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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1014**

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**Introduced by Assembly Members Skinner and Williams**

(Principal coauthor: Senator Jackson)

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

February 22, 2013

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An act to amend Sections 1524 and 18250 of, 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 authorize a court to issue an emergency gun violence restraining order if a law enforcement officer asserts and a judicial officer finds that ~~there are reasonable grounds~~ *is reasonable cause* to believe that the subject of the petition poses an immediate and present danger of causing personal injury to himself, herself, or another by having ~~under~~ *in* his or her custody ~~and or~~ control, owning, purchasing, possessing, or receiving a firearm and that the order is necessary to prevent personal injury to himself, herself, or ~~another person,~~ *another*, as specified. The bill would require a law enforcement officer to serve the order on the restrained person, if the restrained person can reasonably be located, file a copy of the order with the court, and have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice. The bill would require the presiding judge of the superior court in each county to designate at least one judge, commissioner, or referee to be reasonably available to issue orally, by telephone or otherwise, emergency gun violence restraining orders at all times whether or not the court is in session.

This bill would additionally 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~~ *in* his or her custody ~~and or~~ control, owning, purchasing, possessing, or receiving, or attempting to purchase or ~~receive~~ *receive*, a firearm or ammunition, as specified. The bill would require the ex parte order to expire no later than ~~14~~ *21* days after the date on the order and would require the court to hold a hearing within 21 days of issuing the ex parte gun violence restraining order to determine if a gun violence restraining order that is in effect for one year should be issued. The bill 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 authorize a court to issue a gun violence restraining order prohibiting the subject of the petition from having ~~under~~ *in* his or her custody ~~and or~~ control, owning, purchasing, possessing, or receiving, or attempting to purchase or ~~receive~~ *receive*, a firearm or ammunition for a period of one year when there is clear and convincing evidence to believe that there is a substantial likelihood that the subject of the petition, or a person subject to an ex parte gun violence restraining

order, as applicable, will cause personal injury to himself, herself, or another by having ~~under~~ *in* his or her custody ~~and or~~ control, owning, purchasing, possessing, or receiving a firearm and that the order is necessary to prevent personal injury to himself, herself, or ~~another person, another,~~ as specified. The bill would ~~authorized~~ *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 a court, upon issuance of a gun violence restraining order, to order the restrained person to surrender to the local law enforcement agency ~~any firearm or all firearms and~~ ammunition in his or her custody ~~and or~~ control, or which he or she possesses or owns. The bill would require the local law enforcement agency to retain custody of the firearm *or firearms* 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 any gun violence restraining order has been issued, renewed, dissolved, or terminated.

The bill would make it a misdemeanor to file a petition for ~~a an~~ *ex parte* gun violence restraining ~~order, order or a gun violence restraining order issued after notice and a hearing,~~ 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~~ *in* his or her custody ~~and or~~ 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 or both that is in the custody and control of, or is owned or possessed by, are owned by, in the possession of, or in the custody or control of,~~ *are owned by, in the possession of, or in the custody or control of,* a person who is the subject of a gun violence restraining order. 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 that is in the restrained person's custody ~~and~~ or control or possession, that is owned by the restrained person, or that is 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 the restrained person and one or more other persons.

(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.

(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 make 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.

(5) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(6) 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:*

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  
27 possession of any person with the intent to use them as a means  
28 of committing a misdemeanor public offense, or in the possession  
29 of another to whom he or she may have delivered them for the  
30 purpose of concealing them or preventing their discovery.

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

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

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

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

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

1 (13) When a sample of the blood of a person constitutes  
2 evidence that tends to show a violation of Section 23140, 23152,  
3 or 23153 of the Vehicle Code and the person from whom the  
4 sample is being sought has refused an officer's request to submit  
5 to, or has failed to complete, a blood test as required by Section  
6 23612 of the Vehicle Code, and the sample will be drawn from  
7 the person in a reasonable, medically approved manner. This  
8 paragraph is not intended to abrogate a court's mandate to  
9 determine the propriety of the issuance of a search warrant on a  
10 case-by-case basis.

11 (14) When the property or things to be seized are ~~a firearm or~~  
12 ~~firearms or ammunition or both that is in the custody and control~~  
13 ~~of, or is owned or possessed by,~~ *are owned by, in the possession*  
14 *of, or in the custody or control of* a person who is the subject of a  
15 gun violence restraining order that has been issued pursuant to  
16 Division 3.2 (commencing with Section 18100) of Title 2 of Part  
17 6.

18 (b) The property, things, person, or persons described in  
19 subdivision (a) may be taken on the warrant from any place, or  
20 from any person in whose possession the property or things may  
21 be.

22 (c) Notwithstanding subdivision (a) or (b), no search warrant  
23 shall issue for any documentary evidence in the possession or  
24 under the control of any person who is a lawyer as defined in  
25 Section 950 of the Evidence Code, a physician as defined in Section  
26 990 of the Evidence Code, a psychotherapist as defined in Section  
27 1010 of the Evidence Code, or a member of the clergy as defined  
28 in Section 1030 of the Evidence Code, and who is not reasonably  
29 suspected of engaging or having engaged in criminal activity  
30 related to the documentary evidence for which a warrant is  
31 requested unless the following procedure has been complied with:

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

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

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

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

18 (3) The warrant shall, whenever practicable, be served during  
19 normal business hours. In addition, the warrant shall be served  
20 upon a party who appears to have possession or control of the  
21 items sought. If, after reasonable efforts, the party serving the  
22 warrant is unable to locate the person, the special master shall seal  
23 and return to the court, for determination by the court, any item  
24 that appears to be privileged as provided by law.

