

AMENDED IN ASSEMBLY AUGUST 18, 2000  
AMENDED IN ASSEMBLY AUGUST 14, 2000  
AMENDED IN ASSEMBLY JUNE 21, 2000  
AMENDED IN SENATE JANUARY 24, 2000  
AMENDED IN SENATE JANUARY 13, 2000  
AMENDED IN SENATE JANUARY 3, 2000  
AMENDED IN SENATE JANUARY 19, 1999

**SENATE BILL**

**No. 31**

**Introduced by Senators Peace, Perata, and Solis**

December 7, 1998

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An act to amend Section 6389 of the Family Code, and to amend Sections 12001, 12021, 12026.2, 12030, and 12078 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 31, as amended, Peace. Firearms: delivery and transfer.

(1) Existing law prohibits a person subject to a specified protective order from owning, possessing, purchasing, or receiving a firearm while the order is in effect, and requires the restrained person to relinquish any firearm in the person's immediate possession or control, as specified. Existing law provides for the return of the relinquished weapon, or sale or other transfer by law enforcement if return is not permitted for specified reasons. Existing law also provides for the

restrained person to sell firearms to a law enforcement agency, as specified.

This bill would, in addition, require that when the law enforcement agency is required to sell or transfer a relinquished pistol, revolver, or other firearm capable of being concealed upon the person, the agency enter specified information regarding the firearm into the Automated Firearms System, as specified. This bill would also provide that when a restrained person sells firearms to a law enforcement agency, as specified by existing law, that the delivery and sale or transfer shall be exempt from specified provisions of law regarding delivery and transfer of firearms through licensed firearms dealers. This bill would also provide that these provisions are declarative of existing law.

(2) Existing law provides that every person who owns or possesses a firearm knowing that he or she is prohibited from owning or possessing a firearm by the provisions of a protective order, as specified, is guilty of a public offense.

This bill would provide that every person who possesses a firearm knowing that possession is prohibited by a protective order, as specified, is guilty of a public offense.

(3) Existing law prohibits a person from carrying a concealed firearm under specified circumstances. Existing law also exempts from this prohibition certain persons under specified conditions.

This bill would add to the list of exemptions the transportation of a firearm for specified purposes.

(4) Existing law, with specified exceptions, provides certain prohibitions and requirements with regard to the circumstances under which firearms may be sold or transferred.

This bill would create additional exceptions to those prohibitions and requirements. This bill would also impose additional requirements upon local law enforcement agencies in connection with firearms acquired by law enforcement agencies, as specified. By imposing additional duties on local law enforcement agencies, this bill would impose a state-mandated local program.

(5) This bill would declare findings by the Legislature.



(6) This bill would incorporate additional changes in Section 12021 of the Penal Code proposed by AB 1989, to become operative if both this bill and AB 1989 are enacted and become effective on or before January 1, 2001, and this bill is enacted last.

(7) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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 6389 of the Family Code is  
2 amended to read:

3 6389. (a) A person subject to a protective order, as  
4 defined in Section 6218, shall not possess, purchase, or  
5 receive a firearm while that protective order is in effect.

6 (b) The Judicial Council shall provide notice on all  
7 protective orders that the respondent is prohibited from  
8 possessing, purchasing, or receiving a firearm while the  
9 protective order is in effect and that the firearm shall be  
10 relinquished to the local law enforcement agency for that  
11 jurisdiction, or sold to a licensed gun dealer, and that  
12 proof of surrender or sale shall be filed within a specified  
13 time of receipt of the order. The order shall also state on  
14 its face the expiration date for relinquishment.

1 (c) If the respondent is present in court at a duly  
2 noticed hearing, the court shall order the respondent to  
3 relinquish any firearm in that person's immediate  
4 possession or control, or subject to that person's  
5 immediate possession or control, within 24 hours of the  
6 order, by either surrendering the firearm to the control  
7 of local law enforcement officials, or by selling the firearm  
8 to a licensed gun dealer, as specified in Section 12071 of  
9 the Penal Code. If the respondent is not present at the  
10 hearing, the respondent shall relinquish the firearm  
11 within 48 hours after being served with the order. A  
12 person ordered to relinquish any firearm pursuant to this  
13 subdivision shall file with the court a receipt showing the  
14 firearm was surrendered to the local law enforcement  
15 agency or sold to a licensed gun dealer within 72 hours  
16 after receiving the order. In the event that it is necessary  
17 to continue the date of any hearing due to a request for  
18 a relinquishment order pursuant to this section, the court  
19 shall ensure that all applicable protective orders  
20 described in Section 6218 remain in effect or bifurcate the  
21 issues and grant the permanent restraining order  
22 pending the date of the hearing.

23 (d) If the respondent declines to relinquish possession  
24 of any firearm based upon the assertion of the right  
25 against self-incrimination, as provided by the Fifth  
26 Amendment to the United States Constitution and  
27 Section 15 of Article I of the California Constitution, the  
28 court may grant use immunity for the act of relinquishing  
29 the firearm required under this section.

30 (e) A local law enforcement agency may charge the  
31 respondent a fee for the storage of any firearm pursuant  
32 to this section. This fee shall not exceed the actual cost  
33 incurred by the local law enforcement agency for the  
34 storage of the firearm. For purposes of this subdivision,  
35 "actual cost" means expenses directly related to taking  
36 possession of a firearm, storing the firearm, and  
37 surrendering possession of the firearm to a licensed  
38 dealer as defined in Section 12071 of the Penal Code or to  
39 the respondent.

1 (f) The restraining order requiring a person to  
2 relinquish a firearm pursuant to subdivision (c) shall state  
3 on its face that the respondent is prohibited from  
4 possessing, purchasing, or receiving a firearm while the  
5 protective order is in effect and that the firearm shall be  
6 relinquished to the local law enforcement agency for that  
7 jurisdiction or sold to a licensed gun dealer, and that proof  
8 of surrender or sale shall be filed with the court within a  
9 specified period of receipt of the order. The order shall  
10 also state on its face the expiration date for  
11 relinquishment. Nothing in this section shall limit a  
12 respondent's right under existing law to petition the court  
13 at a later date for modification of the order.

14 (g) (1) The restraining order requiring a person to  
15 relinquish a firearm pursuant to subdivision (c) shall  
16 prohibit the person from possessing or controlling any  
17 firearm for the duration of the order. At the expiration of  
18 the order, the local law enforcement agency shall return  
19 possession of any surrendered firearm to the respondent,  
20 within five days after the expiration of the  
21 relinquishment order, unless the local law enforcement  
22 agency determines that (1) the firearm has been stolen,  
23 (2) the respondent is prohibited from possessing a  
24 firearm because the respondent is in any prohibited class  
25 for the possession of firearms, as defined in Sections 12021  
26 and 12021.1 of the Penal Code and Sections 8100 and 8103  
27 of the Welfare and Institutions Code, or (3) another  
28 successive restraining order is used against the  
29 respondent under this section. If the local law  
30 enforcement agency determines that the respondent is  
31 the legal owner of any firearm deposited with the local  
32 law enforcement agency and is prohibited from  
33 possessing any firearm, the respondent shall be entitled  
34 to sell or transfer the firearm to a licensed dealer as  
35 defined in Section 12071 of the Penal Code. If the firearm  
36 has been stolen, the firearm shall be restored to the lawful  
37 owner upon his or her identification of the firearm and  
38 proof of ownership.

39 (2) Within 10 days of the date that a firearm is sold,  
40 delivered, returned, or transferred by a local law

1 enforcement agency pursuant to this section, if the  
2 firearm is a pistol, revolver, or other firearm capable of  
3 being concealed upon the person, the name of the agency  
4 delivering the firearm, and the make, model, serial  
5 number, and other identifying characteristics of the  
6 firearm being returned, sold, transferred, or delivered  
7 shall be entered into the Automated Firearms System  
8 (AFS) via the California Law Enforcement  
9 Telecommunications Systems (CLETS) by the law  
10 enforcement or state agency that sold, transferred,  
11 returned, or delivered the firearm. Those agencies  
12 without access to AFS shall arrange with the sheriff of the  
13 county in which the agency is located to input this  
14 information into that system.

15 (h) The court may, as part of the relinquishment  
16 order, grant an exemption from the relinquishment  
17 requirements of this section for a particular firearm if the  
18 respondent can show that a particular firearm is  
19 necessary as a condition of continued employment and  
20 that the current employer is unable to reassign the  
21 respondent to another position where a firearm is  
22 unnecessary. If an exemption is granted pursuant to this  
23 subdivision, the order shall provide that the firearm shall  
24 be in the physical possession of the respondent only  
25 during scheduled work hours and during travel to and  
26 from his or her place of employment. In any case  
27 involving a peace officer who as a condition of  
28 employment and whose personal safety depends on the  
29 ability to carry a firearm, a court may allow the peace  
30 officer to continue to carry a firearm, either on duty or off  
31 duty, if the court finds by a preponderance of the  
32 evidence that the officer does not pose a threat of harm.  
33 Prior to making this finding, the court shall require a  
34 mandatory psychological evaluation of the peace officer  
35 and may require the peace officer to enter into  
36 counseling or other remedial treatment program to deal  
37 with any propensity for domestic violence.

38 (i) During the period of the relinquishment order, a  
39 respondent is entitled to make one sale of all firearms that  
40 are in the possession of a local law enforcement agency

pursuant to this section. A licensed gun dealer, who presents a local law enforcement agency with a bill of sale indicating that all firearms owned by the respondent that are in the possession of the local law enforcement agency have been sold by the respondent to the licensed gun dealer, shall be given possession of those firearms, at the location where a respondent's firearms are stored, within five days of presenting the local law enforcement agency with a bill of sale.

(j) The disposition of any unclaimed property under this section shall be made pursuant to Section 1413 of the Penal Code.

(k) (1) The return of a firearm to any person pursuant to subdivision (g) shall not be subject to the requirements of subdivision (d) of Section 12072 of the Penal Code.

(2) The delivery of a firearm to a local law enforcement agency person pursuant to this section shall not be subject to the requirements of subdivision (d) of Section 12072 of the Penal Code.

(3) The sale, delivery, or transfer of a firearm to a local law enforcement agency pursuant to this section shall not be subject to the requirements of subdivision (a) of Section 12070 of the Penal Code.

(l) If the respondent notifies the court that he or she owns a firearm that is not in his or her immediate possession, the court may limit the order to exclude that firearm if the judge is satisfied the respondent is unable to gain access to that firearm while the protective order is in effect.

(m) Any respondent to a protective order who violates any order issued pursuant to this section shall be punished under the provisions of subdivision (g) of Section 12021 of the Penal Code.

