

AMENDED IN SENATE MARCH 20, 2024

AMENDED IN SENATE FEBRUARY 27, 2024

SENATE BILL

No. 899

Introduced by Senators Skinner and Blakespear
(Principal coauthor: Assembly Member Petrie-Norris)

January 3, 2024

An act to amend Section 527.9 of, and to add ~~Section 527.11 to,~~ *Sections 527.11 and 527.12 to,* the Code of Civil Procedure, to amend Sections 3044 and 6389 of the Family Code, and to amend Sections 1524, 11108.2, 18120, 25555, 26379, 26405, 26540, 28100, 29810, 29830, and 30342 of, and to add Section 18120.5 to, the Penal Code, relating to protective orders.

LEGISLATIVE COUNSEL'S DIGEST

SB 899, as amended, Skinner. Protective orders: firearms.

Existing law prohibits a person subject to specified protective orders from owning a firearm or ammunition. Existing law requires a person subject to those orders to relinquish any firearms or ammunition they own.

This bill would require the court, when issuing those orders, to provide the person subject to the order with information on how any firearms or ammunition still in their possession are to be relinquished, as specified. The bill would require the court to review the file to determine whether the receipt has been filed and inquire as to whether the person has complied with the requirement. The bill would require violations of the firearms or ammunition prohibition to be reported to the prosecuting attorney in the jurisdiction where the order has been issued within 2 business days of the court hearing unless the restrained party

provides a receipt showing compliance at a subsequent hearing or by direct filing with the clerk of the court.

This bill would also require the court, at a noticed hearing relating to these orders, to consider information presented that the restrained person has possession or control of a firearm or ammunition. The bill would authorize the court, upon making this finding, to set a review hearing, as specified, to determine whether the person has possession or control of a firearm or ammunition in violation of the above provisions.

Existing law requires specified protective orders related to domestic violence to be served on the respondent at the request of the petitioner, whether or not the respondent has been taken into custody, by a law enforcement officer who is present at the scene of reported domestic violence involving the parties to the proceeding or who receives a request from the petitioner to provide service of the order. Existing law requires the petitioner to provide the officer with an endorsed copy of the order and proof of service that the officer is then required to complete and transmit to the issuing court, as specified. If the law enforcement officer determines that a protective order has been issued but not served, existing law requires the office to immediately notify the respondent of the terms of the order and where a written copy of the order can be obtained, and to enforce the order at that time. Existing law prohibits a fee from being charged to the petitioner for service of those orders.

This bill would similarly require a peace officer, as defined, upon the request of a petitioner, to serve and enforce specified protective orders related to, among other things, elder or dependent adult abuse, harassment, workplace violence, or violence in postsecondary educational institutions, on a respondent, whether or not the respondent has been taken into custody. The bill would similarly prohibit the imposition of a fee on a petitioner for service of these orders. By expanding the duties of local law enforcement, this bill would impose a state-mandated local program.

Existing law requires a family court to determine the best interest of the child for purposes of deciding child custody in proceedings for dissolution of marriage, nullity of marriage, legal separation of the parties, petitions for exclusive custody of a child, and proceedings under the Domestic Violence Prevention Act. Existing law establishes a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is detrimental to the best interest of a child and establishes factors to

be considered in rebutting that presumption, including that the perpetrator is restrained by a domestic violence prevention order and has, or has not, complied with that order.

This bill would additionally establish, as a factor to be considered, whether the perpetrator is restrained by any other protective order and has, or has not, complied with that order.

The bill would, for specified protective orders if the respondent declines to relinquish possession of a firearm or ammunition based on the assertion of the right against self-incrimination, authorize the court to grant use immunity for the relinquishment of the firearm.

Existing law allows a search warrant to be issued upon probable cause, supported by affidavit, naming or describing the person to be searched or searched for, and particularly describing the property, thing, or things and the place to be searched. Existing law also specifies the grounds upon which a search warrant may be issued, including, among other grounds, that the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person prohibited from owning that firearm due to a domestic violence restraining order, as specified.

This bill would additionally allow a search warrant to be issued for ammunition that a person is prohibited from owning due to a domestic violence restraining order, and for a firearm or ammunition that a person is prohibited from owning due to other specified temporary restraining orders or injunctions.

Existing law, the Safety For All Act of 2016, approved by the voters as Proposition 63 at the November 8, 2016, statewide general election, requires any person selling specified amounts of ammunition to be licensed as an ammunition vendor. Existing law exempts specified transfers of ammunition from these provisions.

