

AMENDED IN SENATE JUNE 11, 2014

AMENDED IN SENATE MAY 28, 2014

AMENDED IN ASSEMBLY MAY 8, 2013

AMENDED IN ASSEMBLY APRIL 24, 2013

AMENDED IN ASSEMBLY APRIL 9, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1014

Introduced by Assembly Members Skinner and Williams

(Principal coauthor: Senator Jackson)

(Coauthors: Assembly Members Alejo, Bloom, Bonilla, Bonta, Buchanan, Dickinson, Levine, Lowenthal, Rendon, Stone, and Ting Ting, and Wieckowski)

February 22, 2013

An act to amend ~~Section Sections~~ *Sections 1524 and 18250 of, and to add Section 1542.5 to, and to add Division 3.2 (commencing with Section 18100) to Title 2 of Part 6 of, the Penal Code, and to amend Section 8105 of the Welfare and Institutions Code, relating to firearms.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1014, as amended, Skinner. Gun violence restraining orders.

(1) Existing law regulates the sale, transfer, possession, and ownership of firearms, including prohibiting specified persons from owning or possessing firearms. Existing law, among other things, prohibits a person subject to a domestic violence protective order from owning or possessing a firearm while that order is in effect and if prohibited by that order.

~~This bill would establish a procedure to obtain a gun violence restraining order and, when applicable, a firearm seizure warrant, when a person poses a significant risk of personal injury to himself or herself or others by possessing a firearm. The bill would establish the requirements for obtaining a gun violence restraining order and a firearm seizure warrant and would require, not later than 14 days after the execution of a gun violence restraining order, and, when applicable, a firearm seizure warrant, a hearing to determine whether a person who is subject to the order may, among other things, own or possess a firearm, or whether the seized firearm should be returned.~~

~~If it is determined that the person poses a significant risk of personal injury to himself or herself or others by possessing firearms, this bill would require law enforcement to retain the firearm for a period not to exceed one year, would make ownership or possession, the purchase or receipt, or attempted purchase or receipt of a firearm by that person a misdemeanor for a period up to one year, and would require the court to notify the Department of Justice, as specified. By creating a new crime and by requiring new duties of local law enforcement, this bill would impose a state-mandated local~~

~~program.~~

~~This bill would authorize a law enforcement agency to request a renewal of a gun violence restraining order if the agency has probable cause to believe that a person subject to that restraining order continues to pose a significant risk of personal injury to himself or herself or others by possessing a firearm. This bill would additionally authorize a judge, upon his or her own motion, or upon request of another person, to issue a renewal of a gun violence restraining order, as specified.~~

~~This bill would authorize a court to issue an ex parte gun violence restraining order, upon a showing of good cause, prohibiting the subject of the petition from having under his or her custody and control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive a firearm or ammunition, as specified. The bill would require the ex parte order to expire no later than 14 days after the date on the order and would require a law enforcement officer to serve the restrained person the ex parte order, if the restrained person can reasonably be located. The bill would permit the restrained person to request a hearing on the order, and, if it is found at the hearing that the order is not supported by good cause, would require the court to dissolve the order.~~

~~The bill would also authorize a court to issue a gun violence restraining order prohibiting the subject of the petition from having under his or her custody and control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive a firearm or ammunition for a period of one year when there is clear and convincing evidence to believe that the subject of the petition poses a significant risk of personal injury to himself, herself, or another by having under his or her custody and control, owning, purchasing, possessing, or receiving a firearm. The bill would authorize the renewal of the order for additional one-year periods and would permit the restrained person to request one hearing to terminate the order during the effective period of the initial order or each renewal period.~~

~~The bill would require, upon service of the ex parte gun violence restraining order or upon the issuance of a gun violence restraining order issued after notice and a hearing, the restrained person to surrender to the local law enforcement agency any firearm or ammunition in his or her custody and control, or which he or she possesses or owns. The bill would require the local law enforcement agency to retain custody of the firearm and ammunition for the duration of a gun violence restraining order.~~

~~The bill would require the court to notify the Department of Justice and the district attorney in the jurisdiction in which a gun violence restraining order was issued when an ex parte gun violence restraining order has been issued or dissolved and when a gun violence restraining order issued after notice and a hearing has been issued, renewed, or terminated.~~

~~The bill would make it a misdemeanor to file a petition for a gun violence restraining order, knowing the information in the petition to be false or with the intent to harass. The bill would also provide that a person who violates a gun violence restraining order is guilty of a misdemeanor and shall be prohibited from having under his or her custody and control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or ammunition for a 5-year period, commencing upon the expiration of the existing gun violence restraining order.~~

~~By creating new crimes and by requiring new duties of local law enforcement, this bill would impose a state-mandated local program.~~

~~(2) Existing law states the grounds upon which a search warrant may be issued, including when the property or things to be seized include a firearm or any other deadly weapon that is owned by, or in the possession of, or in the custody or control of, specified persons.~~

~~This bill would allow a search warrant to be issued when the property or things to be seized are a firearm or firearms or ammunition that is in the custody or control of, or is owned or possessed by, a person who is the subject of a gun violence restraining order and who is presently known to have in his or her custody and control or possession, or to own a firearm or firearms or ammunition. The bill would also require the law enforcement officer executing a search warrant issued upon that ground to take custody~~

of any firearm or ammunition in plain sight or discovered pursuant to a consensual or other lawful search and would provide rules for executing the search warrant when the location to be searched is jointly occupied by multiple parties.

~~(2)~~

(3) Existing law requires specified law enforcement officers to take temporary custody of any firearm or deadly weapon in plain sight or discovered pursuant to a lawful search when present at the scene of a domestic violence incident involving a threat to human life or physical assault.

This bill would apply the requirements described above to law enforcement officers serving a gun violence restraining order. *The bill would also apply those requirements when the law enforcement officer is a sworn member of the Department of Justice who is a peace officer.*

~~(3)~~

(4) Existing law requires the Department of Justice to request public and private mental hospitals, sanitariums, and institutions to submit to the department information necessary to identify persons who are admitted to a specified facility because the person is a danger to himself, herself, or others, to own, possess, control, receive, or purchase any firearm. Existing law requires the department to only use the information for certain specified purposes.

This bill would require the department to *the* use of the above-described information *only* to determine the eligibility of a person who is the subject to either a gun violence restraining order or a firearm seizure warrant to acquire, carry, or possess firearms, destructive devices, or explosives.