(n) Any respondent to a protective order who complies with the provisions of this section as to a particular firearm shall be exempt from the provisions of subdivision (g) of Section 12021 of the Penal Code as it pertains to that firearm.

SEC. 2. Section 12001 of the Penal Code is amended to read:

1 12001. (a) As used in this title, the terms “pistol,”  
2 “revolver,” and “firearm capable of being concealed  
3 upon the person” shall apply to and include any device  
4 designed to be used as a weapon, from which is expelled  
5 a projectile by the force of any explosion, or other form  
6 of combustion, and which has a barrel less than 16 inches  
7 in length. These terms also include any device which has  
8 a barrel 16 inches or more in length which is designed to  
9 be interchanged with a barrel less than 16 inches in  
10 length.

11 (b) As used in this title, “firearm” means any device,  
12 designed to be used as a weapon, from which is expelled  
13 through a barrel a projectile by the force of any explosion  
14 or other form of combustion.

15 (c) As used in Sections 12021, 12021.1, 12070, 12071,  
16 12072, 12073, 12078, and 12101 of this code, and Sections  
17 8100, 8101, and 8103 of the Welfare and Institutions Code,  
18 the term “firearm” includes the frame or receiver of the  
19 weapon.

20 (d) For the purposes of Sections 12025 and 12031, the  
21 term “firearm” also shall include any rocket, rocket  
22 propelled projectile launcher, or similar device  
23 containing any explosive or incendiary material whether  
24 or not the device is designed for emergency or distress  
25 signaling purposes.

26 (e) For purposes of Sections 12070, 12071, and  
27 paragraph (8) of subdivision (a), and subdivisions (b),  
28 (c), (d), and (f) of Section 12072, the term “firearm” does  
29 not include an unloaded firearm which is defined as an  
30 “antique firearm” in Section 921(a)(16) of Title 18 of the  
31 United States Code.

32 (f) Nothing shall prevent a device defined as a  
33 “pistol,” “revolver,” or “firearm capable of being  
34 concealed upon the person” from also being found to be  
35 a short-barreled shotgun or a short-barreled rifle, as  
36 defined in Section 12020.

37 (g) For purposes of Sections 12551 and 12552, the term  
38 “BB device” means any instrument which expels a  
39 metallic projectile, such as a BB or a pellet, through the





1 force of air pressure, CO<sub>2</sub> pressure, or spring action, or  
2 any spot marker gun.

3 (h) As used in this title, “wholesaler” means any  
4 person who is licensed as a dealer pursuant to Chapter 44  
5 (commencing with Section 921) of Title 18 of the United  
6 States Code and the regulations issued pursuant thereto  
7 who sells, transfers, or assigns firearms, or parts of  
8 firearms, to persons who are licensed as manufacturers,  
9 importers, or gunsmiths pursuant to Chapter 44  
10 (commencing with Section 921) of Title 18 of the United  
11 States Code, or persons licensed pursuant to Section  
12 12071, and includes persons who receive finished parts of  
13 firearms and assemble them into completed or partially  
14 completed firearms in furtherance of that purpose.

15 “Wholesaler” shall not include a manufacturer,  
16 importer, or gunsmith who is licensed to engage in those  
17 activities pursuant to Chapter 44 (commencing with  
18 Section 921) of Title 18 of the United States Code or a  
19 person licensed pursuant to Section 12071 and the  
20 regulations issued pursuant thereto. A wholesaler also  
21 does not include those persons dealing exclusively in  
22 grips, stocks, and other parts of firearms that are not  
23 frames or receivers thereof.

24 (i) As used in Section 12071, 12072, or 12084,  
25 “application to purchase” means any of the following:

26 (1) The initial completion of the register by the  
27 purchaser, transferee, or person being loaned the firearm  
28 as required by subdivision (b) of Section 12076.

29 (2) The initial completion of the LEFT by the  
30 purchaser, transferee, or person being loaned the firearm  
31 as required by subdivision (d) of Section 12084.

32 (3) The initial completion and transmission to the  
33 department of the record of electronic or telephonic  
34 transfer by the dealer on the purchaser, transferee, or  
35 person being loaned the firearm as required by  
36 subdivision (c) of Section 12076.

37 (j) For purposes of Section 12023, a firearm shall be  
38 deemed to be “loaded” whenever both the firearm and  
39 the unexpended ammunition capable of being

1 discharged from the firearm are in the immediate  
2 possession of the same person.

3 (k) For purposes of Sections 12021, 12021.1, 12025,  
4 12070, 12072, 12073, 12078, and 12101 of this code, and  
5 Sections 8100, 8101, and 8103 of the Welfare and  
6 Institutions Code, notwithstanding the fact that the term  
7 “any firearm” may be used in those sections, each firearm  
8 or the frame or receiver of the same shall constitute a  
9 distinct and separate offense under those sections.

10 (l) For purposes of Section 12020, a violation of that  
11 section as to each firearm, weapon, or device enumerated  
12 therein shall constitute a distinct and separate offense.

13 (m) Each application that requires any firearms  
14 eligibility determination involving the issuance of any  
15 license, permit, or certificate pursuant to this title shall  
16 include two copies of the applicant’s fingerprints on  
17 forms prescribed by the Department of Justice. One copy  
18 of the fingerprints may be submitted to the United States  
19 Federal Bureau of Investigation.

20 (n) As used in this chapter, a “personal handgun  
21 importer” means an individual who meets all of the  
22 following criteria:

23 (1) He or she is not a person licensed pursuant to  
24 Section 12071.

25 (2) He or she is not a licensed manufacturer of  
26 firearms pursuant to Chapter 44 (commencing with  
27 Section 921) of Title 18 of the United States Code.

28 (3) He or she is not a licensed importer of firearms  
29 pursuant to Chapter 44 (commencing with Section 921)  
30 of Title 18 of the United States Code and the regulations  
31 issued pursuant thereto.

32 (4) He or she is the owner of a pistol, revolver, or other  
33 firearm capable of being concealed upon the person.

34 (5) He or she acquired that pistol, revolver, or other  
35 firearm capable of being concealed upon the person  
36 outside of California.

37 (6) He or she moves into this state on or after January  
38 1, 1998, as a resident of this state.

(7) He or she intends to possess that pistol, revolver, or other firearm capable of being concealed upon the person within this state on or after January 1, 1998.

(8) The pistol, revolver, or other firearm capable of being concealed upon the person was not delivered to him or her by a person licensed pursuant to Section 12071 who delivered that firearm following the procedures set forth in Section 12071 and subdivision (c) of Section 12072.

(9) He or she, while a resident of this state, had not previously reported his or her ownership of that pistol, revolver, or other firearm capable of being concealed upon the person to the Department of Justice in a manner prescribed by the department that included information concerning him or her and a description of the firearm.

(10) The pistol, revolver, or other firearm capable of being concealed upon the person is not a firearm that is prohibited by subdivision (a) of Section 12020.

(11) The pistol, revolver, or other firearm capable of being concealed upon the person is not an assault weapon, as defined in Section 12276.

(12) The pistol, revolver, or other firearm capable of being concealed upon the person is not a machinegun, as defined in Section 12200.

(13) The person is 18 years of age or older.

(o) For purposes of paragraph (6) of subdivision (n):

(1) Except as provided in paragraph (2), residency shall be determined in the same manner as is the case for establishing residency pursuant to Section 12505 of the Vehicle Code.

(2) In the case of members of the armed forces of the United States, residency shall be deemed to be established when he or she was discharged from active service in this state.

SEC. 3. Section 12021 of the Penal Code is amended to read:

12021. (a) (1) Any person who has been convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country, or of an offense enumerated in subdivision (a), (b), or (d)

1 of Section 12001.6, or who is addicted to the use of any  
2 narcotic drug, who owns or has in his or her possession or  
3 under his or her custody or control any firearm is guilty  
4 of a felony.

5 (2) Any person who has two or more convictions for  
6 violating paragraph (2) of subdivision (a) of Section 417  
7 and who owns or has in his or her possession or under his  
8 or her custody or control any firearm is guilty of a felony.

9 (b) Notwithstanding subdivision (a), any person who  
10 has been convicted of a felony or of an offense  
11 enumerated in Section 12001.6, when that conviction  
12 results from certification by the juvenile court for  
13 prosecution as an adult in an adult court under Section  
14 707 of the Welfare and Institutions Code, who owns or has  
15 in his or her possession or under his or her custody or  
16 control any firearm is guilty of a felony.

17 (c) (1) Except as provided in subdivision (a) or  
18 paragraph (2) of this subdivision, any person who has  
19 been convicted of a misdemeanor violation of Section 71,  
20 76, 136.5, or 140, subdivision (d) of Section 148, Section  
21 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5, 245, 245.5,  
22 246, 246.3, 247, 273.5, 273.6, 417, 417.1, 417.2, 417.6, 626.9,  
23 646.9, 12023, or 12024, subdivision (b) or (d) of Section  
24 12034, Section 12040, subdivision (b) of Section 12072,  
25 subdivision (a) of former Section 12100, Section 12220,  
26 12320, or 12590, or Section 8100, 8101, or 8103 of the  
27 Welfare and Institutions Code, any firearm-related  
28 offense pursuant to Sections 871.5 and 1001.5 of the  
29 Welfare and Institutions Code, or of the conduct  
30 punished in paragraph (3) of subdivision (g) of Section  
31 12072, and who, within 10 years of the conviction, owns,  
32 or has in his or her possession or under his or her custody  
33 or control, any firearm is guilty of a public offense, which  
34 shall be punishable by imprisonment in a county jail not  
35 exceeding one year or in the state prison, by a fine not  
36 exceeding one thousand dollars (\$1,000), or by both that  
37 imprisonment and fine. The court, on forms prescribed  
38 by the Department of Justice, shall notify the department  
39 of persons subject to this subdivision. However, the  
40 prohibition in this paragraph may be reduced,

1 eliminated, or conditioned as provided in paragraph (2)  
2 or (3).

3 (2) Any person employed as a peace officer described  
4 in Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5  
5 whose employment or livelihood is dependent on the  
6 ability to legally possess a firearm, who is subject to the  
7 prohibition imposed by this subdivision because of a  
8 conviction under Section 273.5, 273.6, or 646.9, may  
9 petition the court only once for relief from this  
10 prohibition. The petition shall be filed with the court in  
11 which the petitioner was sentenced. If possible, the  
12 matter shall be heard before the same judge that  
13 sentenced the petitioner. Upon filing the petition, the  
14 clerk of the court shall set the hearing date and shall  
15 notify the petitioner and the prosecuting attorney of the  
16 date of the hearing. Upon making each of the following  
17 findings, the court may reduce or eliminate the  
18 prohibition, impose conditions on reduction or  
19 elimination of the prohibition, or otherwise grant relief  
20 from the prohibition as the court deems appropriate:

21 (A) Finds by a preponderance of the evidence that the  
22 petitioner is likely to use a firearm in a safe and lawful  
23 manner.