Proposition 63 allows its provisions to be amended by a vote of 55% of the Legislature so long as the amendments are consistent with, and further the intent of, the act.

This bill would amend Proposition 63 to exempt the sale of ammunition to a licensed ammunition vendor by a person required to relinquish that ammunition due to specified protective orders. The bill would make additional conforming and clarifying changes, as specified.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: 55%. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~ yes.

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

1 SECTION 1. The Legislature finds and declares both of the
2 following:

3 (a) The intent expressed in the Safety for All Act of 2016 is to
4 safeguard the ability of law-abiding, responsible Californians to
5 own and use firearms for lawful means while requiring background
6 checks for ammunition purchases in the manner required for
7 firearm purchases so that neither firearms nor ammunition gets
8 into the hands of dangerous individuals.

9 (b) To the extent that this act amends the Safety for All Act of
10 2016, the amendments are consistent with and further that intent.
11 The amendments ensure that ammunition, which, pursuant to
12 Section 527.9 of the Code of Civil Procedure or Section 18120 of
13 the Penal Code, is required to be sold to a licensed ammunition
14 vendor, can be sold in a manner that is consistent with the decision
15 of the United States Supreme Court in *Henderson v. U.S.*, (2015)
16 575 U.S. 622.

17 SEC. 2. Section 527.9 of the Code of Civil Procedure is
18 amended to read:

19 527.9. (a) A person subject to a temporary restraining order
20 or injunction issued pursuant to Section 527.6, 527.8, or 527.85
21 or subject to a restraining order issued pursuant to Section 136.2
22 of the Penal Code, or Section 15657.03 of the Welfare and
23 Institutions Code, shall relinquish the firearm pursuant to this
24 section.

25 (b) Upon the issuance of a protective order against a person
26 pursuant to subdivision (a), the court shall order that person to
27 relinquish any firearm in that person's immediate possession or
28 control, or subject to that person's immediate possession or control,
29 within 24 hours of being served with the order, either by
30 surrendering the firearm to the control of local law enforcement
31 officials, or by selling the firearm to a licensed gun dealer, as

1 specified in Article 1 (commencing with Section 26700) and Article
2 2 (commencing with Section 26800) of Chapter 2 of Division 6
3 of Title 4 of Part 6 of the Penal Code. The court shall provide the
4 person with information on how any firearms or ammunition still
5 in the restrained party's possession are to be relinquished,
6 according to local procedures, and the process for submitting a
7 receipt to the court showing proof of relinquishment. A person
8 ordered to relinquish any firearm pursuant to this subdivision shall
9 file with the court a receipt showing the firearm was surrendered
10 to the local law enforcement agency or sold to a licensed gun dealer
11 within 48 hours after receiving the order. A court holding a hearing
12 on this matter shall review the file to determine whether the receipt
13 has been filed and inquire of the respondent whether they have
14 complied with the requirement. Violations of the firearms
15 prohibition of any restraining order under this section shall be
16 reported to the prosecuting attorney in the jurisdiction where the
17 order has been issued within two business days of the court hearing
18 unless the restrained party provides a receipt showing compliance
19 at a subsequent hearing or by direct filing with the clerk of the
20 court. If the person does not file a receipt with the court within 48
21 hours after receiving the order for a registered firearm in their
22 possession, the court shall order the clerk of the court to
23 immediately notify, by the most effective means available,
24 appropriate law enforcement officials of the issuance and contents
25 of a protective order, information about the firearm or ammunition,
26 and of any other information the court deems appropriate. In the
27 event that it is necessary to continue the date of any hearing due
28 to a request for a relinquishment order pursuant to this section, the
29 court shall ensure that all applicable protective orders described
30 in Section 6218 of the Family Code remain in effect or bifurcate
31 the issues and grant the permanent restraining order pending the
32 date of the hearing.

33 (c) A local law enforcement agency may charge the person
34 subject to the order or injunction a fee for the storage of any firearm
35 relinquished pursuant to this section. The fee shall not exceed the
36 actual cost incurred by the local law enforcement agency for the
37 storage of the firearm. For purposes of this subdivision, "actual
38 cost" means expenses directly related to taking possession of a
39 firearm, storing the firearm, and surrendering possession of the

1 firearm to a licensed dealer as defined in Section 26700 of the
2 Penal Code or to the person relinquishing the firearm.