~~(4)~~

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that 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:

- P5 1 **SECTION 1.**
 Section 1524 of the Penal Code is amended to
 2 *read:*
 3 1524.
 (a) A search warrant may be issued upon any of the
 4 following grounds:
 5 (1) When the property was stolen or embezzled.
 6 (2) When the property or things were used as the means of
 7 committing a felony.
 8 (3) When the property or things are in the possession of any
 9 person with the intent to use them as a means of committing a
 10 public offense, or in the possession of another to whom he or she
 11 may have delivered them for the purpose of concealing them or
 12 preventing them from being discovered.
 13 (4) When the property or things to be seized consist of any item
 14 or constitute any evidence that tends to show a felony has been
 15 committed, or tends to show that a particular person has committed
 16 a felony.
 17 (5) When the property or things to be seized consist of evidence

18 that tends to show that sexual exploitation of a child, in violation
19 of Section 311.3, or possession of matter depicting sexual conduct
20 of a person under 18 years of age, in violation of Section 311.11,
21 has occurred or is occurring.

22 (6) When there is a warrant to arrest a person.

23 (7) When a provider of electronic communication service or
24 remote computing service has records or evidence, as specified in
25 Section 1524.3, showing that property was stolen or embezzled
26 constituting a misdemeanor, or that property or things are in the
P6 1 possession of any person with the intent to use them as a means
2 of committing a misdemeanor public offense, or in the possession
3 of another to whom he or she may have delivered them for the
4 purpose of concealing them or preventing their discovery.

5 (8) When the property or things to be seized include an item or
6 any evidence that tends to show a violation of Section 3700.5 of
7 the Labor Code, or tends to show that a particular person has
8 violated Section 3700.5 of the Labor Code.

9 (9) When the property or things to be seized include a firearm
10 or any other deadly weapon at the scene of, or at the premises
11 occupied or under the control of the person arrested in connection
12 with, a domestic violence incident involving a threat to human life
13 or a physical assault as provided in Section 18250. This section
14 does not affect warrantless seizures otherwise authorized by Section
15 18250.

16 (10) When the property or things to be seized include a firearm
17 or any other deadly weapon that is owned by, or in the possession
18 of, or in the custody or control of, a person described in subdivision
19 (a) of Section 8102 of the Welfare and Institutions Code.

20 (11) When the property or things to be seized include a firearm
21 that is owned by, or in the possession of, or in the custody or
22 control of, a person who is subject to the prohibitions regarding
23 firearms pursuant to Section 6389 of the Family Code, if a
24 prohibited firearm is possessed, owned, in the custody of, or
25 controlled by a person against whom a protective order has been
26 issued pursuant to Section 6218 of the Family Code, the person
27 has been lawfully served with that order, and the person has failed
28 to relinquish the firearm as required by law.

29 (12) When the information to be received from the use of a
30 tracking device constitutes evidence that tends to show that either
31 a felony, a misdemeanor violation of the Fish and Game Code, or
32 a misdemeanor violation of the Public Resources Code has been
33 committed or is being committed, tends to show that a particular
34 person has committed a felony, a misdemeanor violation of the
35 Fish and Game Code, or a misdemeanor violation of the Public
36 Resources Code, or is committing a felony, a misdemeanor
37 violation of the Fish and Game Code, or a misdemeanor violation
38 of the Public Resources Code, or will assist in locating an
39 individual who has committed or is committing a felony, a
40 misdemeanor violation of the Fish and Game Code, or a
P7 1 misdemeanor violation of the Public Resources Code. A tracking
2 device search warrant issued pursuant to this paragraph shall be
3 executed in a manner meeting the requirements specified in
4 subdivision (b) of Section 1534.

5 (13) When a sample of the blood of a person constitutes
6 evidence that tends to show a violation of Section 23140, 23152,
7 or 23153 of the Vehicle Code and the person from whom the
8 sample is being sought has refused an officer's request to submit

9 to, or has failed to complete, a blood test as required by Section
10 23612 of the Vehicle Code, and the sample will be drawn from
11 the person in a reasonable, medically approved manner. This
12 paragraph is not intended to abrogate a court's mandate to
13 determine the propriety of the issuance of a search warrant on a
14 case-by-case basis.

15 *(14) When the property or things to be seized are a firearm or*
16 *firearms or ammunition that is in the custody or control of, or is*
17 *owned or possessed by, a person who is the subject of a gun*
18 *violence restraining order that has been issued pursuant to*
19 *Division 3.2 (commencing with Section 18100) of Title 2 of Part*
20 *6 and who is presently known to have in his or her custody and*
21 *control or possession, or to own a firearm or firearms or*
22 *ammunition.*

23 (b) The property, things, person, or persons described in
24 subdivision (a) may be taken on the warrant from any place, or
25 from any person in whose possession the property or things may
26 be.

27 (c) Notwithstanding subdivision (a) or (b), no search warrant
28 shall issue for any documentary evidence in the possession or
29 under the control of any person who is a lawyer as defined in
30 Section 950 of the Evidence Code, a physician as defined in Section
31 990 of the Evidence Code, a psychotherapist as defined in Section
32 1010 of the Evidence Code, or a member of the clergy as defined
33 in Section 1030 of the Evidence Code, and who is not reasonably
34 suspected of engaging or having engaged in criminal activity
35 related to the documentary evidence for which a warrant is
36 requested unless the following procedure has been complied with:

37 (1) At the time of the issuance of the warrant, the court shall
38 appoint a special master in accordance with subdivision (d) to
39 accompany the person who will serve the warrant. Upon service
40 of the warrant, the special master shall inform the party served of
P8 1 the specific items being sought and that the party shall have the
2 opportunity to provide the items requested. If the party, in the
3 judgment of the special master, fails to provide the items requested,
4 the special master shall conduct a search for the items in the areas
5 indicated in the search warrant.

6 (2) (A) If the party who has been served states that an item or
7 items should not be disclosed, they shall be sealed by the special
8 master and taken to court for a hearing.

9 (B) At the hearing, the party searched shall be entitled to raise
10 any issues that may be raised pursuant to Section 1538.5 as well
11 as a claim that the item or items are privileged, as provided by
12 law. The hearing shall be held in the superior court. The court shall
13 provide sufficient time for the parties to obtain counsel and make
14 any motions or present any evidence. The hearing shall be held
15 within three days of the service of the warrant unless the court
16 makes a finding that the expedited hearing is impracticable. In that
17 case the matter shall be heard at the earliest possible time.

18 (C) If an item or items are taken to court for a hearing, any
19 limitations of time prescribed in Chapter 2 (commencing with
20 Section 799) of Title 3 of Part 2 shall be tolled from the time of
21 the seizure until the final conclusion of the hearing, including any
22 associated writ or appellate proceedings.

23 (3) The warrant shall, whenever practicable, be served during
24 normal business hours. In addition, the warrant shall be served
25 upon a party who appears to have possession or control of the

26 items sought. If, after reasonable efforts, the party serving the
27 warrant is unable to locate the person, the special master shall seal
28 and return to the court, for determination by the court, any item
29 that appears to be privileged as provided by law.

