

AMENDED IN ASSEMBLY APRIL 28, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1415**

---

**Introduced by Assembly Member Steinorth  
(Principal coauthor: Assembly Member Linder)**

February 27, 2015

---

An act to amend Section ~~29800~~ 29805 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL’S DIGEST

AB 1415, as amended, Steinorth. Firearms: felons in possession of firearms.

Existing law makes it a felony for any person who has been convicted of a felony to own, purchase, receive, or have in his or her possession or under custody or control any firearm. Existing law, the Safe Neighborhoods and Schools Act, enacted by Proposition 47, as approved by the voters at the November 4, 2014, statewide general election, reduced certain felonies to misdemeanors. Proposition 47 allows a person who is currently serving a sentence for a conviction of a felony who would have been guilty of a misdemeanor under the proposition to petition for a recall of sentence and permits the court to recall the felony sentence and resentence the petitioner to a misdemeanor, as specified. Proposition 47 also allows a court to designate a felony conviction of a person who has completed his or her sentence as a misdemeanor upon application.

This bill would make it a ~~felony~~ *public offense* for a person who has had his or her felony conviction recalled and has been resentenced to a misdemeanor, or who has had a felony designated as a misdemeanor, pursuant to the above provisions, ~~to~~ *to, within 10 years of the recall*

*and resentencing or designation, own, purchase, receive, or have in possession or under custody or control any firearm. The bill would make a violation of this provision punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.*

By creating a new crime, 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 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 29800 of the Penal Code is amended to~~  
2     ~~read:~~

3     ~~29800. (a) (1) A person who has been convicted of a felony~~  
4     ~~under the laws of the United States, the State of California, or any~~  
5     ~~other state, government, or country, or of an offense enumerated~~  
6     ~~in subdivision (a), (b), or (d) of Section 23515, or who is addicted~~  
7     ~~to the use of any narcotic drug, and who owns, purchases, receives,~~  
8     ~~or has in possession or under custody or control a firearm is guilty~~  
9     ~~of a felony.~~

10    ~~(2) A person who has two or more convictions for violating~~  
11    ~~paragraph (2) of subdivision (a) of Section 417 and who owns,~~  
12    ~~purchases, receives, or has in possession or under custody or~~  
13    ~~control a firearm is guilty of a felony.~~

14    ~~(b) Notwithstanding subdivision (a), a person who has been~~  
15    ~~convicted of a felony or of an offense enumerated in Section 23515,~~  
16    ~~when that conviction results from certification by the juvenile court~~  
17    ~~for prosecution as an adult in an adult court under Section 707 of~~  
18    ~~the Welfare and Institutions Code, and who owns or has in~~  
19    ~~possession or under custody or control a firearm is guilty of a~~  
20    ~~felony.~~

21    ~~(c) A person who was either previously convicted of a felony~~  
22    ~~and had his or her sentence recalled and was resentenced to a~~  
23    ~~misdemeanor pursuant to Section 1170.18, or who had his or her~~

felony conviction designated as a misdemeanor pursuant to Section 1170.18 after completing his or her sentence, and who owns, purchases, receives, or has in possession or under custody or control a firearm is guilty of a felony.

(d) Subdivision (a) shall not apply to a person who has been convicted of a felony under the laws of the United States unless either of the following criteria is satisfied:

(1) Conviction of a like offense under California law can only result in imposition of felony punishment.

(2) The defendant was sentenced to a federal correctional facility for more than 30 days, or received a fine of more than one thousand dollars (\$1,000), or received both punishments.

*SECTION 1. Section 29805 of the Penal Code is amended to read:*

29805. (a) Except as provided in Section 29855 or subdivision (a) of Section 29800, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140, subdivision (d) of Section 148, Section 171b, paragraph (1) of subdivision (a) of Section 171c, 171d, 186.28, 240, 241, 242, 243, 243.4, 244.5, 245, 245.5, 246.3, 247, 273.5, 273.6, 417, 417.6, 422, 626.9, 646.9, or 830.95, subdivision (a) of former Section 12100, as that section read at any time from when it was enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to when it was repealed by Section 18 of Chapter 23 of the Statutes of 1994, Section 17500, 17510, 25300, 25800, 30315, or 32625, subdivision (b) or (d) of Section 26100, or Section 27510, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, or of the conduct punished in subdivision (c) of Section 27590, and who, within 10 years of the conviction, owns, purchases, receives, or has in possession or under custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this section. However, the prohibition in this section may be reduced, eliminated, or conditioned as provided in Section 29855 or 29860.

1     **(b)** *A person who was either previously convicted of a felony*  
2 *and had his or her sentence recalled and was resentenced to a*  
3 *misdemeanor pursuant to Section 1170.18, or who had his or her*  
4 *felony conviction designated as a misdemeanor pursuant to Section*  
5 *1170.18 after completing his or her sentence, and who, within 10*  
6 *years of the recall and resentencing or designation, owns,*  
7 *purchases, receives, or has in possession or under custody or*  
8 *control a firearm is guilty of a public offense, which shall be*  
9 *punishable by imprisonment in a county jail not exceeding one*  
10 *year or in the state prison, by a fine not exceeding \$1,000, or by*  
11 *both that imprisonment and fine.*

12     SEC. 2. 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.