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

14 (e) The restraining order requiring a person to relinquish a
15 firearm pursuant to subdivision (b) shall prohibit the person from
16 possessing or controlling any firearm for the duration of the order.
17 At the expiration of the order, the local law enforcement agency
18 shall return possession of any surrendered firearm to the
19 respondent, within five days after the expiration of the
20 relinquishment order, unless the local law enforcement agency
21 determines that (1) the firearm has been stolen, (2) the respondent
22 is prohibited from possessing a firearm because the respondent is
23 in any prohibited class for the possession of firearms, as defined
24 in Chapter 2 (commencing with Section 29800) and Chapter 3
25 (commencing with Section 29900) of Division 9 of Title 4 of Part
26 6 of the Penal Code and Sections 8100 and 8103 of the Welfare
27 and Institutions Code, or (3) another successive restraining order
28 is issued against the respondent under this section. If the local law
29 enforcement agency determines that the respondent is the legal
30 owner of any firearm deposited with the local law enforcement
31 agency and is prohibited from possessing any firearm, the
32 respondent shall be entitled to sell or transfer the firearm to a
33 licensed dealer as defined in Section 26700 of the Penal Code. If
34 the firearm has been stolen, the firearm shall be restored to the
35 lawful owner upon their identification of the firearm and proof of
36 ownership.

37 (f) The court may, as part of the relinquishment order, grant an
38 exemption from the relinquishment requirements of this section
39 for a particular firearm if the respondent can show that a particular
40 firearm is necessary as a condition of continued employment and

1 that the current employer is unable to reassign the respondent to
2 another position where a firearm is unnecessary. If an exemption
3 is granted pursuant to this subdivision, the order shall provide that
4 the firearm shall be in the physical possession of the respondent
5 only during scheduled work hours and during travel to and from
6 their place of employment. In any case involving a peace officer
7 who as a condition of employment and whose personal safety
8 depends on the ability to carry a firearm, a court may allow the
9 peace officer to continue to carry a firearm, either on duty or off
10 duty, if the court finds by a preponderance of the evidence that the
11 officer does not pose a threat of harm. Prior to making this finding,
12 the court shall require a mandatory psychological evaluation of
13 the peace officer and may require the peace officer to enter into
14 counseling or other remedial treatment program to deal with any
15 propensity for domestic violence.

16 (g) During the period of the relinquishment order, a respondent
17 is entitled to make one sale of all firearms that are in the possession
18 of a local law enforcement agency pursuant to this section. A
19 licensed gun dealer, who presents a local law enforcement agency
20 with a bill of sale indicating that all firearms owned by the
21 respondent that are in the possession of the local law enforcement
22 agency have been sold by the respondent to the licensed gun dealer,
23 shall be given possession of those firearms, at the location where
24 a respondent's firearms are stored, within five days of presenting
25 the local law enforcement agency with a bill of sale.

26 (h) If the respondent declines to relinquish possession of a
27 firearm or ammunition based on the assertion of the right against
28 self-incrimination, as provided by the Fifth Amendment to the
29 United States Constitution and Section 15 of Article I of the
30 California Constitution, the court may grant use immunity for the
31 act of relinquishing the firearm or ammunition required under this
32 section.

33 (i) (1) The relinquishment or surrender of a firearm to a law
34 enforcement agency pursuant to this section or the return of a
35 firearm to a person pursuant to this section shall not be subject to
36 the requirements of Section 27545 of the Penal Code.

37 (2) Returns of firearms or ammunition pursuant to this section
38 shall be governed by the applicable provisions of Chapter 2
39 (commencing with Section 33850) of Division 11 of Title 4 of Part
40 6 of the Penal Code.

1 SEC. 3. Section 527.11 is added to the Code of Civil Procedure,
2 to read:

3 527.11. (a) When relevant information is presented to the court
4 at any noticed hearing that a restrained person has a firearm, the
5 court shall consider that information to determine, by a
6 preponderance of the evidence, whether the person subject to an
7 order defined in Section 527.6, 527.8, or 527.85 or Section
8 15657.03 of the Welfare and Institutions Code, has a firearm in or
9 subject to their immediate possession or control in violation of the
10 order.

11 (b) (1) In making a determination under this section, the court
12 may consider whether the restrained person filed a firearm
13 relinquishment, storage, or sales receipt or if an exemption from
14 the firearm prohibition was granted.

15 (2) The court may make the determination at any noticed hearing
16 where a restraining order is issued, at a subsequent review hearing,
17 or at any subsequent hearing while the order remains in effect.

18 (3) If the court makes a determination that the restrained person
19 has a firearm in violation of the order, the court must make a
20 written record of the determination and provide a copy to any party
21 who is present at the hearing and, upon request, to any party not
22 present at the hearing.