30 (d) (1) As used in this section, a "special master" is an attorney
31 who is a member in good standing of the California State Bar and
32 who has been selected from a list of qualified attorneys that is
33 maintained by the State Bar particularly for the purposes of
34 conducting the searches described in this section. These attorneys
35 shall serve without compensation. A special master shall be
36 considered a public employee, and the governmental entity that
37 caused the search warrant to be issued shall be considered the
38 employer of the special master and the applicable public entity,
39 for purposes of Division 3.6 (commencing with Section 810) of
40 Title 1 of the Government Code, relating to claims and actions
P9 1 against public entities and public employees. In selecting the
2 special master, the court shall make every reasonable effort to
3 ensure that the person selected has no relationship with any of the
4 parties involved in the pending matter. Any information obtained
5 by the special master shall be confidential and may not be divulged
6 except in direct response to inquiry by the court.

7 (2) In any case in which the magistrate determines that, after
8 reasonable efforts have been made to obtain a special master, a
9 special master is not available and would not be available within
10 a reasonable period of time, the magistrate may direct the party
11 seeking the order to conduct the search in the manner described
12 in this section in lieu of the special master.

13 (e) Any search conducted pursuant to this section by a special
14 master may be conducted in a manner that permits the party serving
15 the warrant or his or her designee to accompany the special master
16 as he or she conducts his or her search. However, that party or his
17 or her designee may not participate in the search nor shall he or
18 she examine any of the items being searched by the special master
19 except upon agreement of the party upon whom the warrant has
20 been served.

21 (f) As used in this section, "documentary evidence" includes,
22 but is not limited to, writings, documents, blueprints, drawings,
23 photographs, computer printouts, microfilms, X-rays, files,
24 diagrams, ledgers, books, tapes, audio and video recordings, films,
25 and papers of any type or description.

26 (g) No warrant shall issue for any item or items described in
27 Section 1070 of the Evidence Code.

28 (h) Notwithstanding any other law, no claim of attorney work
29 product as described in Chapter 4 (commencing with Section
30 2018.010) of Title 4 of Part 4 of the Code of Civil Procedure shall
31 be sustained where there is probable cause to believe that the
32 lawyer is engaging or has engaged in criminal activity related to
33 the documentary evidence for which a warrant is requested unless
34 it is established at the hearing with respect to the documentary
35 evidence seized under the warrant that the services of the lawyer
36 were not sought or obtained to enable or aid anyone to commit or
37 plan to commit a crime or a fraud.

38 (i) Nothing in this section is intended to limit an attorney's
39 ability to request an in camera hearing pursuant to the holding of
P10 1 the Supreme Court of California in *People v. Superior Court (Laff)*
2 (2001) 25 Cal.4th 703.

3 (j) In addition to any other circumstance permitting a magistrate

4 to issue a warrant for a person or property in another county, when
 5 the property or things to be seized consist of any item or constitute
 6 any evidence that tends to show a violation of Section 530.5, the
 7 magistrate may issue a warrant to search a person or property
 8 located in another county if the person whose identifying
 9 information was taken or used resides in the same county as the
 10 issuing court.

11 (k) This section shall not be construed to create a cause of action
 12 against any foreign or California corporation, its officers,
 13 employees, agents, or other specified persons for providing location
 14 information.

15 *SEC. 2.*

16 *Section 1542.5 is added to the Penal Code, immediately*
 17 *following Section 1542, to read:*

18 *1542.5.*

19 *Notwithstanding any other law, with regards to a*
 20 *search warrant issued upon the grounds specified in paragraph*
 21 *(14) of subdivision (a) of Section 1524, the following shall apply:*

22 *(a) The law enforcement officer executing the warrant shall*
 23 *take custody of any firearm or ammunition in plain sight or*
 24 *discovered pursuant to a consensual or other lawful search.*

25 *(b) (1) If the location to be searched during the execution of*
 26 *the warrant is jointly occupied by multiple parties and a firearm,*
 27 *which is determined to be owned by a person other than the person*
 28 *who is the subject of a gun violence restraining order, is found,*
 29 *the firearm shall not be seized if both of the following conditions*
 30 *are satisfied:*

31 *(A) The firearm is stored in a manner that the person subject*
 32 *to a gun violence restraining order does not have access to or*
 33 *control of the firearm.*

34 *(B) There is no evidence of unlawful possession of the firearm*
 35 *by the owner of the firearm.*

36 *(2) If the location to be searched during the execution of the*
 37 *warrant is jointly occupied by multiple parties and a gun safe is*
 38 *located, which is determined to be owned by a person other than*
 39 *the person subject to a gun violence restraining order, the contents*
 40 *of the gun safe shall not be searched except in the owner's*
 41 *presence, and with his or her consent or with a valid search*
 42 *warrant for the gun safe.*

P11 1 ~~SECTION 1.~~

2 *SEC. 3.*

3 Division 3.2 (commencing with Section 18100) is
 4 added to Title 2 of Part 6 of the *Penal Code*, to read:

5 **DIVISION 3.2. GUN VIOLENCE RESTRAINING ORDERS**

6 **CHAPTER 1. GENERAL**

7 **18100.**

8 ~~(a) A gun violence restraining order is an order, in~~
 9 ~~writing, in the name of the people, signed by a magistrate,~~
 10 ~~prohibiting a named person from having under his or her custody~~
 11 ~~or and control, owning, purchasing, possessing, or receiving any~~
 12 ~~firearms for a period of up to one year, or ammunition.~~

13 ~~(b) A firearm seizure warrant is an order, in writing, in the name~~
 14 ~~of the people, signed by a magistrate, regarding a person who is~~
 15 ~~subject to a gun violence restraining order and who is known to~~
 16

17 ~~own or possess one or more firearms, which is directed to a peace~~
 18 ~~officer, commanding him or her to seize any firearms in the~~
 19 ~~possession of the named person and to bring the unloaded firearm~~
 20 ~~before the magistrate.~~

21 ~~18101.~~

22 *The Judicial Council shall prescribe the form of the*
 23 *orders and any other documents required by this division and shall*
 24 *promulgate forms and instructions for applying for orders*
 25 *described in this division.*

26 CHAPTER 2. EX PARTE GUN VIOLENCE RESTRAINING ORDER

27 ~~18101.~~

28 ~~18102.~~

29 (a) ~~Any person may submit an application to the court,~~
 30 ~~on a form designed by the Judicial Council, setting forth the facts~~
 31 ~~and circumstances necessitating that a gun violence restraining~~
 32 ~~order be issued. A court may issue an ex parte gun violence~~
 33 ~~restraining order shall be issued to prohibit a named person from~~
 34 ~~possessing a firearm if an affidavit, made in writing and signed~~
 35 ~~by the applicant petitioner under oath, or an oral statement taken~~
 36 ~~pursuant to paragraph (2) of subdivision (a) of Section 18103, and~~
 37 ~~any additional information provided to the court demonstrates, to~~
 38 ~~the satisfaction of the court, on a showing of good cause that the~~
 39 ~~named person subject of the petition poses a significant risk of~~
 40 ~~personal injury to himself or herself or others himself, herself, or~~
 P12 1 ~~another by possessing firearms: having under his or her custody~~
 2 ~~and control, owning, purchasing, possessing, or receiving a firearm~~
 3 ~~as determined by balancing the factors identified in subdivision~~
 4 ~~(b) of Section 1803 and, if the court elects to consider them, the~~
 5 ~~factors identified in subdivision (c) of Section 18103.~~