24 (B) Finds that the petitioner is not within a prohibited  
25 class as specified in subdivision (a), (b), (d), (e), or (g)  
26 or Section 12021.1, and the court is not presented with any  
27 credible evidence that the petitioner is a person  
28 described in Section 8100 or 8103 of the Welfare and  
29 Institutions Code.

30 (C) Finds that the petitioner does not have a previous  
31 conviction under this subdivision no matter when the  
32 prior conviction occurred.

33 In making its decision, the court shall consider the  
34 petitioner's continued employment, the interest of  
35 justice, any relevant evidence, and the totality of the  
36 circumstances. The court shall require, as a condition of  
37 granting relief from the prohibition under this section,  
38 that the petitioner agree to participate in counseling as  
39 deemed appropriate by the court. Relief from the  
40 prohibition shall not relieve any other person or entity

1 from any liability that might otherwise be imposed. It is  
2 the intent of the Legislature that courts exercise broad  
3 discretion in fashioning appropriate relief under this  
4 paragraph in cases in which relief is warranted. However,  
5 nothing in this paragraph shall be construed to require  
6 courts to grant relief to any particular petitioner. It is the  
7 intent of the Legislature to permit persons who were  
8 convicted of an offense specified in Section 273.5, 273.6,  
9 or 646.9 to seek relief from the prohibition imposed by this  
10 subdivision.

11 (3) Any person who is subject to the prohibition  
12 imposed by this subdivision because of a conviction of an  
13 offense prior to that offense being added to paragraph  
14 (1), may petition the court only once for relief from this  
15 prohibition. The petition shall be filed with the court in  
16 which the petitioner was sentenced. If possible, the  
17 matter shall be heard before the same judge that  
18 sentenced the petitioner. Upon filing the petition, the  
19 clerk of the court shall set the hearing date and notify the  
20 petitioner and the prosecuting attorney of the date of the  
21 hearing. Upon making each of the following findings, the  
22 court may reduce or eliminate the prohibition, impose  
23 conditions on reduction or elimination of the prohibition,  
24 or otherwise grant relief from the prohibition as the court  
25 deems appropriate:

26 (A) Finds by a preponderance of the evidence that the  
27 petitioner is likely to use a firearm in a safe and lawful  
28 manner.

29 (B) Finds that the petitioner is not within a prohibited  
30 class as specified in subdivision (a), (b), (d), (e), or (g)  
31 or Section 12021.1, and the court is not presented with any  
32 credible evidence that the petitioner is a person  
33 described in Section 8100 or 8103 of the Welfare and  
34 Institutions Code.

35 (C) Finds that the petitioner does not have a previous  
36 conviction under this subdivision, no matter when the  
37 prior conviction occurred.

38 In making its decision, the court may consider the  
39 interest of justice, any relevant evidence, and the totality  
40 of the circumstances. It is the intent of the Legislature

1 that courts exercise broad discretion in fashioning  
2 appropriate relief under this paragraph in cases in which  
3 relief is warranted. However, nothing in this paragraph  
4 shall be construed to require courts to grant relief to any  
5 particular petitioner.

6 (4) Law enforcement officials who enforce the  
7 prohibition specified in this subdivision against a person  
8 who has been granted relief pursuant to paragraph (2) or  
9 (3), shall be immune from any liability for false arrest  
10 arising from the enforcement of this subdivision unless  
11 the person has in his or her possession a certified copy of  
12 the court order that granted the person relief from the  
13 prohibition. This immunity from liability shall not relieve  
14 any person or entity from any other liability that might  
15 otherwise be imposed.

16 (d) Any person who, as an express condition of  
17 probation, is prohibited or restricted from owning,  
18 possessing, controlling, receiving, or purchasing a firearm  
19 and who owns, or has in his or her possession or under his  
20 or her custody or control, any firearm but who is not  
21 subject to subdivision (a) or (c) is guilty of a public  
22 offense, which shall be punishable by imprisonment in a  
23 county jail not exceeding one year or in the state prison,  
24 by a fine not exceeding one thousand dollars (\$1,000), or  
25 by both that imprisonment and fine. The court, on forms  
26 provided by the Department of Justice, shall notify the  
27 department of persons subject to this subdivision. The  
28 notice shall include a copy of the order of probation and  
29 a copy of any minute order or abstract reflecting the  
30 order and conditions of probation.

31 (e) Any person who (1) is alleged to have committed  
32 an offense listed in subdivision (b) of Section 707 of the  
33 Welfare and Institutions Code, an offense described in  
34 subdivision (b) of Section 1203.073, or any offense  
35 enumerated in paragraph (1) of subdivision (c), and (2)  
36 is subsequently adjudged a ward of the juvenile court  
37 within the meaning of Section 602 of the Welfare and  
38 Institutions Code because the person committed an  
39 offense listed in subdivision (b) of Section 707 of the  
40 Welfare and Institutions Code, an offense described in



1 subdivision (b) of Section 1203.073, or any offense  
2 enumerated in paragraph (1) of subdivision (c) shall not  
3 own, or have in his or her possession or under his or her  
4 custody or control, any firearm until the age of 30 years.  
5 A violation of this subdivision shall be punishable by  
6 imprisonment in a county jail not exceeding one year or  
7 in the state prison, by a fine not exceeding one thousand  
8 dollars (\$1,000), or by both that imprisonment and fine.  
9 The juvenile court, on forms prescribed by the  
10 Department of Justice, shall notify the department of  
11 persons subject to this subdivision. Notwithstanding any  
12 other law, the forms required to be submitted to the  
13 department pursuant to this subdivision may be used to  
14 determine eligibility to acquire a firearm.

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

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

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

24 (g) (1) Every person who purchases or receives, or  
25 attempts to purchase or receive, a firearm knowing that  
26 he or she is subject to a protective order as defined in  
27 Section 6218 of the Family Code, Section 136.2, or a  
28 temporary restraining order or injunction issued  
29 pursuant to Section 527.6 or 527.8 of the Code of Civil  
30 Procedure, is guilty of a public offense, which shall be  
31 punishable by imprisonment in a county jail not  
32 exceeding one year or in the state prison, by a fine not  
33 exceeding one thousand dollars (\$1,000), or by both that  
34 imprisonment and fine. This subdivision does not apply  
35 unless the copy of the restraining order personally served  
36 on the person against whom the restraining order is  
37 issued contains a notice in bold print stating (1) that the  
38 person is prohibited from purchasing or receiving or  
39 attempting to purchase or receive a firearm and (2)  
40 specifying the penalties for violating this subdivision, or



1 a court has provided actual verbal notice of the firearm  
2 prohibition and penalty as provided in Section 6304 of the  
3 Family Code.

4 (2) Every person who possesses a firearm knowing  
5 that he or she is prohibited from possessing a firearm by  
6 the provisions of a protective order as defined in Section  
7 6218 of the Family Code, Section 136.2 of the Penal Code,  
8 or a temporary restraining order or injunction issued  
9 pursuant to Section 527.6 or 527.8 of the Code of Civil  
10 Procedure, is guilty of a public offense, which shall be  
11 punishable by imprisonment in a county jail not  
12 exceeding one year, by a fine not exceeding one thousand  
13 dollars (\$1,000), or by both that imprisonment and fine.  
14 This subdivision does not apply unless a copy of the  
15 restraining order personally served on the person against  
16 whom the restraining order is issued contains a notice in  
17 bold print stating (1) that the person is prohibited from  
18 possessing or attempting to possess a firearm and (2)  
19 specifying the penalties for violating this subdivision, or  
20 a court has provided actual verbal notice of the firearm  
21 prohibition and penalty as provided in Section 6304 of the  
22 Family Code.

23 (3) The Judicial Council shall provide notice on all  
24 protective orders that the respondent is prohibited from  
25 possessing, purchasing, or receiving a firearm while the  
26 protective order is in effect and that the firearm shall be  
27 relinquished to the local law enforcement agency for that  
28 jurisdiction or sold to a licensed gun dealer, and that proof  
29 of surrender or sale shall be filed within a specified time  
30 of receipt of the order. The order shall also state on its face  
31 the expiration date for relinquishment.

32 (4) If probation is granted upon conviction of a  
33 violation of this subdivision, the court shall impose  
34 probation consistent with the provisions of Section  
35 1203.097.

36 (h) (1) A violation of subdivision (a), (b), (c), (d), or  
37 (e) is justifiable where all of the following conditions are  
38 met:

1 (A) The person found the firearm or took the firearm  
2 from a person who was committing a crime against him  
3 or her.

4 (B) The person possessed the firearm no longer than  
5 was necessary to deliver or transport the firearm to a law  
6 enforcement agency for that agency's disposition  
7 according to law.

8 (C) If the firearm was transported to a law  
9 enforcement agency, it was transported in accordance  
10 with paragraph (18) of subdivision (a) of Section 12026.2.

11 (D) If the firearm is being transported to a law  
12 enforcement agency, the person transporting the firearm  
13 has given prior notice to the law enforcement agency that  
14 he or she is transporting the firearm to the law  
15 enforcement agency for disposition according to law.

16 (2) Upon the trial for violating subdivision (a), (b),  
17 (c), (d), or (e), the trier of fact shall determine whether  
18 the defendant was acting within the provisions of the  
19 exemption created by this subdivision.

20 (3) The defendant has the burden of proving by a  
21 preponderance of the evidence that he or she comes  
22 within the provisions of the exemption created by this  
23 subdivision.

24 SEC. 3.5. Section 12021 of the Penal Code is amended  
25 to read:

26 12021. (a) (1) Any person who has been convicted  
27 of a felony under the laws of the United States, of the State  
28 of California, or any other state, government, or country,  
29 or of an offense enumerated in subdivision (a), (b), or (d)  
30 of Section 12001.6, or who is addicted to the use of any  
31 narcotic drug, who owns or has in his or her possession or  
32 under his or her custody or control any firearm is guilty  
33 of a felony.

34 (2) Any person who has two or more convictions for  
35 violating paragraph (2) of subdivision (a) of Section 417  
36 and who owns or has in his or her possession or under his  
37 or her custody or control any firearm is guilty of a felony.

38 (b) Notwithstanding subdivision (a), any person who  
39 has been convicted of a felony or of an offense  
40 enumerated in Section 12001.6, when that conviction

1 results from certification by the juvenile court for  
2 prosecution as an adult in an adult court under Section  
3 707 of the Welfare and Institutions Code, who owns or has  
4 in his or her possession or under his or her custody or  
5 control any firearm is guilty of a felony.