23 (c) (1) When presented with information under subdivision (a),
24 the court may set a review hearing to determine whether a violation
25 of the order has taken place.

26 (2) The review hearing shall be held within 10 court days after
27 the noticed hearing at which the information was presented. If the
28 restrained person is not present when the court sets the review
29 hearing, the protected person must provide notice of the review
30 hearing to the restrained person at least two court days before the
31 review hearing, in accordance with Section 414.10, by personal
32 service or by mail to the restrained person's last known address.

33 (3) The court may for good cause extend the date of the review
34 hearing for a reasonable period or remove it from the calendar.

35 (4) The court shall order the restrained person to appear at the
36 review hearing.

37 (5) The court may conduct the review hearing in the absence
38 of the protected person.

1 (6) This section does not prohibit the court from permitting a
2 party or witness to appear through technology that enables remote
3 appearances, as determined by the court.

4 (d) The determination made pursuant to this section may be
5 considered by the court in issuing an order to show cause for
6 contempt pursuant to paragraph (5) of subdivision (a) of Section
7 1209 or an order for monetary sanctions pursuant to Section 177.5.

8 *SEC. 4. Section 527.12 is added to the Code of Civil Procedure,*
9 *to read:*

10 *527.12. (a) A peace officer shall, upon the request of a*
11 *petitioner, serve any temporary restraining order, order after*
12 *hearing, or protective order issued pursuant to Sections 527.6,*
13 *527.8, and 527.85, Section 136.2 of the Penal Code, or Section*
14 *15657.03 of the Welfare and Institutions Code, on the respondent,*
15 *whether or not the respondent has been taken into custody.*

16 *(b) (1) The petitioner shall provide the peace officer with an*
17 *endorsed copy of the order and the officer shall complete and*
18 *transmit the proof of service to the issuing court. It is a rebuttable*
19 *presumption that the proof of service was signed on the date of*
20 *service.*

21 *(2) If the protected person cannot produce an endorsed copy*
22 *of the order, the peace officer shall immediately verify the existence*
23 *of the order in the California Restraining and Protective Order*
24 *System.*

25 *(3) If the peace officer determines that an order subject to this*
26 *section has been issued but not served, the officer shall immediately*
27 *notify the respondent of the terms of the order and advise the*
28 *respondent to obtain a copy of the full order from the issuing court.*
29 *Upon notice, the officer shall immediately enforce the order. The*
30 *officer's verbal notice of the terms of the order shall constitute*
31 *service of the order and is sufficient notice for the purposes of this*
32 *section and for the purposes of Sections 273.6 and 29825 of the*
33 *Penal Code.*

34 *(4) If an order served pursuant to this section is subject to the*
35 *reporting requirements of Section 13730 of the Penal Code, the*
36 *report shall include the name and assignment of the peace officer*
37 *who served the order and the case number of the order. If a report*
38 *is not required, the information specified in this paragraph shall*
39 *be included in the daily incident log of the officer's employing law*
40 *enforcement agency.*

1 (c) Notwithstanding any law, a fee shall not be charged to the
2 petitioner for service of an order pursuant to this section.

3 (d) (1) There shall be no civil liability on the part of, and no
4 cause of action for false arrest or false imprisonment against, a
5 peace officer who makes an arrest pursuant to a protective or
6 restraining order that is regular upon its face, if the peace officer,
7 in making the arrest, acts in good faith and has reasonable cause
8 to believe that the person against whom the order is issued has
9 notice of the order and has committed an act in violation of the
10 order.

11 (2) If there is more than one order issued and one of the orders
12 is an emergency protective order that has precedence in
13 enforcement pursuant to paragraph (1) of subdivision (c) of Section
14 136.2 of the Penal Code, the peace officer shall enforce the
15 emergency protective order. If there is more than one order issued,
16 none of the orders issued is an emergency protective order that
17 has precedence in enforcement, and one of the orders issued is a
18 no-contact order, the peace officer shall enforce the no-contact
19 order. If there is more than one civil order regarding the same
20 parties and neither an emergency protective order that has
21 precedence in enforcement nor a no-contact order has been issued,
22 the peace officer shall enforce the order that was issued last. If
23 there are both civil and criminal orders regarding the same parties
24 and neither an emergency protective order that has precedence
25 in enforcement nor a no-contact order has been issued, the peace
26 officer shall enforce the criminal order issued last, subject to the
27 provisions of subdivisions (h) and (i) of Section 136.2 of the Penal
28 Code. This section does not exonerate a peace officer from liability
29 for the unreasonable use of force in the enforcement of the order.
30 The immunities afforded by this section shall not affect the
31 availability of any other immunity that may apply, including, but
32 not limited to, Sections 820.2 and 820.4 of the Government Code.