6 ~~(b) A firearms seizure warrant may not be issued but upon~~
 7 ~~probable cause, supported by an affidavit, naming or describing~~
 8 ~~with reasonable specificity the facts and circumstances justifying~~
 9 ~~the order and listing any firearm or firearms to be seized pursuant~~
 10 ~~to the order.~~

11 ~~(c) A firearm described in the firearms seizure warrant may be~~
 12 ~~taken from any place, or from any person in whose possession the~~
 13 ~~firearm may be.~~

14 (b) *An affidavit supporting a petition for the issuance of an ex*
 15 *parte gun violence restraining order shall set forth the facts tending*
 16 *to establish the grounds of the petition, or the reason for believing*
 17 *that they exist.*

18 (c) *An ex parte order under this chapter shall be issued or*
 19 *denied on the same day that the petition is submitted to the court,*
 20 *unless the petition is filed too late in the day to permit effective*
 21 *review, in which case the order shall be issued or denied on the*
 22 *next day of judicial business in sufficient time for the order to be*
 23 *filed that day with the clerk of the court.*

24 ~~18102.~~

25 ~~18103.~~

26 (a) (1) *The magistrate, before issuing the an ex parte*
 27 *gun violence restraining order, may examine on oath, the person*
 28 *seeking the order petitioner and any witnesses the person produces,*
 29 *witness the petitioner may produce and shall take his or her*
 30 *affidavit or affidavits in writing, and cause the affidavit or*
 31 *affidavits to be subscribed signed by the parties making them.*

31 (2) *In lieu of a written affidavit required by paragraph (1), the*
 32 *magistrate may take an oral statement under oath using the*
 33 *procedures prescribed in Section 1526.*

34 (b) In determining whether grounds for a gun violence
 35 restraining order exist, the magistrate shall consider all *evidence*
 36 of the following:

37 (1) ~~A recent threat of violence or act of violence by the named~~
 38 ~~person subject of the petition directed toward others: another.~~

39 (2) ~~A recent threat of violence or act of violence by the named~~
 40 ~~person subject of the petition directed toward himself or herself.~~

P13 1 (3) ~~A recent violation of an unexpired emergency protective~~
 2 ~~order issued pursuant to Section 646.91 or Part 3 (commencing~~
 3 ~~with Section 6240) of Division 10 of the Family Code.~~

4 (4) ~~A recent violation of a an unexpired protective order issued~~
 5 ~~pursuant to Part 4 (commencing with Section 6300) of Division~~
 6 ~~10 of the Family Code, Section 136.2, Section 527.6 of the Code~~
 7 ~~of Civil Procedure, or Section 213.5 or 15657.03 of the Welfare~~
 8 ~~and Institutions Code.~~

9 (5) A conviction for any offense listed in Section 29805.

10 (c) In determining whether grounds for a gun violence
 11 restraining order exist, the magistrate may consider any *evidence*
 12 of the following:

13 (1) The reckless use, display, or brandishing of a firearm by the
 14 ~~named person: subject of the petition.~~

15 (2) The history of use, attempted use, or threatened use of
 16 physical force by the ~~named person subject of the petition~~ against
 17 ~~other persons: another person.~~

18 (3) Any prior arrest of the ~~named person subject of the petition~~
 19 for a felony offense.

20 (4) Any history of a violation by the ~~named person subject of~~
 21 ~~the petition~~ of an emergency protective order issued pursuant to
 22 Section 646.91 or Part 3 (commencing with Section 6240) of
 23 Division 10 of the Family Code.

24 (5) Any history of a violation by the ~~named person subject of~~
 25 ~~the petition~~ of a protective order issued pursuant to Part 4
 26 (commencing with Section 6300) of Division 10 of the Family
 27 Code, Section 136.2, Section 527.6 of the Code of Civil Procedure,
 28 or Section 213.5 or 15657.03 of the Welfare and Institutions Code.

29 (6) Evidence of recent or ongoing abuse of controlled substances
 30 or alcohol by the ~~named person: subject of the petition.~~

31 (7) Evidence of recent acquisition of firearms or other deadly
 32 weapons.

33 ~~(d) The affidavit or affidavits shall set forth the facts tending to~~
 34 ~~establish the grounds of the application, or probable cause for~~
 35 ~~believing that they exist.~~

36 ~~(e) In lieu of the written affidavit required in subdivision (a),~~
 37 ~~the magistrate may take an oral statement under oath using the~~
 38 ~~procedures prescribed in Section 1526.~~

39 (8) *The recency of any of the acts identified in subdivision (b)*
 40 *and this subdivision.*

P14 1 (d) *If the magistrate determines that there is good cause to issue*
 2 *an ex parte gun violence restraining order, he or she shall issue*
 3 *an ex parte gun violence restraining order that prohibits the subject*
 4 *of the petition from having under his or her custody and control,*
 5 *owning, purchasing, possessing, or receiving, or attempting to*
 6 *purchase or receive, a firearm or ammunition, and expires no later*
 7 *than 14 days from the date of the order.*

8 (e) (1) (A) The court shall notify the Department of Justice of
 9 the *ex parte* gun violence restraining order no later than 24 hours
 10 after issuing the order.

11 (B) The notice required to be submitted to the Department of
 12 Justice pursuant to this subdivision shall be submitted in an
 13 electronic format, in a manner prescribed by the department.

14 (2) The court shall notify the district attorney in the jurisdiction
 15 in which the *ex parte* gun violence restraining order was issued
 16 of the *ex parte* gun violence restraining order no later than 24
 17 hours after issuing the order.

18 ~~18103.~~

19 ~~If the magistrate is satisfied of the existence of the~~
 20 ~~grounds of the application, or that there is probable cause to believe~~
 21 ~~their existence, he or she shall issue a gun violence restraining~~
 22 ~~order. If there is also probable cause to believe that the person has~~
 23 ~~custody or control of or owns a firearm or firearms, the magistrate~~
 24 ~~shall also issue a firearm seizure warrant, signed by the magistrate~~
 25 ~~with his or her name of office, to a peace officer in his or her~~
 26 ~~county, commanding the peace officer to seize any firearms~~
 27 ~~specified and to retain the firearm or firearms subject to the order~~
 28 ~~of the court, as provided in Section 18104.~~

28 18104.