25 (d) (1) As used in this section, a “special master” is an attorney  
26 who is a member in good standing of the California State Bar and  
27 who has been selected from a list of qualified attorneys that is  
28 maintained by the State Bar particularly for the purposes of  
29 conducting the searches described in this section. These attorneys  
30 shall serve without compensation. A special master shall be  
31 considered a public employee, and the governmental entity that  
32 caused the search warrant to be issued shall be considered the  
33 employer of the special master and the applicable public entity,  
34 for purposes of Division 3.6 (commencing with Section 810) of  
35 Title 1 of the Government Code, relating to claims and actions  
36 against public entities and public employees. In selecting the  
37 special master, the court shall make every reasonable effort to  
38 ensure that the person selected has no relationship with any of the  
39 parties involved in the pending matter. Any information obtained

1 by the special master shall be confidential and may not be divulged  
2 except in direct response to inquiry by the court.

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

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

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

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

24 (h) Notwithstanding any other law, no claim of attorney work  
25 product as described in Chapter 4 (commencing with Section  
26 2018.010) of Title 4 of Part 4 of the Code of Civil Procedure shall  
27 be sustained where there is probable cause to believe that the  
28 lawyer is engaging or has engaged in criminal activity related to  
29 the documentary evidence for which a warrant is requested unless  
30 it is established at the hearing with respect to the documentary  
31 evidence seized under the warrant that the services of the lawyer  
32 were not sought or obtained to enable or aid anyone to commit or  
33 plan to commit a crime or a fraud.

34 (i) Nothing in this section is intended to limit an attorney’s  
35 ability to request an in camera hearing pursuant to the holding of  
36 the Supreme Court of California in *People v. Superior Court (Laff)*  
37 (2001) 25 Cal.4th 703.

38 (j) In addition to any other circumstance permitting a magistrate  
39 to issue a warrant for a person or property in another county, when  
40 the property or things to be seized consist of any item or constitute

1 any evidence that tends to show a violation of Section 530.5, the  
2 magistrate may issue a warrant to search a person or property  
3 located in another county if the person whose identifying  
4 information was taken or used resides in the same county as the  
5 issuing court.

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

10 SEC. 2. Section 1542.5 is added to the Penal Code, immediately  
11 following Section 1542, to read:

12 1542.5. Notwithstanding any other law, with regards to a search  
13 warrant issued upon the grounds specified in paragraph (14) of  
14 subdivision (a) of Section 1524, the following shall apply:

15 (a) The law enforcement officer executing the warrant shall take  
16 custody of any firearm or ammunition that is in the restrained  
17 person's custody ~~and~~ or control or possession, that is owned by  
18 the restrained person, or that is discovered pursuant to a consensual  
19 or other lawful search.

20 (b) (1) If the location to be searched during the execution of  
21 the warrant is jointly occupied by the restrained person and one  
22 or more other persons and a law enforcement officer executing the  
23 warrant finds a firearm that is owned by a person other than the  
24 restrained person, the firearm shall not be seized if both of the  
25 following conditions are satisfied:

26 (A) The firearm is stored in a manner that the restrained person  
27 does not have access to or control of the firearm.

28 (B) There is no evidence of unlawful possession of the firearm  
29 by the owner of the firearm.

30 (2) If the location to be searched during the execution of the  
31 warrant is jointly occupied by the restrained person and one or  
32 more other persons and a gun safe is located that is owned by a  
33 person other than the restrained person, the contents of the gun  
34 safe shall not be searched except in the owner's presence, and with  
35 his or her consent or with a valid search warrant for the gun safe.

36 SEC. 3. Division 3.2 (commencing with Section 18100) is  
37 added to Title 2 of Part 6 of the Penal Code, to read:

1 DIVISION 3.2. GUN VIOLENCE RESTRAINING ORDERS

2  
3 CHAPTER 1. GENERAL  
4

5 18100. A gun violence restraining order is an order, in writing,  
6 signed by the court, prohibiting a named person from having ~~under~~  
7 *in* his or her custody ~~and~~ *or* control, owning, purchasing,  
8 possessing, or receiving any firearms or ammunition.

9 18105. (a) The Judicial Council shall prescribe the form of  
10 ~~the~~ *petitions and* orders and any other documents required by this  
11 division and shall promulgate forms and instructions for applying  
12 for orders described in this division.

13 (b) Any form to petition for a gun violence restraining order  
14 adopted pursuant to this section shall require the petitioner to  
15 describe the number, types, and locations of any firearms and  
16 ammunition presently ~~known~~ *believed* by the petitioner to be  
17 possessed or controlled by the subject of the petition.