33 (e) For purposes of this section, “peace officer” has the same
34 meaning as that term is defined in Section 830 of the Penal Code.

35 ~~SEC. 4.~~

36 SEC. 5. Section 3044 of the Family Code is amended to read:

37 3044. (a) Upon a finding by the court that a party seeking
38 custody of a child has perpetrated domestic violence within the
39 previous five years against the other party seeking custody of the
40 child, or against the child or the child’s siblings, or against a person

1 in subparagraph (A) of paragraph (2) of subdivision (a) of Section
2 3011 with whom the party has a relationship, there is a rebuttable
3 presumption that an award of sole or joint physical or legal custody
4 of a child to a person who has perpetrated domestic violence is
5 detrimental to the best interest of the child, pursuant to Sections
6 3011 and 3020. This presumption may only be rebutted by a
7 preponderance of the evidence.

8 (b) To overcome the presumption set forth in subdivision (a),
9 the court shall find that paragraph (1) is satisfied and shall find
10 that the factors in paragraph (2), on balance, support the legislative
11 findings in Section 3020.

12 (1) The perpetrator of domestic violence has demonstrated that
13 giving sole or joint physical or legal custody of a child to the
14 perpetrator is in the best interest of the child pursuant to Sections
15 3011 and 3020. In determining the best interest of the child, the
16 preference for frequent and continuing contact with both parents,
17 as set forth in subdivision (b) of Section 3020, or with the
18 noncustodial parent, as set forth in paragraph (1) of subdivision
19 (a) of Section 3040, may not be used to rebut the presumption, in
20 whole or in part.

21 (2) Additional factors:

22 (A) The perpetrator has successfully completed a batterer's
23 treatment program that meets the criteria outlined in subdivision
24 (c) of Section 1203.097 of the Penal Code.

25 (B) The perpetrator has successfully completed a program of
26 alcohol or drug abuse counseling, if the court determines that
27 counseling is appropriate.

28 (C) The perpetrator has successfully completed a parenting
29 class, if the court determines the class to be appropriate.

30 (D) The perpetrator is on probation or parole, and has or has
31 not complied with the terms and conditions of probation or parole.

32 (E) The perpetrator is restrained by a protective order or
33 restraining order, and has or has not complied with its terms and
34 conditions.

35 (F) The perpetrator of domestic violence has committed further
36 acts of domestic violence.

37 (G) The court has determined, pursuant to Section 6322.5, that
38 the perpetrator is a restrained person in possession or control of a
39 firearm or ammunition in violation of Section 6389, Section 527.9

1 of the Code of Civil Procedure, or Section 18120 of the Penal
2 Code.

3 (c) For purposes of this section, a person has “perpetrated
4 domestic violence” when the person is found by the court to have
5 intentionally or recklessly caused or attempted to cause bodily
6 injury, or sexual assault, or to have placed a person in reasonable
7 apprehension of imminent serious bodily injury to that person or
8 to another, or to have engaged in behavior involving, but not
9 limited to, threatening, striking, harassing, destroying personal
10 property, or disturbing the peace of another, for which a court may
11 issue an ex parte order pursuant to Section 6320 to protect the
12 other party seeking custody of the child or to protect the child and
13 the child’s siblings.

14 (d) (1) For purposes of this section, the requirement of a finding
15 by the court shall be satisfied by, among other things, and not
16 limited to, evidence that a party seeking custody has been convicted
17 within the previous five years, after a trial or a plea of guilty or no
18 contest, of a crime against the other party that comes within the
19 definition of domestic violence contained in Section 6211 and of
20 abuse contained in Section 6203, including, but not limited to, a
21 crime described in subdivision (e) of Section 243 of, or Section
22 261, 273.5, 422, or 646.9 of, or former Section 262 of, the Penal
23 Code.

24 (2) The requirement of a finding by the court shall also be
25 satisfied if a court, whether that court hears or has heard the child
26 custody proceedings or not, has made a finding pursuant to
27 subdivision (a) based on conduct occurring within the previous
28 five years.

29 (e) When a court makes a finding that a party has perpetrated
30 domestic violence, the court may not base its findings solely on
31 conclusions reached by a child custody evaluator or on the
32 recommendation of the Family Court Services staff, but shall
33 consider any relevant, admissible evidence submitted by the parties.