29 (a) ~~(1)~~ A *ex parte* gun violence restraining order
 issued under this chapter shall include all of the following:

30 ~~(A)~~

31 (1) A statement of the grounds ~~asserted for supporting the~~
 32 ~~issuance of the order.~~

33 ~~(B)~~

34 (2) The date and time the order expires.

35 ~~(C)~~

36 (3) The address of the superior court for the district or county
 37 in which the restrained party resides.

38 ~~(D)~~

39 (4) The following ~~statement, which shall be printed in English~~
 40 ~~and Spanish:~~ *statement:*

P15 2 "To the restrained person: This order will last until the date and
 3 time noted above. You may not *have under your custody and*
 4 *control*, own, ~~possess~~, purchase, *possess*, or receive, or attempt to
 5 purchase or receive a firearm *or ammunition*, while this order is
 6 in effect. ~~You are entitled to submit one written request for a~~
 7 ~~hearing at any time during the effective period of the order for an~~
 8 ~~order permitting you to own, possess, purchase, or receive a~~
 9 ~~firearm. You have the right to a hearing, scheduled by the court,~~
 10 ~~within 14 days following the issuance of this order to determine~~
 11 ~~if you may have under your custody and control, own, possess,~~
 12 ~~purchase, or receive a firearm or ammunition. You may seek the~~
 13 ~~advice of an attorney as to any matter connected with the order.~~
 14 The attorney should be consulted promptly so that the attorney
 15 may assist you in any matter connected with the order."

17 ~~(2) A firearm seizure warrant shall be substantially in the~~
 18 ~~following form:~~

20 County of _____.

21 The people of the State of California to any peace officer in the
 22 County of _____.

23 ~~Proof, by affidavit, having been this day made before me (naming~~
 24 ~~every person whose affidavit was taken), that there is probable~~
 25 ~~cause to believe that (person whose firearms are to be seized) poses~~
 26 ~~a significant risk of personal injury to himself or herself or others~~
 27 ~~and has possession of one or more firearms, you are therefore~~
 28 ~~commanded, in the daytime (or at any time of the day or night, as~~
 29 ~~the case may be, according to Section 1533 of the Penal Code), to~~
 30 ~~search the person and property of the named person where firearms~~
 31 ~~may be stored and to seize all firearms in the possession of the~~
 32 ~~named person and to bring the firearms to a safe and secure location~~
 33 ~~under the control of the local law enforcement agency.~~

34 ~~Given under my hand, and dated this _____ day of (year):~~
 35 ~~_____, Judge of the (applicable) Court.~~

36
 37 ~~(b) When an officer takes property under a firearms seizure~~
 38 ~~warrant, he or she shall give a receipt for the property taken,~~
 39 ~~specifying it in detail, to the person from whom it was taken. In~~
 P16 1 ~~the absence of a person, the officer shall leave the receipt in the~~
 2 ~~place where he or she found the property.~~

3 ~~(b) (1) An ex parte gun violence restraining order shall be~~
 4 ~~served on the restrained person by a law enforcement officer, if~~
 5 ~~the restrained person can reasonably be located.~~

6 ~~(c)~~
 7 ~~(2) When serving a gun violence restraining order, the law~~
 8 ~~enforcement officer shall inform the restrained person that he or~~
 9 ~~she may submit one written request for is entitled to a hearing,~~
 10 ~~pursuant to Section 18107, at any time during the effective period~~
 11 ~~of the order 18105, and provide the restrained person with a form~~
 12 ~~to request a hearing.~~

13 ~~(d) All firearms seized pursuant to a firearms seizure warrant~~
 14 ~~shall be retained by the officer or the law enforcement agency in~~
 15 ~~custody as provided in Chapter 2 (commencing with Section~~
 16 ~~33850) of Division 11 of Title 4 of Part 6, subject to the order of~~
 17 ~~the court that issued the warrant or to any other court in which an~~
 18 ~~offense in respect to the firearm is triable.~~

19 ~~(c) (1) Upon being served with an ex parte gun violence~~
 20 ~~restraining order, the restrained person shall surrender to the~~
 21 ~~local law enforcement agency any firearm or ammunition in the~~
 22 ~~restrained person's custody and control, or which the restrained~~
 23 ~~person possesses or owns. When taking custody of a firearm or~~
 24 ~~ammunition pursuant to this subdivision, the local law enforcement~~
 25 ~~agency shall comply with the requirements of Section 33800.~~

26 ~~(2) (A) The firearm or firearms or ammunition surrendered~~
 27 ~~pursuant to this subdivision shall be retained by the law~~
 28 ~~enforcement agency until the expiration of the ex parte gun violence~~
 29 ~~restraining order. Upon expiration of the order, the firearm or~~
 30 ~~firearms or ammunition shall be returned to the restrained person~~
 31 ~~in accordance with the provisions of Chapter 2 (commencing with~~
 32 ~~Section 33850) of Division 11 of Title 4. A firearm or ammunition~~
 33 ~~that is not claimed shall be subject to the provisions of Section~~
 34 ~~34000.~~

35 ~~(B) A restrained person who owns a firearm or ammunition that~~
 36 ~~is in the custody of a law enforcement agency pursuant to this~~
 37 ~~subdivision, if the firearm is an otherwise legal firearm, and the~~
 38 ~~restrained person otherwise has right to title of the firearm, shall~~
 39 ~~be entitled to sell or transfer title of the firearm to a licensed~~
 40 ~~dealer.~~

P17 1 (3) *If a person other than the restrained person claims title to*
 2 *any firearms or ammunition surrendered pursuant to this*
 3 *subdivision, the firearm or firearms or ammunition shall be*
 4 *returned to the lawful owner pursuant to Chapter 2 (commencing*
 5 *with Section 33850) of Division 11 of Title 4.*

6 ~~18105.~~

7 ~~(a) If the location to be searched during the execution~~
 8 ~~of a firearm seizure warrant is jointly occupied by multiple parties~~
 9 ~~and a firearm is located during the execution of the seizure warrant,~~
 10 ~~and it is determined that the firearm is owned by a person other~~
 11 ~~than the person named in the firearm seizure warrant, the firearm~~
 12 ~~shall not be seized if all of the following conditions are satisfied:~~

13 ~~(1) The firearm is stored in a manner that the person named in~~
 14 ~~the firearm seizure warrant does not have access to or control of~~
 15 ~~the firearm.~~

16 ~~(2) There is no evidence of unlawful possession of the firearm~~
 17 ~~by the owner.~~

18 ~~(b) If the location to be searched during the execution of a~~
 19 ~~firearm seizure warrant is jointly occupied by multiple parties and~~
 20 ~~a gun safe is located, and it is determined that the gun safe is owned~~
 21 ~~by a person other than the person named in the firearm seizure~~
 22 ~~warrant, the contents of the gun safe shall not be searched except~~
 23 ~~in the owner's presence, or with his or her consent, or unless a~~
 24 ~~valid search warrant has been obtained.~~