18 18110. Prior to a hearing on the issuance, renewal, or  
19 termination of an order under Chapter 3 (commencing with Section  
20 18150) or Chapter 4 (commencing with Section 18170), the court  
21 shall ensure that a search as described in subdivision (a) of Section  
22 6306 of the Family Code is conducted. After issuing its ruling, the  
23 court shall provide the advisement described in subdivision (c) of  
24 Section 6306 of the Family Code and shall keep information  
25 obtained from a search conducted pursuant to this section  
26 confidential in accordance with subdivision (d) of Section 6306  
27 of the Family Code.

28 18115. (a) (1) (A) The court shall notify the Department of  
29 Justice when a gun violence restraining order has been issued or  
30 renewed under this division no later than one court day after issuing  
31 or renewing the order.

32 (B) The court shall notify the Department of Justice when a gun  
33 violence restraining order has been dissolved or terminated under  
34 this division no later than five court days after dissolving or  
35 terminating the order. Upon receipt of either of these notices, the  
36 Department of Justice shall, within 15 days, delete any reference  
37 to the gun violence restraining order from its records.

38 (2) The notices required to be submitted to the Department of  
39 Justice pursuant to paragraph (1) shall be submitted in an electronic  
40 format, in a manner prescribed by the department.

1 (b) (1) The court shall notify the district attorney in the  
 2 jurisdiction in which a gun violence restraining order was issued  
 3 when a gun violence order has been issued or renewed under this  
 4 division no later than one court day after issuing or renewing the  
 5 order.

6 (2) The court shall notify the district attorney in the jurisdiction  
 7 in which a gun violence restraining order was dissolved or  
 8 terminated when a gun violence restraining order has been  
 9 dissolved or terminated under this division, no later than five court  
 10 days after dissolving or terminating the order.

11 18120. (a) A person subject to a gun violence restraining order  
 12 issued pursuant to this division shall not have ~~under~~ *in* his or her  
 13 custody ~~and or~~ control, own, purchase, possess, or receive ~~a firearm~~  
 14 *any firearms* or ammunition while that order is in effect.

15 (b) (1) Upon issuance of a gun violence restraining order issued  
 16 pursuant to this division, the court shall order the restrained person  
 17 to surrender to the local law enforcement agency ~~any firearm or~~  
 18 *all firearms and* ammunition in the restrained person’s custody  
 19 ~~and or~~ control, or which the restrained person possesses or owns.

20 (2) The surrender ordered pursuant to paragraph (1) shall occur  
 21 by immediately surrendering ~~the firearm or all firearms and~~  
 22 ammunition in a safe manner, upon request of any law enforcement  
 23 officer, to the control of the officer, after being served with the  
 24 ~~protective~~ *restraining* order. A law enforcement officer serving a  
 25 gun violence restraining order that indicates that the restrained  
 26 person possesses ~~a firearm~~ *any firearms* or ammunition shall  
 27 request that ~~the firearm or all firearms and~~ ammunition be  
 28 immediately surrendered. Alternatively, if no request is made by  
 29 a law enforcement officer, the surrender shall occur within 24  
 30 hours of being served with the order, by either surrendering ~~the~~  
 31 ~~firearm or all firearms and~~ ammunition in a safe manner to the  
 32 control of the local law enforcement agency, or by selling ~~the~~  
 33 ~~firearm or all firearms and~~ ammunition to a licensed gun dealer,  
 34 as specified in Article 1 (commencing with Section 26700) and  
 35 Article 2 (commencing with Section 26800) of Chapter 2 of  
 36 Division 6 of Title 4 of Part 6 of the Penal Code. The law  
 37 enforcement officer or licensed gun dealer taking possession of  
 38 ~~the firearm~~ *any firearms* or ammunition pursuant to this subdivision  
 39 shall issue a receipt to the person surrendering the firearm *or*  
 40 *firearms* or ammunition *or both* at the time of surrender. A person

1 ordered to surrender ~~a firearm or~~ *all firearms and* ammunition  
2 pursuant to this subdivision shall, within 48 hours after being  
3 served with the order, do both of the following:

4 (A) File, with the court that issued the gun violence restraining  
5 order, the receipt showing ~~the firearm or~~ *all firearms and*  
6 ammunition ~~was~~ *have been* surrendered to a local law enforcement  
7 agency or sold to a licensed gun dealer. Failure to timely file a  
8 receipt shall constitute a violation of the ~~protective restraining~~  
9 order.

10 (B) File a copy of the receipt described in subparagraph (A)  
11 with the law enforcement agency that served the gun violence  
12 restraining order. Failure to timely file a copy of the receipt shall  
13 constitute a violation of the ~~protective restraining~~ order.

14 (c) (1) ~~The firearm or~~ *Any* firearms or ammunition surrendered  
15 to a law enforcement officer or law enforcement agency pursuant  
16 to this section shall be retained by the law enforcement agency  
17 until the expiration of any gun violence restraining order that has  
18 been issued against the restrained person. Upon expiration of any  
19 order, ~~the firearm or~~ *any* firearms or ammunition shall be returned  
20 to the restrained person in accordance with the provisions of  
21 Chapter 2 (commencing with Section 33850) of Division 11 of  
22 Title 4. ~~A firearm or~~ *Firearms or* ammunition that ~~is~~ *are* not  
23 claimed ~~is~~ *are* subject to the requirements of Section 34000.