6 (c) (1) Except as provided in subdivision (a) or  
7 paragraph (2) of this subdivision, any person who has  
8 been convicted of a misdemeanor violation of Section 71,  
9 76, 136.1, 136.5, or 140, subdivision (d) of Section 148,  
10 Section 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5,  
11 245, 245.5, 246, 246.3, 247, 273.5, 273.6, 417, 417.1, 417.2,  
12 417.6, 422, 626.9, 646.9, 12023, or 12024, subdivision (b) or  
13 (d) of Section 12034, Section 12040, subdivision (b) of  
14 Section 12072, subdivision (a) of former Section 12100,  
15 Section 12220, 12320, or 12590, or Section 8100, 8101, or  
16 8103 of the Welfare and Institutions Code, any  
17 firearm-related offense pursuant to Sections 871.5 and  
18 1001.5 of the Welfare and Institutions Code, or of the  
19 conduct punished in paragraph (3) of subdivision (g) of  
20 Section 12072, and who, within 10 years of the conviction,  
21 owns, or has in his or her possession or under his or her  
22 custody or control, any firearm is guilty of a public  
23 offense, which shall be punishable by imprisonment in a  
24 county jail not exceeding one year or in the state prison,  
25 by a fine not exceeding one thousand dollars (\$1,000), or  
26 by both that imprisonment and fine. The court, on forms  
27 prescribed by the Department of Justice, shall notify the  
28 department of persons subject to this subdivision.  
29 However, the prohibition in this paragraph may be  
30 reduced, eliminated, or conditioned as provided in  
31 paragraph (2) or (3).

32 (2) Any person employed as a peace officer described  
33 in Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5  
34 whose employment or livelihood is dependent on the  
35 ability to legally possess a firearm, who is subject to the  
36 prohibition imposed by this subdivision because of a  
37 conviction under Section 273.5, 273.6, or 646.9, may  
38 petition the court only once for relief from this  
39 prohibition. The petition shall be filed with the court in  
40 which the petitioner was sentenced. If possible, the

1 matter shall be heard before the same judge that  
2 sentenced the petitioner. Upon filing the petition, the  
3 clerk of the court shall set the hearing date and shall  
4 notify the petitioner and the prosecuting attorney of the  
5 date of the hearing. Upon making each of the following  
6 findings, the court may reduce or eliminate the  
7 prohibition, impose conditions on reduction or  
8 elimination of the prohibition, or otherwise grant relief  
9 from the prohibition as the court deems appropriate:

10 (A) Finds by a preponderance of the evidence that the  
11 petitioner is likely to use a firearm in a safe and lawful  
12 manner.

13 (B) Finds that the petitioner is not within a prohibited  
14 class as specified in subdivision (a), (b), (d), (e), or (g)  
15 or Section 12021.1, and the court is not presented with any  
16 credible evidence that the petitioner is a person  
17 described in Section 8100 or 8103 of the Welfare and  
18 Institutions Code.

19 (C) Finds that the petitioner does not have a previous  
20 conviction under this subdivision no matter when the  
21 prior conviction occurred.

22 In making its decision, the court shall consider the  
23 petitioner's continued employment, the interest of  
24 justice, any relevant evidence, and the totality of the  
25 circumstances. The court shall require, as a condition of  
26 granting relief from the prohibition under this section,  
27 that the petitioner agree to participate in counseling as  
28 deemed appropriate by the court. Relief from the  
29 prohibition shall not relieve any other person or entity  
30 from any liability that might otherwise be imposed. It is  
31 the intent of the Legislature that courts exercise broad  
32 discretion in fashioning appropriate relief under this  
33 paragraph in cases in which relief is warranted. However,  
34 nothing in this paragraph shall be construed to require  
35 courts to grant relief to any particular petitioner. It is the  
36 intent of the Legislature to permit persons who were  
37 convicted of an offense specified in Section 273.5, 273.6,  
38 or 646.9 to seek relief from the prohibition imposed by this  
39 subdivision.

1 (3) Any person who is subject to the prohibition  
 2 imposed by this subdivision because of a conviction of an  
 3 offense prior to that offense being added to paragraph  
 4 (1), may petition the court only once for relief from this  
 5 prohibition. The petition shall be filed with the court in  
 6 which the petitioner was sentenced. If possible, the  
 7 matter shall be heard before the same judge that  
 8 sentenced the petitioner. Upon filing the petition, the  
 9 clerk of the court shall set the hearing date and notify the  
 10 petitioner and the prosecuting attorney of the date of the  
 11 hearing. Upon making each of the following findings, the  
 12 court may reduce or eliminate the prohibition, impose  
 13 conditions on reduction or elimination of the prohibition,  
 14 or otherwise grant relief from the prohibition as the court  
 15 deems appropriate:

16 (A) Finds by a preponderance of the evidence that the  
 17 petitioner is likely to use a firearm in a safe and lawful  
 18 manner.

19 (B) Finds that the petitioner is not within a prohibited  
 20 class as specified in subdivision (a), (b), (d), (e), or (g)  
 21 or Section 12021.1, and the court is not presented with any  
 22 credible evidence that the petitioner is a person  
 23 described in Section 8100 or 8103 of the Welfare and  
 24 Institutions Code.

25 (C) Finds that the petitioner does not have a previous  
 26 conviction under this subdivision, no matter when the  
 27 prior conviction occurred.

28 In making its decision, the court may consider the  
 29 interest of justice, any relevant evidence, and the totality  
 30 of the circumstances. It is the intent of the Legislature  
 31 that courts exercise broad discretion in fashioning  
 32 appropriate relief under this paragraph in cases in which  
 33 relief is warranted. However, nothing in this paragraph  
 34 shall be construed to require courts to grant relief to any  
 35 particular petitioner.

36 (4) Law enforcement officials who enforce the  
 37 prohibition specified in this subdivision against a person  
 38 who has been granted relief pursuant to paragraph (2) or  
 39 (3), shall be immune from any liability for false arrest  
 40 arising from the enforcement of this subdivision unless

1 the person has in his or her possession a certified copy of  
2 the court order that granted the person relief from the  
3 prohibition. This immunity from liability shall not relieve  
4 any person or entity from any other liability that might  
5 otherwise be imposed.

6 (d) Any person who, as an express condition of  
7 probation, is prohibited or restricted from owning,  
8 possessing, controlling, receiving, or purchasing a firearm  
9 and who owns, or has in his or her possession or under his  
10 or her custody or control, any firearm but who is not  
11 subject to subdivision (a) or (c) is guilty of a public  
12 offense, which shall be punishable by imprisonment in a  
13 county jail not exceeding one year or in the state prison,  
14 by a fine not exceeding one thousand dollars (\$1,000), or  
15 by both that imprisonment and fine. The court, on forms  
16 provided by the Department of Justice, shall notify the  
17 department of persons subject to this subdivision. The  
18 notice shall include a copy of the order of probation and  
19 a copy of any minute order or abstract reflecting the  
20 order and conditions of probation.

21 (e) Any person who (1) is alleged to have committed  
22 an offense listed in subdivision (b) of Section 707 of the  
23 Welfare and Institutions Code, an offense described in  
24 subdivision (b) of Section 1203.073, or any offense  
25 enumerated in paragraph (1) of subdivision (c), and (2)  
26 is subsequently adjudged a ward of the juvenile court  
27 within the meaning of Section 602 of the Welfare and  
28 Institutions Code because the person committed an  
29 offense listed in subdivision (b) of Section 707 of the  
30 Welfare and Institutions Code, an offense described in  
31 subdivision (b) of Section 1203.073, or any offense  
32 enumerated in paragraph (1) of subdivision (c) shall not  
33 own, or have in his or her possession or under his or her  
34 custody or control, any firearm until the age of 30 years.  
35 A violation of this subdivision shall be punishable by  
36 imprisonment in a county jail not exceeding one year or  
37 in the state prison, by a fine not exceeding one thousand  
38 dollars (\$1,000), or by both that imprisonment and fine.  
39 The juvenile court, on forms prescribed by the  
40 Department of Justice, shall notify the department of

persons subject to this subdivision. Notwithstanding any other law, the forms required to be submitted to the department pursuant to this subdivision may be used to determine eligibility to acquire a firearm.

(f) 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.

(g) (1) Every person who purchases or receives, or attempts to purchase or receive, a firearm knowing that he or she is subject to a protective order as defined in Section 6218 of the Family Code, Section 136.2, or a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, 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. This subdivision does not apply unless the copy of the restraining order personally served on the person against whom the restraining order is issued contains a notice in bold print stating (1) that the person is prohibited from purchasing or receiving or attempting to purchase or receive a firearm and (2) specifying the penalties for violating this subdivision, or a court has provided actual verbal notice of the firearm prohibition and penalty as provided in Section 6304 of the Family Code.

(2) Every person who possesses a firearm knowing that he or she is prohibited from possessing a firearm by the provisions of a protective order as defined in Section 6218 of the Family Code, Section 136.2 of the Penal Code, or a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, is guilty of a public offense, which shall be



1 punishable by imprisonment in a county jail not  
2 exceeding one year, by a fine not exceeding one thousand  
3 dollars (\$1,000), or by both that imprisonment and fine.  
4 This subdivision does not apply unless a copy of the  
5 restraining order personally served on the person against  
6 whom the restraining order is issued contains a notice in  
7 bold print stating (1) that the person is prohibited from  
8 possessing or attempting to possess a firearm and (2)  
9 specifying the penalties for violating this subdivision, or  
10 a court has provided actual verbal notice of the firearm  
11 prohibition and penalty as provided in Section 6304 of the  
12 Family Code.

13 (3) The Judicial Council shall provide notice on all  
14 protective orders that the respondent is prohibited from  
15 possessing, purchasing, or receiving a firearm while the  
16 protective order is in effect and that the firearm shall be  
17 relinquished to the local law enforcement agency for that  
18 jurisdiction or sold to a licensed gun dealer, and that proof  
19 of surrender or sale shall be filed within a specified time  
20 of receipt of the order. The order shall also state on its face  
21 the expiration date for relinquishment.

22 (4) If probation is granted upon conviction of a  
23 violation of this subdivision, the court shall impose  
24 probation consistent with the provisions of Section  
25 1203.097.

26 (h) (1) A violation of subdivision (a), (b), (c), (d), or  
27 (e) is justifiable where all of the following conditions are  
28 met:

29 (A) The person found the firearm or took the firearm  
30 from a person who was committing a crime against him  
31 or her.

32 (B) The person possessed the firearm no longer than  
33 was necessary to deliver or transport the firearm to a law  
34 enforcement agency for that agency's disposition  
35 according to law.

36 (C) If the firearm was transported to a law  
37 enforcement agency, it was transported in accordance  
38 with paragraph (18) of subdivision (a) of Section 12026.2.