25 ~~18106.~~

26 ~~18105.~~

27 ~~(a) Except as provided in subdivision (e), not later than~~
 28 ~~14 days after the execution of a gun violence restraining order and,~~
 29 ~~when applicable, a firearm seizure warrant, (1) A restrained person~~
 30 ~~is entitled, upon his or her request, to a hearing to determine the~~
 31 ~~validity of the order within 14 days after the date on the order~~
 32 ~~before the court that issued the order and, when applicable, the~~
 33 ~~seizure warrant, or another court in that same jurisdiction, shall~~
 34 ~~hold a hearing to determine whether the person who is the subject~~
 35 ~~of the order may have under his or her custody or control, own,~~
 36 ~~purchase, possess, or receive firearms and, when applicable,~~
 37 ~~whether any seized firearms should be returned to the person named~~
 38 ~~in the warrant. jurisdiction.~~

39 ~~(2) If a restrained person does not request a hearing, the order~~
 40 ~~shall expire on the date and time listed on the order.~~

P18 1 ~~(b) At the hearing, the state petitioner shall have the burden of~~
 2 ~~proving, by clear and convincing evidence, proving that there is~~
 3 ~~good cause to believe that the restrained person poses a significant~~
 4 ~~risk of personal injury to himself, herself, or others another by~~
 5 ~~owning or possessing the having under his or her custody and~~
 6 ~~control, owning, purchasing, possessing, or receiving a firearm.~~

7 ~~(c) If the named person it is found at the hearing to pose that~~
 8 ~~there is good cause to believe that the restrained person poses a~~
 9 ~~significant risk of personal injury to himself, herself, or others~~
 10 ~~another by owning or possessing a firearm, the following shall~~
 11 ~~apply: having under his or her custody and control, owning,~~
 12 ~~purchasing, possessing, or receiving a firearm, the ex parte gun~~
 13 ~~violence order shall stand.~~

14 ~~(1) The firearm or firearms seized pursuant to the warrant shall~~
 15 ~~be retained by the law enforcement agency for a period not to~~
 16 ~~exceed one year or until ownership of the firearm is transferred to~~
 17 ~~a licensed firearm dealer.~~

~~(2) The named person shall be prohibited from owning or possessing, purchasing or receiving, or attempting to purchase or receive a firearm for a period not to exceed one year. A violation of this paragraph is a misdemeanor.~~

~~(3) The court shall notify the Department of Justice of the gun violence restraining order no later than two court days after issuing the order. The court shall also notify the department of any order restoring the person's ability to own or possess firearms no later than two court days after issuing the order to restore the person's right to own or possess any type of firearms that may be lawfully owned and possessed.~~

~~(d) If the court finds that the state petitioner has not met the required standard of proof, the firearm or firearms seized pursuant to the warrant shall be returned to the named person pursuant to Chapter 2 (commencing with Section 33850) of Division 11. proven that there is good cause supporting the order, the court shall dissolve the order.~~

~~(e) If the person named in the warrant is a person who is prohibited by law from owning or possessing a firearm for a period of one year or more by another provision of state or federal law, a hearing pursuant to subdivision (a) is not required and the court shall issue an order to hold the firearm until either the person is no longer prohibited from owning a firearm or the person sells or transfers ownership of the firearm to a licensed firearm dealer.~~

~~(f) Any notice or report required~~

P19 1 ~~(e) (1) (A) If the order has been dissolved pursuant to subdivision (d), the court shall submit a notice of that fact to the Department of Justice. Upon receipt of the notice, the Department of Justice shall, within 15 days, delete any reference to the ex parte gun violence restraining order from its records.~~

2 ~~(B) The notice required to be submitted to the Department of Justice pursuant to this section subdivision shall be submitted in an electronic format, in a manner prescribed by the department.~~

3 ~~(g) If any person claims title to any firearms seized pursuant to the warrant, the firearm or firearms shall be returned to the lawful owner pursuant to Chapter 2 (commencing with Section 33850) of Division 11 of Title 4.~~

4 ~~(2) If the order has been dissolved pursuant to subdivision (d), the court shall notify the district attorney in the jurisdiction in which the ex parte gun violence restraining order of that fact.~~

CHAPTER 3. GUN VIOLENCE RESTRAINING ORDER ISSUED AFTER NOTICE AND HEARING

18106.

The court may issue a gun violence restraining order after notice and a hearing when there is clear and convincing evidence that the subject of the petition poses a significant risk of personal injury to himself, herself, or another by having under his or her custody and control, owning, purchasing, possessing, or receiving a firearm as determined by balancing evidence of the facts identified in subdivision (b) of Section 18103 and, if the court elects to consider them, evidence of any of the facts identified in subdivision (c) of Section 18103.

18107.

(a) In determining whether to issue a gun violence restraining order under this chapter, the court shall consider

31 *evidence of the facts identified in subdivision (b) of Section 18103*
32 *and may consider evidence of any of the facts identified in*
33 *subdivision (c) of Section 18103.*

34 *(b) At the hearing, the petitioner shall have the burden of*
35 *proving that there is clear and convincing evidence to believe that*
36 *the subject of the petition poses a significant risk of personal injury*
37 *to himself, herself, or another by having under his or her custody*
38 *and control, owning, purchasing, possessing, or receiving a*
39 *firearm.*

P20 1 *(c) If the petition is supported by clear and convincing evidence,*
2 *the court shall issue a gun violence restraining order that prohibits*
3 *the subject of the petition from having under his or her custody*
4 *and control, owning, purchasing, possessing, or receiving, or*
5 *attempting to purchase or receive, a firearm or ammunition.*

6 *(d) The gun violence restraining order issued under this chapter*
7 *shall have a duration of one year, subject to termination by further*
8 *order of the court at a hearing held pursuant to Section 18107 and*
9 *renewal by further order of the court pursuant to Section 18109.*

10 *(e) (1) (A) The court shall notify the Department of Justice of*
11 *the gun violence restraining order issued under this chapter no*
12 *later than 24 hours after issuing the order.*

13 *(B) The notice required to be submitted to the Department of*
14 *Justice pursuant to this subdivision shall be submitted in an*
15 *electronic format, in a manner prescribed by the department.*

16 *(2) The court shall notify the district attorney in the jurisdiction*
17 *in which the gun violence restraining order was issued that a gun*
18 *violence restraining order issued under this chapter was issued*
19 *no later than 24 hours after issuing the order.*

20 *18108.*

21 *(a) A gun violence restraining order issued pursuant*
22 *to this chapter shall include all of the following:*

23 *(1) A statement of the grounds supporting the issuance of the*
24 *order.*

25 *(2) The date and time the order expires.*

26 *(3) The address of the superior court for the district or county*
27 *in which the restrained party resides.*