24 (2) A restrained person who owns ~~a firearm~~ *any firearms* or  
25 ammunition that ~~is~~ *are* in the custody of a law enforcement agency  
26 pursuant to this section and who does not wish to have the firearm  
27 ~~or firearms or ammunition~~ returned ~~shall be~~ *is* entitled to sell or  
28 transfer title of ~~the firearm~~ *any firearms or ammunition* to a  
29 licensed dealer provided that the firearm ~~is an~~ *or firearms or*  
30 *ammunition are* otherwise legal ~~firearm~~ *firearm* to own or possess and the  
31 restrained person otherwise has right to title of the ~~firearm.~~ *firearm*  
32 *or firearms or ammunition.*

33 (d) If the restrained person declines to relinquish possession of  
34 any ~~firearm~~ *firearms or ammunition* based on the assertion of the  
35 right against self-incrimination, as provided by the Fifth  
36 Amendment to the United States Constitution and Section 15 of  
37 Article I of the California Constitution, the court ~~may~~ *may, after*  
38 *prior notice to the district attorney,* grant use immunity for the act  
39 of relinquishing the ~~firearm~~ *firearms or ammunition* required under  
40 this section.

1 (e) If a person other than the restrained person claims title to  
 2 any ~~firearm~~ *firearms* or ammunition surrendered pursuant to this  
 3 section, and he or she is determined by the law enforcement agency  
 4 to be the lawful owner of the firearm *or firearms* or ammunition,  
 5 the firearm *or firearms* or ammunition shall be returned to the him  
 6 or her pursuant to Chapter 2 (commencing with Section 33850)  
 7 of Division 11 of Title 4.

8  
 9 CHAPTER 2. EMERGENCY GUN VIOLENCE RESTRAINING ORDER  
 10

11 18125. (a) An emergency gun violence restraining order may  
 12 be issued only if a law enforcement officer asserts, and a judicial  
 13 officer finds, both of the following:

14 (1) ~~That reasonable grounds have been asserted~~ *there is*  
 15 *reasonable cause* to believe that the subject of the petition poses  
 16 an immediate and present danger of causing personal injury to  
 17 himself, herself, or another by having ~~under~~ *in* his or her custody  
 18 ~~and or~~ control, owning, purchasing, possessing, or receiving a  
 19 firearm.

20 (2) That an emergency gun violence restraining order is  
 21 necessary to prevent personal injury to himself, herself, or another  
 22 ~~person~~ because less restrictive alternatives either have been tried  
 23 and found to be ineffective, or have been determined to be  
 24 inadequate or inappropriate for the circumstances of the subject  
 25 of the petition.

26 (b) An emergency gun violence restraining order issued pursuant  
 27 to this chapter shall prohibit the subject of the petition from having  
 28 ~~under~~ *in* his or her custody ~~and or~~ control, owning, purchasing,  
 29 possessing, or receiving, or attempting to purchase or receive, a  
 30 firearm or ammunition, and shall expire 14 days from the date of  
 31 the order.

32 18130. An emergency gun violence restraining order is valid  
 33 only if it is issued by a judicial officer after making the findings  
 34 required by Section 18125 and pursuant to a specific request by a  
 35 law enforcement officer.

36 18135. An emergency gun violence restraining order issued  
 37 under this chapter shall include all of the following:

38 (a) A statement of the grounds supporting the issuance of the  
 39 order.

40 (b) The date and time the order expires.

1 (c) The address of the superior court for the ~~district or~~ county  
2 in which the restrained party resides.

3 (d) The following statement:  
4

5 “To the restrained person: This order will last until the date and  
6 time noted above. You are required to surrender all firearms and  
7 ammunition that you own to a local law enforcement agency in  
8 accordance with Section 18120 of the Penal Code and you may  
9 not have ~~under in~~ your custody ~~and or~~ control, own, purchase,  
10 possess, or receive, or attempt to purchase or receive a firearm or  
11 ammunition, while this order is in effect. However, a *more*  
12 permanent gun violence restraining order may be obtained from  
13 the court. You may seek the advice of an attorney as to any matter  
14 connected with the order. The attorney should be consulted  
15 promptly so that the attorney may assist you in any matter  
16 connected with the order.”  
17

18 18140. A law enforcement officer who requests an emergency  
19 gun violence restraining order shall do all of the following:

20 (a) If the order is obtained orally, memorialize the order ~~in~~  
21 ~~writing and sign it.~~ *of the court on the form approved by the*  
22 *Judicial Council.*

23 (b) Serve the order on the restrained person, if the restrained  
24 person can reasonably be located.

25 (c) File a copy of the order with the court as soon as practicable  
26 after issuance.

27 (d) Have the order entered into the computer database system  
28 for protective and restraining orders maintained by the Department  
29 of Justice.