39 (D) If the firearm is being transported to a law  
40 enforcement agency, the person transporting the firearm



1 has given prior notice to the law enforcement agency that  
2 he or she is transporting the firearm to the law  
3 enforcement agency for disposition according to law.

4 (2) Upon the trial for violating subdivision (a), (b),  
5 (c), (d), or (e), the trier of fact shall determine whether  
6 the defendant was acting within the provisions of the  
7 exemption created by this subdivision.

8 (3) The defendant has the burden of proving by a  
9 preponderance of the evidence that he or she comes  
10 within the provisions of the exemption created by this  
11 subdivision.

12 SEC. 4. Section 12026.2 of the Penal Code is amended  
13 to read:

14 12026.2. (a) Section 12025 does not apply to, or affect,  
15 any of the following:

16 (1) The possession of a firearm by an authorized  
17 participant in a motion picture, television, or video  
18 production or entertainment event when the participant  
19 lawfully uses the firearm as part of that production or  
20 event or while going directly to, or coming directly from,  
21 that production or event.

22 (2) The possession of a firearm in a locked container by  
23 a member of any club or organization, organized for the  
24 purpose of lawfully collecting and lawfully displaying  
25 pistols, revolvers, or other firearms, while the member is  
26 at meetings of the clubs or organizations or while going  
27 directly to, and coming directly from, those meetings.

28 (3) The transportation of a firearm by a participant  
29 when going directly to, or coming directly from, a  
30 recognized safety or hunter safety class, or a recognized  
31 sporting event involving that firearm.

32 (4) The transportation of a firearm by a person listed  
33 in Section 12026 directly between any of the places  
34 mentioned in Section 12026.

35 (5) The transportation of a firearm by a person when  
36 going directly to, or coming directly from, a fixed place  
37 of business or private residential property for the purpose  
38 of the lawful repair or the lawful transfer, sale, or loan of  
39 that firearm.

1 (6) The transportation of a firearm by a person listed  
2 in Section 12026 when going directly from the place  
3 where that person lawfully received that firearm to that  
4 person's place of residence or place of business or to  
5 private property owned or lawfully possessed by that  
6 person.

7 (7) The transportation of a firearm by a person when  
8 going directly to, or coming directly from, a gun show,  
9 swap meet, or similar event to which the public is invited,  
10 for the purpose of displaying that firearm in a lawful  
11 manner.

12 (8) The transportation of a firearm by an authorized  
13 employee or agent of a supplier of firearms when going  
14 directly to, or coming directly from, a motion picture,  
15 television, or video production or entertainment event  
16 for the purpose of providing that firearm to an authorized  
17 participant to lawfully use as a part of that production or  
18 event.

19 (9) The transportation of a firearm by a person when  
20 going directly to, or coming directly from, a target range,  
21 which holds a regulatory or business license, for the  
22 purposes of practicing shooting at targets with that  
23 firearm at that target range.

24 (10) The transportation of a firearm by a person when  
25 going directly to, or coming directly from, a place  
26 designated by a person authorized to issue licenses  
27 pursuant to Section 12050 when done at the request of the  
28 issuing agency so that the issuing agency can determine  
29 whether or not a license should be issued to that person  
30 to carry that firearm.

31 (11) The transportation of a firearm by a person when  
32 going directly to, or coming directly from, a law  
33 enforcement agency for the purpose of a lawful transfer,  
34 sale, or loan of that firearm pursuant to Section 12084.

35 (12) The transportation of a firearm by a person when  
36 going directly to, or coming directly from, a lawful  
37 camping activity for the purpose of having that firearm  
38 available for lawful personal protection while at the  
39 lawful campsite. This paragraph shall not be construed to  
40 override the statutory authority granted to the



1 Department of Parks and Recreation or any other state  
2 or local governmental agencies to promulgate rules and  
3 regulations governing the administration of parks and  
4 campgrounds.

5 (13) The transportation of a firearm by a person in  
6 order to comply with subdivision (c) or (i) of Section  
7 12078 as it pertains to that firearm.

8 (14) The transportation of a firearm by a person in  
9 order to utilize subdivision (l) of Section 12078 as it  
10 pertains to that firearm.

11 (15) The transportation of a firearm by a person when  
12 going directly to, or coming directly from, a gun show or  
13 event, as defined in Section 178.100 of Title 27 of the Code  
14 of Federal Regulations, for the purpose of lawfully  
15 transferring, selling, or loaning that firearm in  
16 accordance with subdivision (d) of Section 12072.

17 (16) The transportation of a firearm by a person in  
18 order to utilize paragraph (6) of subdivision (a) of  
19 Section 12078 as it pertains to that firearm.

20 (17) The transportation of a firearm by a person who  
21 finds the firearm in order to comply with Article 1  
22 (commencing with Section 2080) of Chapter 4 of Division  
23 3 of the Civil Code as it pertains to that firearm and if that  
24 firearm is being transported to a law enforcement  
25 agency, the person gives prior notice to the law  
26 enforcement agency that he or she is transporting the  
27 firearm to the law enforcement agency.

28 (18) The transportation of a firearm by a person who  
29 finds the firearm or took it from a person committing a  
30 crime against him or her and is transporting it to a law  
31 enforcement agency for disposition according to law, if he  
32 or she gives prior notice to the law enforcement agency  
33 that he or she is transporting the firearm to the law  
34 enforcement agency for disposition according to law.

35 (19) The transportation of a firearm by a person in  
36 order to comply with paragraph (2) of subdivision (f) of  
37 Section 12072 as it pertains to that firearm.

38 (20) The transportation of a firearm by a person in  
39 order to comply with paragraph (3) of subdivision (f) of  
40 Section 12072 as it pertains to that firearm.



1 (21) The transportation of a firearm by a person for the  
2 purpose of obtaining an identification number or mark  
3 assigned for that firearm from the Department of Justice  
4 pursuant to Section 12092.

5 (22) The transportation of a firearm by a person for the  
6 purpose of complying with the requirements of Section  
7 6389 of the Family Code, provided that if the firearm is  
8 being transported to a law enforcement agency for  
9 disposition pursuant to Section 6389 of the Family Code,  
10 he or she gives prior notice to the law enforcement  
11 agency that he or she is transporting the firearm to the  
12 law enforcement agency for disposition according to  
13 Section 6389 of the Family Code.

14 (23) The transportation of a firearm by a person to  
15 whom the firearm is being returned pursuant to law to a  
16 place where it may legally be kept pursuant to Section  
17 12026.

18 (b) In order for a firearm to be exempted under  
19 subdivision (a), while being transported to or from a  
20 place, the firearm shall be unloaded, kept in a locked  
21 container, as defined in subdivision (d), and the course of  
22 travel shall include only those deviations between  
23 authorized locations as are reasonably necessary under  
24 the circumstances.

25 (c) This section does not prohibit or limit the  
26 otherwise lawful carrying or transportation of any pistol,  
27 revolver, or other firearm capable of being concealed  
28 upon the person in accordance with this chapter.

29 (d) As used in this section, “locked container” means  
30 a secure container that is fully enclosed and locked by a  
31 padlock, key lock, combination lock, or similar locking  
32 device. The term “locked container” does not include the  
33 utility or glove compartment of a motor vehicle.

34 SEC. 5. Section 12030 of the Penal Code is amended  
35 to read:

36 12030. (a) The officer having custody of any firearms  
37 that may be useful to the California National Guard, the  
38 Coast Guard Auxiliary, or to any military or naval agency  
39 of the federal or state government, including, but not  
40 limited to, the California National Guard military

1 museum and resource center, may, upon the authority of  
2 the legislative body of the city, city and county, or county  
3 by which he or she is employed and the approval of the  
4 Adjutant General, deliver the firearms to the  
5 commanding officer of a unit of the California National  
6 Guard, the Coast Guard Auxiliary, or any other military  
7 agency of the state or federal government in lieu of  
8 destruction as required by this chapter. The officer  
9 delivering the firearms shall take a receipt for them  
10 containing a complete description thereof and shall keep  
11 the receipt on file in his or her office as a public record.

12 (b) Any law enforcement agency that has custody of  
13 any firearms, or any parts of any firearms, that are subject  
14 to destruction as required by this chapter may, in lieu of  
15 destroying the weapons, retain and use any of them as  
16 may be useful in carrying out the official duties of the  
17 agency, or upon approval of a court, may release them to  
18 any other law enforcement agency for use in carrying out  
19 the official duties of that agency, or may turn over to the  
20 criminalistics laboratory of the Department of Justice or  
21 the criminalistics laboratory of a police department,  
22 sheriff's office, or district attorney's office any weapons  
23 which may be useful in carrying out the official duties of  
24 their respective agencies.

25 (c) Any firearm, or part of any firearm, that, rather  
26 than being destroyed, is used for official purposes  
27 pursuant to this section shall be destroyed by the agency  
28 using the weapon when it is no longer needed by the  
29 agency for use in carrying out its official duties. In the case  
30 of firearms or weaponry donated to the California  
31 National Guard military museum and resource center,  
32 they may be disposed of pursuant to Section 179 of the  
33 Military and Veterans Code.

34 (d) Any law enforcement agency which has custody of  
35 any firearms, or any parts of any firearms, that are subject  
36 to destruction as required by this chapter may, in lieu of  
37 destroying the firearms, obtain an order from the  
38 superior court directing the release of the firearms to the  
39 sheriff. The sheriff shall enter such weapons into the  
40 Automated Firearms System (AFS) with a complete

1 description of each weapon, including the make, type,  
2 category, caliber, and serial number of the firearms, and  
3 the name of the academy receiving the weapon entered  
4 into the AFS miscellaneous field. The sheriff shall then  
5 release the firearms to the basic training academy  
6 certified by the Commission on Peace Officer Standards  
7 and Training, so that the firearms may be used for  
8 instructional purposes in the certified courses. As used in  
9 this section, the term “firearms” shall not include  
10 destructive devices, as defined in Section 12301. All  
11 firearms released to an academy shall be under the care,  
12 custody, and control of the particular academy.

13 Any firearms, or part of any firearms, that is not  
14 destroyed, and is used for the purposes authorized by this  
15 section, shall be returned to the law enforcement agency  
16 which had original custody of the firearms when it is no  
17 longer needed by the basic training academy, or when  
18 the basic training academy is no longer certified by the  
19 commission.

20 (e) Any law enforcement agency that retains custody  
21 of any firearm pursuant to this section or that destroys a  
22 firearm pursuant to Section 12028 shall notify the  
23 Department of Justice of the retention or destruction.  
24 This notification shall consist of a complete description of  
25 each firearm, including the name of the manufacturer or  
26 brand name, model, caliber, and serial number.