28 *(4) The following statement:*

29 *"To the restrained person: This order will last until the date*
30 *and time noted above. You may not have under your custody and*
31 *control, own, purchase, possess, or receive, or attempt to purchase*
32 *or receive a firearm or ammunition, while this order is in effect.*
33 *Pursuant to Section 18109, you have the right to request one*
34 *hearing to terminate this order at any time during its effective*
35 *period. You may seek the advice of an attorney as to any matter*
36 *connected with the order."*

37 *(b) When the court issues a gun violence restraining order under*
38 *this chapter, the court shall inform the restrained person that he*
39 *or she is entitled to one hearing to request a termination of the*
40 *order, pursuant to Section 18109, and shall provide the restrained*
P21 1 *person with a form to request a hearing.*

2 *(c) (1) Upon issuance of a gun violence restraining order issued*
3 *under this chapter, the restrained person shall surrender to the*
4 *local law enforcement agency any firearm or ammunition in the*
5 *restrained person's custody and control, or which the restrained*
6 *person possesses or owns. When taking custody of a firearm or*
7

8 ammunition pursuant to this subdivision, the local law enforcement
9 agency shall comply with the requirements of Section 33800.

10 (2) (A) The firearm or firearms or ammunition surrendered
11 pursuant to this subdivision shall be retained by the law
12 enforcement agency until the expiration of the gun violence
13 restraining order. Upon expiration of the order, the firearm or
14 firearms or ammunition shall be returned to the restrained person
15 in accordance with the provisions of Chapter 2 (commencing with
16 Section 33850) of Division 11 of Title 4. A firearm or ammunition
17 that is not claimed shall be subject to the provisions of Section
18 34000.

19 (B) A restrained person who owns a firearm or ammunition that
20 is in the custody of a law enforcement agency pursuant to this
21 subdivision, if the firearm is an otherwise legal firearm, and the
22 restrained person otherwise has right to title of the firearm, shall
23 be entitled to sell or transfer title of the firearm to a licensed
24 dealer.

25 (3) If a person other than the restrained person claims title to
26 any firearms or ammunition surrendered pursuant to this
27 subdivision, the firearm or firearms or ammunition shall be
28 returned to the lawful owner pursuant to Chapter 2 (commencing
29 with Section 33850) of Division 11 of Title 4.

30 ~~18107.~~

31 18109.

32 (a) A person described in subdivision (c) of Section
33 18106, may submit one written request at any time during the
34 effective period of the order for a hearing for an order permitting
35 the person to own, possess, purchase, or receive a firearm.

36 ~~(b) The Judicial Council shall design and furnish the form, in~~
37 ~~both English and Spanish, to be used to request a hearing under~~
38 ~~this section. Each superior court shall make available the form~~
39 ~~printed and distributed by the Judicial Council.~~

40 (b) If the court finds after the hearing that there is no longer
P22 1 poses a significant risk of personal injury to himself, herself, or
2 another by having under his or her custody and control, owning,
3 purchasing, possessing, or receiving a firearm, the court shall
4 terminate the order.

5 (c) (1) (A) If the order has been terminated pursuant to
6 subdivision (b), the court shall submit a notice of that fact to the
7 Department of Justice. Upon receipt of the notice, the Department
8 of Justice shall, within 15 days, delete any reference to the gun
9 violence restraining order from its records.

10 (B) The notice required to be submitted to the Department of
11 Justice pursuant to this subdivision shall be submitted in an
12 electronic format, in a manner prescribed by the department.

13 (2) If the order has been terminated pursuant to subdivision
14 (b), the court shall notify the district attorney in the jurisdiction
15 in which the gun violence restraining order of that fact.

16 ~~18108.—~~

17 ~~(a) (1) When a law enforcement agency has probable~~
18 ~~cause to believe that a person subject to a gun violence restraining~~
19 ~~order, as defined in Section 18100, continues to pose a significant~~
20 ~~risk of personal injury to himself or herself or others by possessing~~
21 ~~a firearm, the agency may initiate a request for a renewal of the~~
22 ~~order, on a form designed by the Judicial Council, setting forth~~
23 ~~the facts and circumstances necessitating the request. A hearing~~

23 ~~shall be held in a superior court to determine if a request for~~
24 ~~renewal of the order shall be issued.~~

25 ~~(2) The person named in the restraining order shall be given~~
26 ~~written notice and an opportunity to be heard on the matter.~~

27 ~~(b) A judge may, upon his or her own motion, or upon request~~
28 ~~of another person, issue a renewal of a gun violence restraining~~
29 ~~order, as defined in Section 18100, when there is probable cause~~
30 ~~to believe that a person subject to the order continues to pose a~~
31 ~~significant risk of personal injury to himself or herself or others~~
32 ~~by possessing a firearm, after written notice to the person named~~
33 ~~in the restraining order and after giving him or her an opportunity~~
34 ~~for a hearing.~~

35 ~~18109.~~

36 ~~Except as otherwise provided, the provisions of Section~~
37 ~~1528 and Sections 1530 to 1535, inclusive, shall apply to this~~
38 ~~division.~~

38 ~~18110.~~

39 ~~(a) A court may, after notice and a hearing, renew a~~
40 ~~gun violence restraining order issued under this chapter if there~~
P23 1 ~~is clear and convincing evidence that the restrained person~~
2 ~~continues to pose a significant risk of personal injury to himself,~~
3 ~~herself, or another by possessing a firearm.~~

4 ~~(b) In determining whether to renew a gun violence restraining~~
5 ~~order issued under this chapter, the court shall consider evidence~~
6 ~~of the facts identified in subdivision (b) of Section 18103 and may~~
7 ~~consider evidence of any of the facts identified in subdivision (c)~~
8 ~~of Section 18103.~~

9 ~~(c) At the hearing, the petitioner shall have the burden of~~
10 ~~proving that there is clear and convincing evidence to believe that~~
11 ~~the restrained person continues to pose a significant risk of~~
12 ~~personal injury to himself, herself, or another by having under his~~
13 ~~or her custody and control, owning, purchasing, possessing, or~~
14 ~~receiving a firearm.~~

15 ~~(d) If the renewal petition is supported by clear and convincing~~
16 ~~evidence, the court shall renew the gun violence restraining order~~
17 ~~issued under this chapter.~~

18 ~~(e) The renewal of a gun violence restraining order issued~~
19 ~~pursuant to this section shall have a duration of one year, subject~~
20 ~~to termination by further order of the court at a hearing held~~
21 ~~pursuant to Section 18109 and further renewal by further order~~
22 ~~of the court pursuant to this section.~~

23 ~~(f) A gun violence restraining order renewed pursuant to this~~
24 ~~section shall include the information identified in subdivision (a)~~
25 ~~of Section 18108.~~

26 ~~(g) (1) (A) The court shall notify the Department of Justice~~
27 ~~that a gun violence restraining order issued under this chapter~~
28 ~~has been renewed no later than 24 hours after renewing the order.~~