30 18145. The presiding judge of the superior court in each county  
31 shall designate at least one judge, commissioner, or referee to be  
32 reasonably available to issue orally, by telephone or otherwise,  
33 emergency gun violence restraining orders at all times whether or  
34 not the court is in session.  
35

36 CHAPTER 3. EX PARTE GUN VIOLENCE RESTRAINING ORDER  
37

38 18150. (a) (1) An immediate family ~~member, licensed~~  
39 ~~therapist, or licensed health care provider~~ *member* of a person *or*  
40 *a law enforcement officer* may file a petition requesting that the

1 court issue an ex parte gun violence restraining order enjoining  
2 the subject of the petition from having ~~under~~ *in* his or her custody  
3 ~~and or~~ control, owning, purchasing, possessing, or receiving a  
4 firearm or ammunition.

5 (2) For purposes of this subdivision, “immediate family  
6 member” has the same meaning as in Section 422.4.

7 (b) A court may issue an ex parte gun violence restraining order  
8 if the petition, supported by an affidavit made in writing and signed  
9 by the petitioner under oath, or an oral statement taken pursuant  
10 to paragraph (2) of subdivision (a) of Section 18155, and any  
11 additional information provided to the court show good cause to  
12 believe that both of the following are true:

13 (1) There is a substantial likelihood that the subject of the  
14 petition will, in the near future, cause personal injury to himself,  
15 herself, or another by having ~~under~~ *in* his or her custody ~~and or~~  
16 control, owning, purchasing, possessing, or receiving a firearm as  
17 determined by ~~balancing evidence of the facts identified in~~  
18 ~~paragraph (1) of subdivision (b) of Section 18155 and considering~~  
19 ~~any other relevant evidence, including, but not limited to, evidence~~  
20 ~~of the facts identified in paragraph (2) of subdivision (b) of Section~~  
21 ~~18155; considering the factors listed in Section 18155 and any~~  
22 ~~other relevant evidence.~~

23 (2) An ex parte gun violence restraining order is necessary to  
24 prevent personal injury to himself, herself, or another ~~person~~  
25 because less restrictive alternatives either have been tried and  
26 found to be ineffective, or ~~have been determined to be~~ *are*  
27 inadequate or inappropriate for the circumstances of the subject  
28 of the petition.

29 (c) An affidavit supporting a petition for the issuance of an ex  
30 parte gun violence restraining order shall set forth the facts tending  
31 to establish the grounds of the petition, or the reason for believing  
32 that they exist.

33 (d) An ex parte order under this chapter shall be issued or denied  
34 on the same day that the petition is submitted to the court, unless  
35 the petition is filed too late in the day to permit effective review,  
36 in which case the order shall be issued or denied on the next day  
37 of judicial business in sufficient time for the order to be filed that  
38 day with the clerk of the court.

39 18155. (a) (1) The court, before issuing an ex parte gun  
40 violence restraining order, may examine on oath, the petitioner

1 and any witness the petitioner may produce and shall take his or  
2 her affidavit in writing, and cause the affidavit to be signed by the  
3 parties making them.

4 (2) In lieu of a written affidavit required by paragraph (1), the  
5 court may take an oral statement under oath using the procedures  
6 prescribed in Section 1526.

7 (b) (1) In determining whether grounds for a gun violence  
8 restraining order exist, the court shall consider all evidence of the  
9 following:

10 (A) A recent threat of violence or act of violence by the subject  
11 of the petition directed toward another.

12 (B) A recent threat of violence or act of violence by the subject  
13 of the petition directed toward himself or herself.

14 (C) A violation of an emergency protective order issued pursuant  
15 to Section 646.91 or Part 3 (commencing with Section 6240) of  
16 Division 10 of the Family Code that is in effect at the time the  
17 court is considering the petition.

18 (D) A recent violation of an unexpired protective order issued  
19 pursuant to Part 4 (commencing with Section 6300) of Division  
20 10 of the Family Code, Section 136.2, Section 527.6 of the Code  
21 of Civil Procedure, or Section 213.5 or 15657.03 of the Welfare  
22 and Institutions Code.

23 (E) A conviction for any offense listed in Section 29805.

24 (F) A pattern of violent acts or violent threats within the past  
25 12 months, including, but not limited to, threats of violence or acts  
26 of violence by the subject of the petition directed toward himself,  
27 herself, or another.

28 (2) In determining whether grounds for a gun violence  
29 restraining order exist, the court may consider any other ~~relevant~~  
30 ~~evidence~~, *evidence of an increased risk for violence*, including,  
31 but not limited to, evidence of any of the following:

32 (A) The reckless use, display, or brandishing of a firearm by  
33 the subject of the petition.

34 (B) The history of use, attempted use, or threatened use of  
35 physical force by the subject of the petition against another person.

36 (C) Any prior arrest of the subject of the petition for a felony  
37 offense.

38 (D) Any history of a violation by the subject of the petition of  
39 an emergency protective order issued pursuant to Section 646.91

1 or Part 3 (commencing with Section 6240) of Division 10 of the  
 2 Family Code.

3 (E) Any history of a violation by the subject of the petition of  
 4 a protective order issued pursuant to Part 4 (commencing with  
 5 Section 6300) of Division 10 of the Family Code, Section 136.2,  
 6 Section 527.6 of the Code of Civil Procedure, or Section 213.5 or  
 7 15657.03 of the Welfare and Institutions Code.

