage hearing  
7 or appeal. ~~No~~ A city, county, city and county, or state agency shall  
8 *not* require a legal owner to request a post-storage hearing as a  
9 requirement for release of the firearm *or ammunition* to the legal  
10 owner.

11 *SEC. 4. No reimbursement is required by this act pursuant to*  
12 *Section 6 of Article XIII B of the California Constitution because*  
13 *a local agency or school district has the authority to levy service*  
14 *charges, fees, or assessments sufficient to pay for the program or*  
15 *level of service mandated by this act, within the meaning of Section*  
16 *17556 of the Government Code.*