29 ~~(B) The notice required to be submitted to the Department of~~
30 ~~Justice pursuant to this subdivision shall be submitted in an~~
31 ~~electronic format, in a manner prescribed by the department.~~

32 ~~(2) The court shall notify the district attorney in the jurisdiction~~
33 ~~in which the gun violence restraining order was renewed that a~~
34 ~~gun violence restraining order issued under this chapter was~~
35 ~~renewed no later than 24 hours after issuing the order.~~

36 ~~18111.~~

~~Any hearing held pursuant to this chapter may be~~
~~continued upon a showing of good cause.~~

CHAPTER 4. OFFENSES

P24 1 *18112.*

2 *Every person who files a petition for an ex parte gun*
 3 *violence restraining order pursuant to Chapter 2 (commencing*
 4 *with Section 18102) or a gun violence restraining order issued*
 5 *after notice and a hearing pursuant to Chapter 3 (commencing*
 6 *with Section 18106), knowing the information in the petition to be*
 7 *false or with the intent to harass, is guilty of a misdemeanor.*

7 *18113.*

8 *Every person who violates an ex parte gun violence*
 9 *restraining order issued pursuant to Chapter 2 (commencing with*
 10 *Section 18102) or a gun violence restraining order issued after*
 11 *notice and a hearing issued pursuant to Chapter 3 (commencing*
 12 *with Section 18106), is guilty of a misdemeanor and shall be*
 13 *prohibited from having under his or her custody and control,*
 14 *owning, purchasing, possessing, or receiving, or attempting to*
 15 *purchase or receive, a firearm or ammunition for a five-year*
 16 *period, to commence upon the expiration of the existing gun*
 17 *violence restraining order.*

17 ~~SEC. 2.~~

18 ~~SEC. 4.~~

Section 18250 of the *Penal Code* is amended to read:

19 18250.

20 If any of the following persons is at the scene of a
 21 domestic violence incident involving a threat to human life or a
 22 physical assault, ~~or is serving a protective order as defined in~~
 23 ~~Section 6218 of the Family Code, or is serving a gun violence~~
 24 ~~restraining order as defined in Section 18100, issued pursuant to~~
 25 *Division 3.2 (commencing with Section 18100), that person shall*
 26 *take temporary custody of any firearm or other deadly weapon in*
 27 *plain sight or discovered pursuant to a consensual or other lawful*
 28 *search as necessary for the protection of the peace officer or other*
 29 *persons present:*

30 (a) A sheriff, undersheriff, deputy sheriff, marshal, deputy
 31 marshal, or police officer of a city, as defined in subdivision (a)
 32 of Section 830.1.

33 (b) A peace officer of the Department of the California Highway
 34 Patrol, as defined in subdivision (a) of Section 830.2.

35 (c) A member of the University of California Police Department,
 36 as defined in subdivision (b) of Section 830.2.

37 (d) An officer listed in Section 830.6, while acting in the course
 38 and scope of the officer's employment as a peace officer.

39 (e) A member of a California State University Police
 Department, as defined in subdivision (c) of Section 830.2.

P25 1 (f) A peace officer of the Department of Parks and Recreation,
 2 as defined in subdivision (f) of Section 830.2.

3 (g) A peace officer, as defined in subdivision (d) of Section
 4 830.31.

5 (h) A peace officer, as defined in subdivisions (a) and (b) of
 6 Section 830.32.

7 (i) A peace officer, as defined in Section 830.5.

8 (j) *A sworn member of the Department of Justice who is a peace*
 9 *officer, as defined in Section 830.1.*

10 ~~SEC. 3.~~

11 ~~SEC. 5.~~

12 Section 8105 of the *Welfare and Institutions Code* is
13 amended to read:
14 8105.

15 (a) The Department of Justice shall request each public
16 and private mental hospital, sanitarium, and institution to submit
17 to the department information the department deems necessary to
18 identify those persons who are subject to the prohibition specified
19 by subdivision (a) of Section 8100, in order to carry out its duties
20 in relation to firearms, destructive devices, and explosives.

21 (b) Upon request of the Department of Justice pursuant to
22 subdivision (a), each public and private mental hospital, sanitarium,
23 and institution shall submit to the department information the
24 department deems necessary to identify those persons who are
25 subject to the prohibition specified by subdivision (a) of Section
26 8100, in order to carry out its duties in relation to firearms,
27 destructive devices, and explosives.

28 (c) A licensed psychotherapist shall report to a local law
29 enforcement agency, within 24 hours, in a manner prescribed by
30 the Department of Justice, the identity of a person subject to the
31 prohibition specified by subdivision (b) of Section 8100. Upon
32 receipt of the report, the local law enforcement agency, on a form
33 prescribed by the Department of Justice, shall notify the department
34 electronically, within 24 hours, in a manner prescribed by the
35 department, of the person who is subject to the prohibition specified
36 by subdivision (b) of Section 8100.

37 (d) All information provided to the Department of Justice
38 pursuant to this section shall be kept confidential, separate, and
39 apart from all other records maintained by the department. The
40 information provided to the Department of Justice pursuant to this
41 section shall be used only for any of the following purposes:

P26 1 (1) By the department to determine eligibility of a person to
2 acquire, carry, or possess firearms, destructive devices, or
3 explosives.

4 (2) For the purposes of the court proceedings described in
5 subdivision (b) of Section 8100, to determine the eligibility of the
6 person who is bringing the petition pursuant to paragraph (3) of
7 subdivision (b) of Section 8100.

8 (3) To determine the eligibility of a person to acquire, carry, or
9 possess firearms, destructive devices, or explosives who is the
10 subject of a criminal investigation, or who is the subject of an
11 investigation into a petition for the issuance of either a gun violence
12 restraining order or a firearm seizure warrant, as defined in Section
13 18100 of the Penal Code, order issued pursuant to Division 3.2
14 (commencing with Section 18100) of Title 2 of Part 6 of the Penal
15 Code, if a part of the investigation involves the acquisition,
16 carrying, or possession of firearms, explosives, or destructive
17 devices by that person.

18 (e) Reports shall not be required or requested under this section
19 if the same person has been previously reported pursuant to Section
20 8103 or 8104.

21 ~~SEC. 4.~~

22 SEC. 6.

23 No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution for certain
25 costs that may be incurred by a local agency or school district
26 because, in that regard, this act creates a new crime or infraction,
eliminates a crime or infraction, or changes the penalty for a crime

27 or infraction, within the meaning of Section 17556 of the
28 Government Code, or changes the definition of a crime within the
29 meaning of Section 6 of Article XIII B of the California
30 Constitution.

31 However, if the Commission on State Mandates determines that
32 this act contains other costs mandated by the state, reimbursement
33 to local agencies and school districts for those costs shall be made
34 pursuant to Part 7 (commencing with Section 17500) of Division
35 4 of Title 2 of the Government Code.

O

93