8 (F) Evidence of recent or ongoing abuse of controlled substances  
 9 or alcohol by the subject of the petition.

10 (G) Evidence of recent acquisition of firearms or other deadly  
 11 weapons.

12 (3) For the purposes of this subdivision, “recent” means within  
 13 the six months prior to the date the petition was filed.

14 (c) If the court determines that there is good cause to issue an  
 15 ex parte gun violence restraining order, it shall issue an ex parte  
 16 gun violence restraining order that prohibits the subject of the  
 17 petition from having ~~under~~ *in* his or her custody ~~and or~~ control,  
 18 owning, purchasing, possessing, or receiving, or attempting to  
 19 purchase or receive, a firearm or ammunition, and expires no later  
 20 than ~~14~~ 21 days from the date of the order.

21 18160. (a) An ex parte gun violence restraining order issued  
 22 under 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.~~ *in which any responsive*  
 28 *pleading should be filed.*

29 (4) The date and time of the scheduled hearing.

30 (5) The following statement:

31  
 32 “To the restrained person: This order is valid until the expiration  
 33 date and time noted above. You are required to surrender all  
 34 firearms and ammunition that you own to a local law enforcement  
 35 agency in accordance with Section 18120 of the Penal Code and  
 36 you may not have ~~under~~ *in* your custody ~~and or~~ control, own,  
 37 purchase, possess, or receive, or attempt to purchase or receive a  
 38 firearm or ammunition, while this order is in effect. A hearing will  
 39 be held on the date and at the time noted above to determine if a  
 40 more permanent gun violence restraining order should be issued.

1 Failure to appear at that hearing may result in a court making an  
2 order against you that is valid for a year. You may seek the advice  
3 of an attorney as to any matter connected with the order. The  
4 attorney should be consulted promptly so that the attorney may  
5 assist you in any matter connected with the order.”  
6

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

10 (2) When serving a gun violence restraining order, the law  
11 enforcement officer shall inform the restrained person of the  
12 hearing scheduled pursuant to Section 18165.

13 18165. Within 21 days after the date on the order, before the  
14 court that issued the order or another court in the same jurisdiction,  
15 the court shall hold a hearing pursuant to Section 18175 to  
16 determine if a gun violence restraining order should be issued  
17 under Chapter 4 (commencing with Section 18170).  
18

19 CHAPTER 4. GUN VIOLENCE RESTRAINING ORDER ISSUED AFTER  
20 NOTICE AND HEARING  
21

22 18170. (a) An immediate family ~~member, licensed therapist,~~  
23 ~~or licensed health care provider~~ *member* of a person *or a law*  
24 *enforcement officer* may request that a court, after notice and a  
25 hearing, issue a gun violence restraining order enjoining the subject  
26 of the petition from having ~~under~~ *in* his or her custody ~~and or~~  
27 control, owning, purchasing, possessing, or receiving a firearm or  
28 ammunition for a period of one year.

29 (b) For purposes of this subdivision, “immediate family  
30 member” has the same meaning as in Section 422.4.

31 18175. (a) In determining whether to issue a gun violence  
32 restraining order under this chapter, the court shall consider  
33 evidence of the facts identified in paragraph (1) of subdivision (b)  
34 of Section 18155 and may consider any other ~~relevant evidence,~~  
35 *evidence of an increased risk for violence*, including, but not  
36 limited to, evidence of the facts identified in paragraph (2) of  
37 subdivision (b) of Section 18155.

38 (b) At the hearing, the petitioner shall have the burden of  
39 proving, by clear and convincing evidence, that both of the  
40 following are true:

1 (1) There is a substantial likelihood that the subject of the  
 2 petition, or a person subject to an ex parte gun violence restraining  
 3 order, as applicable, will cause personal injury to himself, herself,  
 4 or another by having ~~under~~ *in* his or her custody ~~and~~ *or* control,  
 5 owning, purchasing, possessing, or receiving a firearm as  
 6 determined by ~~balancing evidence of the facts identified in~~  
 7 ~~paragraph (1) of subdivision (b) of Section 18155 and considering~~  
 8 ~~any other relevant evidence, including, but not limited to, evidence,~~  
 9 ~~of the facts identified in paragraph (2) of subdivision (b) of Section~~  
 10 ~~18155. considering the factors listed in Section 18155 and any~~  
 11 ~~other relevant evidence.~~

12 (2) A gun violence restraining order is necessary to prevent  
 13 personal injury to the subject of the petition, or the person subject  
 14 to an ex parte gun violence restraining order, as applicable, or  
 15 another ~~person~~ because less restrictive alternatives either have  
 16 been tried and found to be ineffective, or ~~have been determined to~~  
 17 ~~be~~ *are* inadequate or inappropriate for the circumstances of the  
 18 subject of the petition, or the person subject to an ex parte gun  
 19 violence restraining order, as applicable.

20 (c) (1) If there is clear and convincing evidence to issue a gun  
 21 violence restraining order, the court shall issue a gun violence  
 22 restraining order that prohibits the subject of the petition from  
 23 having ~~under~~ *in* his or her custody ~~and~~ *or* control, owning,  
 24 purchasing, possessing, or receiving, or attempting to purchase or  
 25 receive, a firearm or ammunition.