27 (f) Any law enforcement agency that returns a pistol,  
28 revolver, or other firearm capable of being concealed  
29 upon the person to its lawful owner pursuant to Section  
30 12028 or 12028.5, shall enter the name of the agency  
31 returning the firearm, the name of the person to whom  
32 it is returned, and the make, model, serial number, and  
33 other identifying characteristics of the firearm being  
34 returned into the Automated Firearms System (AFS) via  
35 the California Law Enforcement Telecommunications  
36 System (CLETS). Those agencies without access to AFS  
37 shall arrange with the sheriff of the county in which the  
38 agency is located to input this information into the AFS.

39 SEC. 6. Section 12078 of the Penal Code is amended  
40 to read:



1 12078. (a) (1) The waiting periods described in  
2 Sections 12071, 12072, and 12084 shall not apply to  
3 deliveries, transfers, or sales of firearms made to persons  
4 properly identified as full-time paid peace officers as  
5 defined in Chapter 4.5 (commencing with Section 830) of  
6 Title 3 of Part 2, provided that the peace officers are  
7 authorized by their employer to carry firearms while in  
8 the performance of their duties. Proper identification is  
9 defined as verifiable written certification from the head  
10 of the agency by which the purchaser or transferee is  
11 employed, identifying the purchaser or transferee as a  
12 peace officer who is authorized to carry firearms while in  
13 the performance of his or her duties, and authorizing the  
14 purchase or transfer. The certification shall be delivered  
15 to the dealer or local law enforcement agency acting  
16 pursuant to Section 12084 at the time of purchase or  
17 transfer and the purchaser or transferee shall identify  
18 himself or herself as the person authorized in the  
19 certification. The dealer or local law enforcement agency  
20 shall keep the certification with the record of sale, or  
21 LEFT, as the case may be. On the date that the delivery,  
22 sale, or transfer is made, the dealer delivering the firearm  
23 or the law enforcement agency processing the  
24 transaction pursuant to Section 12084 shall forward by  
25 prepaid mail to the Department of Justice a report of the  
26 transaction pursuant to subdivision (b) or (c) of Section  
27 12077 or Section 12084. If electronic or telephonic transfer  
28 of applicant information is used, on the date that the  
29 application to purchase is completed, the dealer  
30 delivering the firearm shall transmit to the Department  
31 of Justice an electronic or telephonic report of the  
32 transaction as is indicated in subdivision (b) or (c) of  
33 Section 12077.

34 (2) The preceding provisions of this article do not  
35 apply to deliveries, transfers, or sales of firearms made to  
36 authorized law enforcement representatives of cities,  
37 counties, cities and counties, or state or federal  
38 governments for exclusive use by those governmental  
39 agencies if, prior to the delivery, transfer, or sale of these  
40 firearms, written authorization from the head of the





1 agency authorizing the transaction is presented to the  
2 person from whom the purchase, delivery, or transfer is  
3 being made. Proper written authorization is defined as  
4 verifiable written certification from the head of the  
5 agency by which the purchaser or transferee is employed,  
6 identifying the employee as an individual authorized to  
7 conduct the transaction, and authorizing the transaction  
8 for the exclusive use of the agency by which he or she is  
9 employed. Within 10 days of the date a pistol, revolver, or  
10 other firearm capable of being concealed upon the  
11 person is acquired by the agency, a record of the same  
12 shall be entered as an institutional weapon into the  
13 Automated Firearms System (AFS) via the California  
14 Law Enforcement Telecommunications System  
15 (CLETS) by the law enforcement or state agency. Those  
16 agencies without access to AFS shall arrange with the  
17 sheriff of the county in which the agency is located to  
18 input this information via this system.

19 (3) The preceding provisions of this article do not  
20 apply to the loan of a firearm made by an authorized law  
21 enforcement representative of a city, county, or city and  
22 county, or the state or federal government to a peace  
23 officer employed by that agency and authorized to carry  
24 a firearm for the carrying and use of that firearm by that  
25 peace officer in the course and scope of his or her duties.

26 (4) The preceding provisions of this article do not  
27 apply to the delivery, sale, or transfer of a firearm by a law  
28 enforcement agency to a peace officer pursuant to  
29 Section 10334 of the Public Contract Code. Within 10 days  
30 of the date that a pistol, revolver, or other firearm capable  
31 of being concealed upon the person is sold, delivered, or  
32 transferred pursuant to Section 10334 of the Public  
33 Contract Code to that peace officer, the name of the  
34 officer and the make, model, serial number, and other  
35 identifying characteristics of the firearm being sold,  
36 transferred, or delivered shall be entered into the  
37 Automated Firearms System (AFS) via the California  
38 Law Enforcement Telecommunications System  
39 (CLETS) by the law enforcement or state agency that  
40 sold, transferred, or delivered the firearm. Those



1 agencies without access to AFS shall arrange with the  
2 sheriff of the county in which the agency is located to  
3 input this information via this system.

4 (5) The preceding provisions of this article do not  
5 apply to the delivery, sale, or transfer of a firearm by a law  
6 enforcement agency to a retiring peace officer who is  
7 authorized to carry a firearm pursuant to Section 12027.1.  
8 Within 10 days of the date that a pistol, revolver, or other  
9 firearm capable of being concealed upon the person is  
10 sold, delivered, or transferred to that retiring peace  
11 officer, the name of the officer and the make, model,  
12 serial number, and other identifying characteristics of the  
13 firearm being sold, transferred, or delivered shall be  
14 entered into the Automated Firearms System (AFS) via  
15 the California Law Enforcement Telecommunications  
16 System (CLETS) by the law enforcement or state agency  
17 that sold, transferred, or delivered the firearm. Those  
18 agencies without access to AFS shall arrange with the  
19 sheriff of the county in which the agency is located to  
20 input this information via this system.

21 (6) Subdivision (d) of Section 12072 does not apply to  
22 sales, deliveries, or transfers of firearms to authorized  
23 representatives of cities, cities and counties, counties, or  
24 state or federal governments for those governmental  
25 agencies where the entity is acquiring the weapon as part  
26 of an authorized, voluntary program where the entity is  
27 buying or receiving weapons from private individuals.  
28 Any weapons acquired pursuant to this subdivision shall  
29 be disposed of pursuant to the applicable provisions of  
30 Section 12028 or 12032, provided that no firearm received  
31 pursuant to this paragraph may be resold or transferred  
32 to the public, or to persons licensed pursuant to Section  
33 12071.

34 (7) (A) In any case where a law enforcement agency  
35 in accordance with the provisions of this article transfers  
36 its ownership of a pistol, revolver, or other firearm  
37 capable of being concealed upon the person that is not a  
38 nuisance weapon subject to the provisions of Section  
39 12028, 12028.5, 12030, or 12032, and the firearm is not  
40 being transferred by that agency pursuant to paragraph

1 (2), (4), or (5), or subdivision (i), within 10 days of the  
2 date that the pistol, revolver, or other firearm capable of  
3 being concealed upon the person is sold, delivered, or  
4 transferred, the law enforcement agency shall enter into  
5 the Automated Firearms System (AFS) via the California  
6 Law Enforcement Telecommunications System  
7 (CLETS), the name of the agency, and to whom the  
8 firearm was sold, delivered, or transferred, and the make,  
9 model, serial number, and other identifying  
10 characteristics of the firearm. Those agencies without  
11 access to AFS shall arrange with the sheriff of the county  
12 in which the agency is located to input this information  
13 via CLETS.

14 (B) In any case where a law enforcement agency  
15 destroys any pistol, revolver, or other firearm capable of  
16 being concealed upon the person that is not a nuisance  
17 weapon subject to the provisions of Section 12028, 12028.5,  
18 12030, or 12032, within 10 days of the same shall notify the  
19 department of the same. This notification shall consist of  
20 a complete description of each firearm, including the  
21 name of the manufacturer or brand name, model, caliber,  
22 and serial number. That information shall be entered into  
23 the AFS via the CLETS by the law enforcement or state  
24 agency that destroyed the firearm. Those agencies  
25 without access to AFS shall arrange with the sheriff of the  
26 county in which the agency is located to input this  
27 information via CLETS.

28 (b) Section 12071 and subdivisions (c) and (d) of  
29 Section 12072 shall not apply to deliveries, sales, or  
30 transfers of firearms between or to importers and  
31 manufacturers of firearms licensed to engage in that  
32 business pursuant to Chapter 44 (commencing with  
33 Section 921) of Title 18 of the United States Code and the  
34 regulations issued pursuant thereto.

35 (c) (1) Subdivision (d) of Section 12072 shall not  
36 apply to the infrequent transfer of a firearm that is not a  
37 pistol, revolver, or other firearm capable of being  
38 concealed upon the person by gift, bequest, intestate  
39 succession, or other means by one individual to another



1 if both individuals are members of the same immediate  
2 family.

3 (2) Subdivision (d) of Section 12072 shall not apply to  
4 the infrequent transfer of a pistol, revolver, or other  
5 firearm capable of being concealed upon the person by  
6 gift, bequest, intestate succession, or other means by one  
7 individual to another if both individuals are members of  
8 the same immediate family and both of the following  
9 conditions are met:

10 (A) The person to whom the firearm is transferred  
11 shall, within 30 days of taking possession of the firearm,  
12 forward by prepaid mail or deliver in person to the  
13 Department of Justice, a report that includes information  
14 concerning the individual taking possession of the  
15 firearm, how title was obtained and from whom, and a  
16 description of the firearm in question. The report forms  
17 that individuals complete pursuant to this paragraph shall  
18 be provided to them by the Department of Justice.

19 (B) Prior to taking possession of the firearm, the  
20 person taking title to the firearm shall obtain a basic  
21 firearm safety certificate.

22 (3) As used in this subdivision, “immediate family  
23 member” means any one of the following relationships:

24 (A) Parent and child.

25 (B) Grandparent and grandchild.

26 (d) Subdivision (d) of Section 12072 shall not apply to  
27 the infrequent loan of firearms between persons who are  
28 personally known to each other for any lawful purpose, if  
29 the loan does not exceed 30 days in duration.

30 (e) Section 12071 and subdivisions (c) and (d) of  
31 Section 12072 shall not apply to the delivery of a firearm  
32 to a gunsmith for service or repair.

33 (f) Subdivision (d) of Section 12072 shall not apply to  
34 the sale, delivery, or transfer of firearms by persons who  
35 reside in this state to persons who reside outside this state  
36 who are licensed pursuant to Chapter 44 (commencing  
37 with Section 921) of Title 18 of the United States Code and  
38 the regulations issued pursuant thereto, if the sale,  
39 delivery, or transfer is in accordance with Chapter 44

1 (commencing with Section 921) of Title 18 of the United  
2 States Code and the regulations issued pursuant thereto.

