

AMENDED IN ASSEMBLY APRIL 22, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1587**

**Introduced by Assembly Member Scott**

February 26, 1999

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~~An act to amend Section 12281 of the Penal Code, relating to firearms—An act to add Article 10.4 (commencing with Section 35294.10) to Chapter 2 of Part 21 of the Education Code, relating to school violence, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1587, as amended, Scott. ~~Firearms: SKS rifles~~ School violence.

*Existing law declares the intent of the Legislature that all California public schools in kindergarten and grades 1 to 12, inclusive, operated by a school district develop, in cooperation with law enforcement agencies and others, a comprehensive school safety plan and authorizes a governing board of a school district to apply to the Superintendent of Public Instruction for a grant not to exceed \$15,000 per school to implement a plan meeting prescribed criteria.*

*This bill would establish the School Emergency Response to Violent Events program to require the State Department of Education to provide assistance to schools and school districts in responding to a violent event, including, but not limited to, the establishment of regional training programs and the*

*development of a crisis response handbook. The bill would appropriate \$2,000,000 from the General Fund to the State Department of Education for these purposes.*

*This bill would declare that it is to take effect immediately, as an urgency measure.*

~~Existing law grants immunity from criminal prosecution to any person, firm, company, or corporation that is subject to prosecution under the provisions of law governing assault weapons for conduct related to an SKS rifle, as defined, committed during a specified period in which there were conflicting administrative designations of that weapon, and also provides that the designated SKS rifles are not subject to seizure by law enforcement for violation of specified assault weapons provisions prior to January 1, 2000.~~

~~This bill instead would require that these designated rifles be subject to being taken into custody by a law enforcement officer in the ordinary course of performing his or her duties. The bill would provide that if the weapon is taken into custody prior to January 1, 2000, the person, firm, company, or corporation from whom it was taken, after providing proof as required in the above provisions to the county prosecutor, shall not be prosecuted under the above provisions, and would require the person, firm, company, or corporation to be compensated for the weapon, as specified, or to have the weapon returned for disposal, as specified. By imposing a higher level of service upon a local agency, the bill would create 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~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.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: ~~no~~ yes. Fiscal committee: yes.  
State-mandated local program: ~~yes~~ no.

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

1 ~~SECTION 1. — Section 12281 of the Penal Code is~~

2 *SECTION 1. The Legislature finds and declares all of*  
3 *the following:*

4 *(a) In response to recent homicides on school*  
5 *campuses, there is need to reduce the aftermath trauma*  
6 *created by violent events and to restore a safe learning*  
7 *environment for pupil learning.*

8 *(b) A single event that results in death can leave a*  
9 *school campus in crisis and disrupt the school climate*  
10 *sufficiently to interfere with pupil learning.*

11 *(c) Youth between 12 and 17 years of age are crime*  
12 *victims five times more often than adults over 35 years of*  
13 *age.*

14 *(d) Homicides of youth between 12 and 17 years of age*  
15 *have increased 95 percent between 1980 and 1994.*

16 *(e) Mental health practitioners can provide valuable*  
17 *services in response to the aftermath of violent events on*  
18 *school campuses in which death has left survivors*  
19 *traumatized and unable to fully participate in or benefit*  
20 *from school educational and other activities.*

21 *(f) A coordinated response team of school*  
22 *psychologists, school counselors, other mental health*  
23 *professionals, and law enforcement representatives who*  
24 *have received specialized training should be available to*  
25 *schools and districts when a violent event occurs on*  
26 *campus or in the adjacent school community.*

27 *(g) Statewide training and resources are needed to*  
28 *assist schools and school districts to anticipate specific*  
29 *processes and steps to follow if and when a violent event,*  
30 *such as a suicide or homicide, impacts a schoolsite.*

31 *SEC. 2. Article 10.4 (commencing with Section*  
32 *35294.10) is added, immediately preceding Section 35295,*  
33 *to Chapter 2 of Part 21 of the Education Code, to read:*  
34

Article 10.4 School Emergency Response to Violent  
Events

35294.10. (a) The School Emergency Response to Violent Events (SERVE) program is hereby established. Pursuant to this article, the State Department of Education shall do all of the following:

(1) Establish and operate regional training programs to assist schools and school districts to develop plans to anticipate their initial steps in the event of a violent event and to incorporate those plans within school and school district emergency response plans.

(2) Establish and train a cadre of mental health professionals and law enforcement officials to be on call for those school districts that must address the aftermath of a violent event.