26 (2) If the court finds that there is not clear and convincing  
 27 evidence to support the issuance of a gun violence restraining  
 28 order, the court shall dissolve any emergency or ex parte gun  
 29 violence restraining order then in effect.

30 (d) The gun violence restraining order issued under this chapter  
 31 shall have a duration of one year, subject to termination by further  
 32 order of the court at a hearing held pursuant to Section 18185 and  
 33 renewal by further order of the court pursuant to Section 18190.

34 ~~(e) (1) (A) The court shall notify the Department of Justice of~~  
 35 ~~the gun violence restraining order issued under this chapter no~~  
 36 ~~later than one court day after issuing the order.~~

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

1 ~~(2) The court shall notify the district attorney in the jurisdiction~~  
2 ~~in which the gun violence restraining order was issued that a gun~~  
3 ~~violence restraining order issued under this chapter was issued no~~  
4 ~~later than one court day after issuing the order.~~

5 18180. (a) A gun violence restraining order issued pursuant  
6 to this chapter shall include all of the following:

7 (1) A statement of the grounds supporting the issuance of the  
8 order.

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

10 (3) The address of the superior court for the ~~district or county~~  
11 in which the restrained party resides.

12 (4) The following statement:

13  
14 “To the restrained person: This order will last until the date and  
15 time noted above. If you have not done so already, you must  
16 surrender all firearms and ammunition that you own to a local law  
17 enforcement agency in accordance with Section 18120 of the Penal  
18 Code. You may not have ~~under~~ *in* your custody ~~and~~ *or* control,  
19 own, purchase, possess, or receive, or attempt to purchase or  
20 receive a firearm or ammunition, while this order is in effect.  
21 Pursuant to Section 18185, you have the right to request one  
22 hearing to terminate this order at any time during its effective  
23 period. You may seek the advice of an attorney as to any matter  
24 connected with the order.”

25  
26 (b) When the court issues a gun violence restraining order under  
27 this chapter, the court shall inform the restrained person that he or  
28 she is entitled to one hearing to request a termination of the order,  
29 pursuant to Section 18185, and shall provide the restrained person  
30 with a form to request a hearing.

31 18185. (a) A person subject to a gun violence restraining order  
32 issued under this chapter may submit one written request at any  
33 time during the effective period of the order for a hearing to  
34 terminate the order.

35 (b) If the court finds after the hearing that there is no longer  
36 clear and convincing evidence to believe that paragraphs (1) and  
37 (2) of subdivision (b) of Section 18175 are true, the court shall  
38 terminate the order.

39 18190. (a) (1) An immediate family ~~member, licensed~~  
40 ~~therapist, or licensed health care provider~~ *member of a restrained*

1 *person or a law enforcement officer* may request a renewal of a  
2 gun violence restraining order at any time within the three months  
3 before the expiration of a gun violence restraining order.

4 (2) For purposes of this subdivision, “immediate family  
5 member” has the same meaning as in Section 422.4.

6 (b) A court may, after notice and a hearing, renew a gun violence  
7 restraining order issued under this chapter if the petitioner proves,  
8 by clear and convincing evidence, that paragraphs (1) and (2) of  
9 subdivision (b) of Section 18175 continue to be true.

10 (c) In determining whether to renew a gun violence restraining  
11 order issued under this chapter, the court shall consider evidence  
12 of the facts identified in paragraph (1) of subdivision (b) of Section  
13 18155 and any other ~~relevant evidence~~, *evidence of an increased*  
14 *risk for violence*, including, but not limited to, evidence of any of  
15 the facts identified in paragraph (2) of subdivision (b) of Section  
16 18155.

17 (d) At the hearing, the petitioner shall have the burden of  
18 proving, by clear and convincing evidence, that paragraphs (1)  
19 and (2) of subdivision (b) of Section 18175 are true.

20 (e) If the renewal petition is supported by clear and convincing  
21 evidence, the court shall renew the gun violence restraining order  
22 issued under this chapter.

23 (f) The renewal of a gun violence restraining order issued  
24 pursuant to this section shall have a duration of one year, subject  
25 to termination by further order of the court at a hearing held  
26 pursuant to Section 18185 and further renewal by further order of  
27 the court pursuant to this section.

28 (g) A gun violence restraining order renewed pursuant to this  
29 section shall include the information identified in subdivision (a)  
30 of Section 18180.

31 18195. Any hearing held pursuant to this chapter may be  
32 continued upon a showing of good cause. Any existing order issued  
33 pursuant to this division shall remain in full force and effect during  
34 the period of continuance.

35

36 CHAPTER 5. OFFENSES

37

38 18200. Every person who files a petition for an ex parte gun  
39 violence restraining order pursuant to Chapter 3 (commencing  
40 with Section 18150) or a gun violence restraining order issued

1 after notice and a hearing pursuant to Chapter 4 (commencing with  
2 Section 18170), knowing the information in the petition to be false  
3 or with the intent to harass, is guilty of a misdemeanor.