3 (g) (1) Subdivision (d) of Section 12072 shall not  
4 apply to the infrequent sale or transfer of a firearm, other  
5 than a pistol, revolver, or other firearm capable of being  
6 concealed upon the person, at auctions or similar events  
7 conducted by nonprofit mutual or public benefit  
8 corporations organized pursuant to the Corporations  
9 Code.

10 As used in this paragraph, the term “infrequent” shall  
11 not be construed to prohibit different local chapters of  
12 the same nonprofit corporation from conducting auctions  
13 or similar events, provided the individual local chapter  
14 conducts the auctions or similar events infrequently. It is  
15 the intent of the Legislature that different local chapters,  
16 representing different localities, be entitled to invoke the  
17 exemption created by this paragraph, notwithstanding  
18 the frequency with which other chapters of the same  
19 nonprofit corporation may conduct auctions or similar  
20 events.

21 (2) Subdivision (d) of Section 12072 shall not apply to  
22 the transfer of a firearm other than a pistol, revolver, or  
23 other firearm capable of being concealed upon the  
24 person, if the firearm is donated for an auction or similar  
25 event described in paragraph (1) and the firearm is  
26 delivered to the nonprofit corporation immediately  
27 preceding, or contemporaneous with, the auction or  
28 similar event.

29 (3) The waiting period described in Sections 12071 and  
30 12072 shall not apply to a dealer who delivers a firearm  
31 other than a pistol, revolver, or other firearm capable of  
32 being concealed upon the person, at an auction or similar  
33 event described in paragraph (1), as authorized by  
34 subparagraph (C) of paragraph (1) of subdivision (b) of  
35 Section 12071. Within two business days of completion of  
36 the application to purchase, the dealer shall forward by  
37 prepaid mail to the Department of Justice a report of the  
38 same as is indicated in subdivision (c) of Section 12077. If  
39 the electronic or telephonic transfer of applicant  
40 information is used, within two business days of



1 completion of the application to purchase, the dealer  
2 delivering the firearm shall transmit to the Department  
3 of Justice an electronic or telephonic report of the same  
4 as is indicated in subdivision (c) of Section 12077.

5 (h) Subdivision (d) of Section 12072 shall not apply to  
6 the loan of a firearm for the purposes of shooting at targets  
7 if the loan occurs on the premises of a target facility that  
8 holds a business or regulatory license or on the premises  
9 of any club or organization organized for the purposes of  
10 practicing shooting at targets upon established ranges,  
11 whether public or private, if the firearm is at all times  
12 kept within the premises of the target range or on the  
13 premises of the club or organization.

14 (i) (1) Subdivision (d) of Section 12072 shall not apply  
15 to a person who takes title or possession of a firearm that  
16 is not a pistol, revolver, or other firearm capable of being  
17 concealed upon the person by operation of law if the  
18 person is not prohibited by Section 12021 or 12021.1 of this  
19 code or Section 8100 or 8103 of the Welfare and  
20 Institutions Code from possessing firearms.

21 (2) Subdivision (d) of Section 12072 shall not apply to  
22 a person who takes title or possession of a pistol, revolver,  
23 or other firearm capable of being concealed upon the  
24 person by operation of law if the person is not prohibited  
25 by Section 12021 or 12021.1 of this code or Section 8100 or  
26 8103 of the Welfare and Institutions Code from possessing  
27 firearms and all of the following conditions are met:

28 (A) If the person taking title or possession is neither a  
29 levying officer as defined in Section 481.140, 511.060, or  
30 680.210 of the Code of Civil Procedure, nor a person who  
31 is receiving that firearm pursuant to subparagraph (G),  
32 (I), or (J) of paragraph (2) of subdivision (u), the person  
33 shall, within 30 days of taking possession, forward by  
34 prepaid mail or deliver in person to the Department of  
35 Justice, a report of information concerning the individual  
36 taking possession of the firearm, how title or possession  
37 was obtained and from whom, and a description of the  
38 firearm in question. The reports that individuals  
39 complete pursuant to this paragraph shall be provided to  
40 them by the department.

1 (B) If the person taking title or possession is receiving  
2 the firearm pursuant to subparagraph (G) of paragraph  
3 (2) of subdivision (u), the person shall do both of the  
4 following:

5 (i) Within 30 days of taking possession, forward by  
6 prepaid mail or deliver in person to the department, a  
7 report of information concerning the individual taking  
8 possession of the firearm, how title or possession was  
9 obtained and from whom, and a description of the firearm  
10 in question. The reports that individuals complete  
11 pursuant to this paragraph shall be provided to them by  
12 the department.

13 (ii) Prior to taking possession of the firearm, the  
14 person shall either obtain a basic firearms safety  
15 certificate or be exempt from obtaining a basic firearms  
16 safety certificate pursuant to Section 12081.

17 (C) Where the person receiving title or possession of  
18 the pistol, revolver, or other firearm capable of being  
19 concealed upon the person is a person described in  
20 subparagraph (I) of paragraph (2) of subdivision (u), on  
21 the date that the person is delivered the firearm, the  
22 name and other information concerning the person  
23 taking possession of the firearm, how title or possession of  
24 the firearm was obtained and from whom, and a  
25 description of the firearm by make, model, serial number,  
26 and other identifying characteristics, shall be entered  
27 into the Automated Firearms System (AFS) via the  
28 California Law Enforcement Telecommunications  
29 System (CLETS) by the law enforcement or state agency  
30 that transferred or delivered the firearm. Those agencies  
31 without access to AFS shall arrange with the sheriff of the  
32 county in which the agency is located to input this  
33 information via this system.

34 (D) Where the person receiving title or possession of  
35 the pistol, revolver, or other firearm capable of being  
36 concealed upon the person is a person described in  
37 subparagraph (J) of paragraph (2) of subdivision (u), on  
38 the date that the person is delivered the firearm, the  
39 name and other information concerning the person  
40 taking possession of the firearm, how title or possession of



1 the firearm was obtained and from whom, and a  
2 description of the firearm by make, model, serial number,  
3 and other identifying characteristics, shall be entered  
4 into the AFS via the CLETS by the law enforcement or  
5 state agency that transferred or delivered the firearm.  
6 Those agencies without access to AFS shall arrange with  
7 the sheriff of the county in which the agency is located to  
8 input this information via this system. In addition, that  
9 law enforcement agency shall not deliver that pistol,  
10 revolver, or other firearm capable of being concealed  
11 upon the person to the person referred to in this  
12 subparagraph unless prior to the delivery of the same the  
13 person presents proof to the agency that he or she is the  
14 holder of a basic firearms safety certificate or is exempt  
15 from obtaining a basic firearms safety certificate pursuant  
16 to Section 12081.

17 (3) Subdivision (d) of Section 12072 shall not apply to  
18 a person who takes possession of a firearm by operation  
19 of law in a representative capacity who subsequently  
20 transfers ownership of the firearm to himself or herself in  
21 his or her individual capacity. In the case of a pistol,  
22 revolver, or other firearm capable of being concealed  
23 upon the person, on and after April 1, 1994, that individual  
24 shall have a basic firearms safety certificate in order for  
25 the exemption set forth in this paragraph to apply.

26 (j) Subdivision (d) of Section 12072 shall not apply to  
27 deliveries, transfers, or returns of firearms made pursuant  
28 to Section 12028, 12028.5, or 12030.

29 (k) Section 12071 and subdivision (c) of Section 12072  
30 shall not apply to any of the following:

31 (1) The delivery, sale, or transfer of unloaded firearms  
32 that are not pistols, revolvers, or other firearms capable  
33 of being concealed upon the person by a dealer to another  
34 dealer upon proof that the person receiving the firearm  
35 is licensed pursuant to Section 12071.

36 (2) The delivery, sale, or transfer of unloaded firearms  
37 by dealers to persons who reside outside this state who are  
38 licensed pursuant to Chapter 44 (commencing with  
39 Section 921) of Title 18 of the United States Code and the  
40 regulations issued pursuant thereto.



1 (3) The delivery, sale, or transfer of unloaded firearms  
2 to a wholesaler if the firearms are being returned to the  
3 wholesaler and are intended as merchandise in the  
4 wholesaler's business.

5 (4) The delivery, sale, or transfer of unloaded firearms  
6 by one dealer to another dealer if the firearms are  
7 intended as merchandise in the receiving dealer's  
8 business upon proof that the person receiving the firearm  
9 is licensed pursuant to Section 12071.

10 (5) The delivery, sale, or transfer of an unloaded  
11 firearm that is not a pistol, revolver, or other firearm  
12 capable of being concealed upon the person by a dealer  
13 to himself or herself.

14 (6) The loan of an unloaded firearm by a dealer who  
15 also operates a target facility that holds a business or  
16 regulatory license on the premises of the building  
17 designated in the license or whose building designated in  
18 the license is on the premises of any club or organization  
19 organized for the purposes of practicing shooting at  
20 targets upon established ranges, whether public or  
21 private, to a person at that target facility or that club or  
22 organization, if the firearm is at all times kept within the  
23 premises of the target range or on the premises of the club  
24 or organization.

25 (l) A person who is exempt from subdivision (d) of  
26 Section 12072 or is otherwise not required by law to report  
27 his or her acquisition, ownership, or disposal of a pistol,  
28 revolver, or other firearm capable of being concealed  
29 upon the person or who moves out of this state with his  
30 or her pistol, revolver, or other firearm capable of being  
31 concealed upon the person may submit a report of the  
32 same to the Department of Justice in a format prescribed  
33 by the department.

34 (m) Subdivision (d) of Section 12072 shall not apply to  
35 the delivery, sale, or transfer of unloaded firearms to a  
36 wholesaler as merchandise in the wholesaler's business by  
37 manufacturers or importers licensed to engage in that  
38 business pursuant to Chapter 44 (commencing with  
39 Section 921) of Title 18 of the United States Code and the  
40 regulations issued pursuant thereto, or by another





1 wholesaler, if the delivery, sale, or transfer is made in  
2 accordance with Chapter 44 (commencing with Section  
3 921) of Title 18 of the United States Code.

4 (n) (1) The waiting period described in Section 12071  
5 or 12072 shall not apply to the delivery, sale, or transfer  
6 of a pistol, revolver, or other firearm capable of being  
7 concealed upon the person by a dealer in either of the  
8 following situations:

9 (A) The dealer is delivering the firearm to another  
10 dealer and it is not intended as merchandise in the  
11 receiving dealer's business.

12 (B) The dealer is delivering the firearm to himself or  
13 herself and it is not intended as merchandise in his or her  
14 business.

15 (2) In order for this subdivision to apply, both of the  
16 following shall occur:

17 (A) If the dealer is receiving the firearm from another  
18 dealer, the dealer receiving the firearm shall present  
19 proof to the dealer delivering the firearm that he or she  
20 is licensed pursuant to Section 12071.