(3) Develop a crisis response handbook for distribution to every school and school district.

(4) Identify services and resources available to schools and school districts to help them anticipate and respond to violent, disruptive situations.

(5) Assist school districts in conducting practice responses, and in performing periodic reviews and updates of the disaster procedure policies.

(b) An evaluation of the effectiveness of training shall be conducted by the State Department of Education and reported to the Legislature by March 1, 2002.

SEC. 3. The sum of two million dollars (\$2,000,000) is hereby appropriated from the General Fund to the State Department of Education for the School Emergency Response to Violent Events (SERVE) program for the purposes of Article 10.4 (commencing with Section 35294.10) of Chapter 2 of Part 21 of the Education Code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for training and assistance to be provided to schools and school districts, at the earliest possible time,

1 *for preparing crisis response plans, as well as identifying*  
2 *services and resources available to schools and school*  
3 *districts to help them anticipate and respond to violent,*  
4 *disruptive situations, it is necessary that this act take*  
5 *effect immediately.*

6 ~~amended to read:~~

7 ~~12281. (a) Any person who, or firm, company, or~~  
8 ~~corporation that, operated a retail or other commercial~~  
9 ~~firm, company, or corporation, and manufactured,~~  
10 ~~distributed, transported, imported, possessed, possessed~~  
11 ~~for sale, offered for sale, or transferred, for commercial~~  
12 ~~purpose, an SKS rifle in California between January 1,~~  
13 ~~1992, and December 19, 1997, shall be immune from~~  
14 ~~criminal prosecution under Section 12280. The immunity~~  
15 ~~provided in this subdivision shall apply retroactively to~~  
16 ~~any person who, or firm, company, or corporation that, is~~  
17 ~~or was charged by complaint or indictment with a~~  
18 ~~violation of Section 12280 for conduct related to an SKS~~  
19 ~~rifle, whether or not the case of that person, firm,~~  
20 ~~company, or corporation is final.~~

21 ~~(b) Any person who possessed, gave, loaned, or~~  
22 ~~transferred an SKS rifle in California between January 1,~~  
23 ~~1992, and December 19, 1997, shall be immune from~~  
24 ~~criminal prosecution under Section 12280. The immunity~~  
25 ~~provided in this subdivision shall apply retroactively to~~  
26 ~~any person who was charged by complaint or indictment~~  
27 ~~with a violation of Section 12280 for conduct related to an~~  
28 ~~SKS rifle, whether or not the case of that person is final.~~

29 ~~(c) Any SKS rifle in the possession of any person who,~~  
30 ~~or firm, company, or corporation that, is described in~~  
31 ~~subdivision (a) or (b), shall be subject to being taken into~~  
32 ~~custody by a law enforcement officer in the ordinary~~  
33 ~~course of performing his or her duties. If the SKS rifle is~~  
34 ~~taken into custody prior to January 1, 2000, the person,~~  
35 ~~firm, company, or corporation from whom it was taken,~~  
36 ~~after providing proof as required in this section to the~~  
37 ~~county prosecutor, shall not be prosecuted for violation of~~  
38 ~~Section 12280 and shall be compensated for the weapon~~  
39 ~~as if it had been relinquished in accordance with~~  
40 ~~paragraph (1) of subdivision (f) or shall have the weapon~~

~~returned to be disposed of in accordance with paragraph (1) of subdivision (f).~~

~~(d) Any person, firm, company, or corporation, convicted under Section 12280 for conduct relating to an SKS rifle, shall be permitted to withdraw his or her plea of guilty or nolo contendere, or to reopen his or her case and assert the immunities provided in this section, if the court determines that the allowance of the immunity is in the interests of justice. The court shall interpret this section liberally to the benefit of the defendant.~~

~~(e) The Department of Justice shall notify all district attorneys on or before January 31, 1999, of the provisions of this section. The department shall identify all criminal prosecutions in the state for conduct related to SKS rifles within 90 days of the effective date of this section. In all cases so identified by the Attorney General, the district attorneys shall inform defense counsel, or the defendant if the defendant is in propria persona, in writing, of the provisions of this section within 120 days of the effective date of this section.~~

~~(f) (1) Any person, firm, company, or corporation that is in possession of an SKS rifle shall do one of the following on or before January 1, 2000:~~

~~(A) Relinquish the SKS rifle to the Department of Justice pursuant to subdivision (h).~~