4 18205. Every person who violates an *emergency gun violence*  
5 *restraining order issued pursuant to Chapter 2 (commencing with*  
6 *Section 18125), an ex parte gun violence restraining order issued*  
7 *pursuant to Chapter 3 (commencing with Section ~~18150~~ 18150),*  
8 *or a gun violence restraining order issued after notice and a hearing*  
9 *issued pursuant to Chapter 4 (commencing with Section 18170),*  
10 *is guilty of a misdemeanor and shall be prohibited from having*  
11 *under in his or her custody ~~and or~~ control, owning, purchasing,*  
12 *possessing, or receiving, or attempting to purchase or receive, a*  
13 *firearm or ammunition for a five-year period, to commence upon*  
14 *the expiration of the existing gun violence restraining order.*

15 SEC. 4. Section 18250 of the Penal Code is amended to read:

16 18250. If any of the following persons is at the scene of a  
17 domestic violence incident involving a threat to human life or a  
18 physical assault, is serving a protective order as defined in Section  
19 6218 of the Family Code, is serving a gun violence restraining  
20 order issued pursuant to Division 3.2 (commencing with Section  
21 18100), that person shall take temporary custody of any firearm  
22 or other deadly weapon in plain sight or discovered pursuant to a  
23 consensual or other lawful search as necessary for the protection  
24 of the peace officer or other persons present:

25 (a) A sheriff, undersheriff, deputy sheriff, marshal, deputy  
26 marshal, or police officer of a city, as defined in subdivision (a)  
27 of Section 830.1.

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

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

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

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

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

38 (g) A peace officer, as defined in subdivision (d) of Section  
39 830.31.

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

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

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

6 SEC. 5. Section 8105 of the Welfare and Institutions Code is  
7 amended to read:

8 8105. (a) The Department of Justice shall request each public  
9 and private mental hospital, sanitarium, and institution to submit  
10 to the department information the department deems necessary to  
11 identify those persons who are subject to the prohibition specified  
12 by subdivision (a) of Section 8100, in order to carry out its duties  
13 in relation to firearms, destructive devices, and explosives.

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

21 (c) A licensed psychotherapist shall report to a local law  
22 enforcement agency, within 24 hours, in a manner prescribed by  
23 the Department of Justice, the identity of a person subject to the  
24 prohibition specified by subdivision (b) of Section 8100. Upon  
25 receipt of the report, the local law enforcement agency, on a form  
26 prescribed by the Department of Justice, shall notify the department  
27 electronically, within 24 hours, in a manner prescribed by the  
28 department, of the person who is subject to the prohibition specified  
29 by subdivision (b) of Section 8100.

30 (d) All information provided to the Department of Justice  
31 pursuant to this section shall be kept confidential, separate, and  
32 apart from all other records maintained by the department. The  
33 information provided to the Department of Justice pursuant to this  
34 section shall be used only for any of the following purposes:

35 (1) By the department to determine eligibility of a person to  
36 acquire, carry, or possess firearms, destructive devices, or  
37 explosives.

38 (2) For the purposes of the court proceedings described in  
39 subdivision (b) of Section 8100, to determine the eligibility of the

1 person who is bringing the petition pursuant to paragraph (3) of  
2 subdivision (b) of Section 8100.

3 (3) To determine the eligibility of a person to acquire, carry, or  
4 possess firearms, destructive devices, or explosives who is the  
5 subject of a criminal investigation, or who is the subject of a  
6 petition for the issuance of a gun violence restraining order issued  
7 pursuant to Division 3.2 (commencing with Section 18100) of  
8 Title 2 of Part 6 of the Penal Code, if a part of the investigation  
9 involves the acquisition, carrying, or possession of firearms,  
10 explosives, or destructive devices by that person.

11 (e) Reports shall not be required or requested under this section  
12 if the same person has been previously reported pursuant to Section  
13 8103 or 8104.

14 SEC. 6. The Legislature finds and declares that Section 3 of  
15 this act, which adds Section 18110~~of~~ to the Penal Code, imposes  
16 a limitation on the public's right of access to the meetings of public  
17 bodies or the writings of public officials and agencies within the  
18 meaning of Section 3 of Article I of the California Constitution.  
19 Pursuant to that constitutional provision, the Legislature makes  
20 the following findings to demonstrate the interest protected by this  
21 limitation and the need for protecting that interest:

22 In order to protect the privacy rights of a person subject to a  
23 search pursuant to Section 18110 of the Penal Code.

24 SEC. 7. No reimbursement is required by this act pursuant to  
25 Section 6 of Article XIII B of the California Constitution for certain  
26 costs that may be incurred by a local agency or school district  
27 because, in that regard, this act creates a new crime or infraction,  
28 eliminates a crime or infraction, or changes the penalty for a crime  
29 or infraction, within the meaning of Section 17556 of the  
30 Government Code, or changes the definition of a crime within the  
31 meaning of Section 6 of Article XIII B of the California  
32 Constitution.

33 However, if the Commission on State Mandates determines that  
34 this act contains other costs mandated by the state, reimbursement  
35 to local agencies and school districts for those costs shall be made  
36 pursuant to Part 7 (commencing with Section 17500) of Division  
37 4 of Title 2 of the Government Code.

O