21 (B) Whether the dealer is delivering, selling, or  
22 transferring the firearm to himself or herself or to another  
23 dealer, on the date that the application to purchase is  
24 completed, the dealer delivering the firearm shall  
25 forward by prepaid mail to the Department of Justice a  
26 report of the same and the type of information  
27 concerning the purchaser or transferee as is indicated in  
28 subdivision (b) of Section 12077. Where the electronic or  
29 telephonic transfer of applicant information is used, on  
30 the date that the application to purchase is completed,  
31 the dealer delivering the firearm shall transmit an  
32 electronic or telephonic report of the same and the type  
33 of information concerning the purchaser or transferee as  
34 is indicated in subdivision (b) of Section 12077.

35 (o) Section 12071 and subdivisions (c) and (d) of  
36 Section 12072 shall not apply to the delivery, sale, or  
37 transfer of firearms regulated pursuant to Section 12020,  
38 Chapter 2 (commencing with Section 12200), or Chapter  
39 2.3 (commencing with Section 12275), if the delivery,  
40 sale, or transfer is conducted in accordance with the

1 applicable provisions of Section 12020, Chapter 2  
2 (commencing with Section 12200), or Chapter 2.3  
3 (commencing with Section 12275).

4 (p) (1) Paragraph (3) of subdivision (a) and  
5 subdivision (d) of Section 12072 shall not apply to the loan  
6 of a firearm that is not a pistol, revolver, or other firearm  
7 capable of being concealed upon the person to a minor,  
8 with the express permission of the parent or legal  
9 guardian of the minor, if the loan does not exceed 30 days  
10 in duration and is for a lawful purpose.

11 (2) Paragraph (3) of subdivision (a) and subdivision  
12 (d) of Section 12072 shall not apply to the loan of a pistol,  
13 revolver, or other firearm capable of being concealed  
14 upon the person to a minor by a person who is not the  
15 parent or legal guardian of the minor if all of the following  
16 circumstances exist:

17 (A) The minor has the written consent of his or her  
18 parent or legal guardian that is presented at the time of,  
19 or prior to the time of, the loan, or is accompanied by his  
20 or her parent or legal guardian at the time the loan is  
21 made.

22 (B) The minor is being loaned the firearm for the  
23 purpose of engaging in a lawful, recreational sport,  
24 including, but not limited to, competitive shooting, or  
25 agricultural, ranching, or hunting activity, or a motion  
26 picture, television, or video production, or entertainment  
27 or theatrical event, the nature of which involves the use  
28 of a firearm.

29 (C) The duration of the loan does not exceed the  
30 amount of time that is reasonably necessary to engage in  
31 the lawful, recreational sport, including, but not limited  
32 to, competitive shooting, or agricultural, ranching, or  
33 hunting activity, or a motion picture, television, or video  
34 production, or entertainment or theatrical event, the  
35 nature of which involves the use of a firearm.

36 (D) The duration of the loan does not, in any event,  
37 exceed 10 days.

38 (3) Paragraph (3) of subdivision (a) and subdivision  
39 (d) of Section 12072 shall not apply to the loan of a pistol,  
40 revolver, or other firearm capable of being concealed



1 upon the person to a minor by his or her parent or legal  
2 guardian if both of the following circumstances exist:

3 (A) The minor is being loaned the firearm for the  
4 purposes of engaging in a lawful, recreational sport,  
5 including, but not limited to, competitive shooting, or  
6 agricultural, ranching, or hunting activity, or a motion  
7 picture, television, or video production, or entertainment  
8 or theatrical event, the nature of which involves the use  
9 of a firearm.

10 (B) The duration of the loan does not exceed the  
11 amount of time that is reasonably necessary to engage in  
12 the lawful, recreational sport, including, but not limited  
13 to, competitive shooting, or agricultural, ranching, or  
14 hunting activity, or a motion picture, television, or video  
15 production, or entertainment or theatrical event, the  
16 nature of which involves the use of a firearm.

17 (4) Paragraph (3) of subdivision (a) of Section 12072  
18 shall not apply to the transfer or loan of a firearm that is  
19 not a pistol, revolver, or other firearm capable of being  
20 concealed upon the person to a minor by his or her parent  
21 or legal guardian.

22 (5) Paragraph (3) of subdivision (a) of Section 12072  
23 shall not apply to the transfer or loan of a firearm that is  
24 not a pistol, revolver, or other firearm capable of being  
25 concealed upon the person to a minor by his or her  
26 grandparent who is not the legal guardian of the minor  
27 if the transfer is done with the express permission of the  
28 parent or legal guardian of the minor.

29 (q) Subdivision (d) of Section 12072 shall not apply to  
30 the loan of a firearm that is not a pistol, revolver, or other  
31 firearm capable of being concealed upon the person to a  
32 licensed hunter for use by that licensed hunter for a  
33 period of time not to exceed the duration of the hunting  
34 season for which that firearm is to be used.

35 (r) The waiting period described in Section 12071,  
36 12072, or 12084 shall not apply to the delivery, sale, or  
37 transfer of a firearm to the holder of a special weapons  
38 permit issued by the Department of Justice issued  
39 pursuant to Section 12095, 12230, 12250, or 12305. On the  
40 date that the application to purchase is completed, the

1 dealer delivering the firearm or the law enforcement  
2 agency processing the transaction pursuant to Section  
3 12084, shall forward by prepaid mail to the Department  
4 of Justice a report of the same as described in subdivision  
5 (b) or (c) of Section 12077 or Section 12084. If the  
6 electronic or telephonic transfer of applicant information  
7 is used, on the date that the application to purchase is  
8 completed, the dealer delivering the firearm shall  
9 transmit to the Department of Justice an electronic or  
10 telephonic report of the same as is indicated in  
11 subdivision (b) or (c) of Section 12077.

12 (s) Subdivision (d) of Section 12072 shall not apply to  
13 the loan of an unloaded firearm or the loan of a firearm  
14 loaded with blank cartridges for use solely as a prop for  
15 a motion picture, television, or video production or an  
16 entertainment or theatrical event.

17 (t) (1) The waiting period described in Sections  
18 12071, 12072, and 12084 shall not apply to the sale,  
19 delivery, loan, or transfer of a firearm that is a curio or  
20 relic, as defined in Section 178.11 of Title 27 of the Code  
21 of Federal Regulations, by a dealer or through a law  
22 enforcement agency to a person who is licensed as a  
23 collector pursuant to Chapter 44 (commencing with  
24 Section 921) of Title 18 of the United States Code and the  
25 regulations issued pursuant thereto who has a current  
26 certificate of eligibility issued to him or her by the  
27 Department of Justice pursuant to Section 12071. On the  
28 date that the delivery, sale, or transfer is made, the dealer  
29 delivering the firearm or the law enforcement agency  
30 processing the transaction pursuant to Section 12084, shall  
31 forward by prepaid mail to the Department of Justice a  
32 report of the transaction pursuant to subdivision (b) of  
33 Section 12077 or Section 12084. If the electronic or  
34 telephonic transfer of applicant information is used, on  
35 the date that the application to purchase is completed,  
36 the dealer delivering the firearm shall transmit to the  
37 Department of Justice an electronic or telephonic report  
38 of the transaction as is indicated in subdivision (b) or (c)  
39 of Section 12077.

(2) Subdivision (d) of Section 12072 shall not apply to the infrequent sale, loan, or transfer of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person, which is a curio or relic manufactured at least 50 years prior to the current date, but not including replicas thereof, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.

(u) As used in this section:

(1) “Infrequent” has the same meaning as in paragraph (1) of subdivision (c) of Section 12070.

(2) “A person taking title or possession of firearms by operation of law” includes, but is not limited to, any of the following instances wherein an individual receives title to, or possession of, firearms:

(A) The executor or administrator of an estate if the estate includes firearms.

(B) A secured creditor or an agent or employee thereof when the firearms are possessed as collateral for, or as a result of, a default under a security agreement under the Commercial Code.

(C) A levying officer, as defined in Section 481.140, 511.060, or 680.260 of the Code of Civil Procedure.

(D) A receiver performing his or her functions as a receiver if the receivership estate includes firearms.

(E) A trustee in bankruptcy performing his or her duties if the bankruptcy estate includes firearms.

(F) An assignee for the benefit of creditors performing his or her functions as an assignee, if the assignment includes firearms.

(G) A transmutation of property consisting of firearms pursuant to Section 850 of the Family Code.

(H) Firearms passing to a surviving spouse pursuant to Chapter 1 (commencing with Section 13500) of Part 2 of Division 8 of the Probate Code.

(I) Firearms received by the family of a police officer or deputy sheriff from a local agency pursuant to Section 50081 of the Government Code.

(J) The transfer of a firearm by a law enforcement agency to the person who found the firearm where the delivery is to the person as the finder of the firearm

1 pursuant to Article 1 (commencing with Section 2080) of  
2 Chapter 4 of Division 3 of the Civil Code.

3 ~~The~~

4 *SEC. 7.* The amendment to subdivision (k) of, and the  
5 addition of subdivision (n) to, Section 6389 of the Family  
6 Code, made by Section 1 of this act, are declaratory of  
7 existing law.

8 ~~SEC. 7.~~

9 *SEC. 8.* (a) The Legislature finds and declares all of  
10 the following:

11 (1) Current state firearms laws do not delineate a clear  
12 and succinct general procedure on how persons who  
13 legally acquire firearms and who subsequently fall within  
14 a class of persons prohibited from possessing firearms  
15 shall dispose of the firearm and thereby avoid criminal  
16 liability for possession or disposing of the firearm.

17 (2) Other states through various means have  
18 addressed the issue described in paragraph (1) through  
19 a statute of general application.

20 (b) The Attorney General shall prepare and submit to  
21 the Legislature, on or before June 1, 2001, a report  
22 concerning all of the following:

23 (1) Recommending a clear and succinct general  
24 procedure on how persons who legally acquire firearms  
25 and who subsequently fall within a class of persons  
26 prohibited from possessing a firearm shall dispose of the  
27 firearm and thereby avoid criminal liability for possession  
28 or disposing of the firearm.

29 (2) What specific changes in language and references  
30 to code sections, and conforming changes to code  
31 sections, in state firearms statutes are needed to establish  
32 a procedure described in paragraph (1).

33 ~~SEC. 8.~~

34 *SEC. 9.* Section 3.5 of this bill incorporates  
35 amendments to Section 12021 of the Penal Code proposed  
36 by both this bill and AB 1989. It shall only become  
37 operative if (1) both bills are enacted and become  
38 effective on or before January 1, 2001, (2) each bill  
39 amends Section 12021 of the Penal Code, and (3) this bill

1 is enacted after AB 1989, in which case Section 4.3 of this  
2 bill shall not become operative.

O