~~(B) Relinquish the SKS rifle to a law enforcement agency pursuant to Section 12288.~~

~~(C) Dispose of the SKS rifle as permitted by Section 12285.~~

~~(2) Any person who has obtained title to an SKS rifle by bequest or intestate succession shall be required to comply with subparagraph (A) or (B) of paragraph (1) of this subdivision unless he or she otherwise complies with paragraph (1) of subdivision (b) of Section 12285.~~

~~(3) Any SKS rifle relinquished to the department pursuant to this subdivision shall be in a manner prescribed by the department.~~

~~(4) The department shall conduct a public education and notification program as described in Section 12289, commencing no later than January 1, 1999.~~

1 ~~(g) Any person who complies with subdivision (f) shall~~  
2 ~~be exempt from the prohibitions set forth in subdivision~~  
3 ~~(a) or (b) of Section 12280 for those acts by that person~~  
4 ~~associated with complying with the requirements of~~  
5 ~~subdivision (f).~~

6 ~~(h) (1) The department shall purchase any SKS rifle~~  
7 ~~relinquished pursuant to subdivision (f) from funds~~  
8 ~~appropriated for this purpose by the act amending this~~  
9 ~~section in the 1997-98 Regular Session of the Legislature~~  
10 ~~or by subsequent budget acts or other legislation. The~~  
11 ~~department shall adopt regulations for this purchase~~  
12 ~~program that include, but are not limited to, the manner~~  
13 ~~of delivery, the reimbursement to be paid, and the~~  
14 ~~manner in which persons shall be informed of the state~~  
15 ~~purchase program.~~

16 ~~(2) Any person who relinquished possession of an SKS~~  
17 ~~rifle to a law enforcement agency pursuant to Section~~  
18 ~~12288 prior to the effective date of the purchase program~~  
19 ~~set forth in paragraph (1) shall be eligible to be~~  
20 ~~reimbursed from the purchase program. The procedures~~  
21 ~~for reimbursement pursuant to this paragraph shall be~~  
22 ~~part of the regulations adopted by the department~~  
23 ~~pursuant to paragraph (1).~~

24 ~~(i) Notwithstanding paragraph (11) of subdivision (a)~~  
25 ~~of Section 12276, an "SKS rifle" under this section means~~  
26 ~~all SKS rifles commonly referred to as "SKS Sporter"~~  
27 ~~versions, manufactured to accept a detachable AK-47~~  
28 ~~magazine and imported into this state and sold by a~~  
29 ~~licensed gun dealer, or otherwise lawfully possessed in~~  
30 ~~this state by a resident of this state who is not a licensed~~  
31 ~~gun dealer, between January 1, 1992, and December 19,~~  
32 ~~1997.~~

33 ~~(j) Failure to comply with subdivision (f) is a public~~  
34 ~~offense punishable by imprisonment in the state prison;~~  
35 ~~or in a county jail, not exceeding one year.~~

36 ~~(k) In addition to the regulations required pursuant to~~  
37 ~~subdivision (h), emergency regulations for the purchase~~  
38 ~~program described in subdivision (h) shall be adopted~~  
39 ~~pursuant to Chapter 3.5 (commencing with Section~~

1 ~~11340) of Part 1 of Division 3 of Title 2 of the Government~~  
2 ~~Code.~~

3 ~~SEC. 2. Notwithstanding Section 17610 of the~~  
4 ~~Government Code, if the Commission on State Mandates~~  
5 ~~determines that this act contains costs mandated by the~~  
6 ~~state, reimbursement to local agencies and school~~  
7 ~~districts for those costs shall be made pursuant to Part 7~~  
8 ~~(commencing with Section 17500) of Division 4 of Title~~  
9 ~~2 of the Government Code. If the statewide cost of the~~  
10 ~~claim for reimbursement does not exceed one million~~  
11 ~~dollars (\$1,000,000), reimbursement shall be made from~~  
12 ~~the State Mandates Claims Fund.~~

13 ~~SEC. 3. This act is an urgency statute necessary for the~~  
14 ~~immediate preservation of the public peace, health, or~~  
15 ~~safety within the meaning of Article IV of the~~  
16 ~~Constitution and shall go into immediate effect. The facts~~  
17 ~~constituting the necessity are:~~

18 ~~In order to authorize law enforcement officers to take~~  
19 ~~SKS rifles into custody in the ordinary course of~~  
20 ~~performing their duties at the earliest possible time, it is~~  
21 ~~necessary that this act take effect immediately.~~