34 (f) (1) It is the intent of the Legislature that this subdivision be
35 interpreted consistently with the decision in *Jaime G. v. H.L.* (2018)
36 25 Cal.App.5th 794, which requires that the court, in determining
37 that the presumption in subdivision (a) has been overcome, make
38 specific findings on each of the factors in subdivision (b).

39 (2) If the court determines that the presumption in subdivision
40 (a) has been overcome, the court shall state its reasons in writing

1 or on the record as to why paragraph (1) of subdivision (b) is
2 satisfied and why the factors in paragraph (2) of subdivision (b),
3 on balance, support the legislative findings in Section 3020.

4 (g) In an evidentiary hearing or trial in which custody orders
5 are sought and where there has been an allegation of domestic
6 violence, the court shall make a determination as to whether this
7 section applies prior to issuing a custody order, unless the court
8 finds that a continuance is necessary to determine whether this
9 section applies, in which case the court may issue a temporary
10 custody order for a reasonable period of time, provided the order
11 complies with Sections 3011 and 3020.

12 (h) In a custody or restraining order proceeding in which a party
13 has alleged that the other party has perpetrated domestic violence
14 in accordance with the terms of this section, the court shall inform
15 the parties of the existence of this section and shall give them a
16 copy of this section prior to custody mediation in the case.

17 ~~SEC. 5.~~

18 *SEC. 6.* Section 6389 of the Family Code is amended to read:

19 6389. (a) A person subject to a protective order, as defined in
20 Section 6218, shall not own, possess, purchase, or receive a firearm
21 or ammunition while that protective order is in effect. A person
22 who owns, possesses, purchases, or receives, or attempts to
23 purchase or receive a firearm or ammunition while the protective
24 order is in effect is punishable pursuant to Section 29825 of the
25 Penal Code.

26 (b) On all forms providing notice that a protective order has
27 been requested or granted, the Judicial Council shall include a
28 notice that, upon service of the order, the respondent shall be
29 ordered to relinquish possession or control of any firearms or
30 ammunition and not to purchase or receive or attempt to purchase
31 or receive any firearms or ammunition for a period not to exceed
32 the duration of the restraining order.

33 (c) (1) Upon issuance of a protective order, as defined in Section
34 6218, the court shall order the respondent to relinquish any firearm
35 or ammunition in the respondent's immediate possession or control
36 or subject to the respondent's immediate possession or control.

37 (2) The relinquishment ordered pursuant to paragraph (1) shall
38 occur by immediately surrendering the firearm or ammunition in
39 a safe manner, upon request of a law enforcement officer, to the
40 control of the officer, after being served with the protective order.

1 A law enforcement officer serving a protective order that indicates
2 that the respondent possesses weapons or ammunition shall request
3 that the firearm or ammunition be immediately surrendered.
4 Alternatively, if a request is not made by a law enforcement officer,
5 the relinquishment shall occur within 24 hours of being served
6 with the order, by either surrendering the firearm or ammunition
7 in a safe manner to the control of local law enforcement officials,
8 or by selling, transferring, or relinquishing for storage pursuant to
9 Section 29830 of the Penal Code, the firearm or ammunition to a
10 licensed gun dealer, as specified in Article 1 (commencing with
11 Section 26700) and Article 2 (commencing with Section 26800)
12 of Chapter 2 of Division 6 of Title 4 of Part 6 of the Penal Code.
13 The law enforcement officer or licensed gun dealer taking
14 possession of the firearm or ammunition pursuant to this
15 subdivision shall issue a receipt to the person relinquishing the
16 firearm or ammunition at the time of relinquishment. A person
17 ordered to relinquish a firearm or ammunition pursuant to this
18 subdivision shall, within 48 hours after being served with the order,
19 do both of the following:

20 (A) File, with the court that issued the protective order, the
21 receipt showing the firearm or ammunition was surrendered to a
22 local law enforcement agency or sold to a licensed gun dealer.
23 Failure to timely file a receipt shall constitute a violation of the
24 protective order.

25 (B) File a copy of the receipt described in subparagraph (A)
26 with the law enforcement agency that served the protective order.
27 Failure to timely file a copy of the receipt shall constitute a
28 violation of the protective order.

29 (3) The forms for protective orders adopted by the Judicial
30 Council and approved by the Department of Justice shall require
31 the petitioner to describe the number, types, and locations of any
32 firearms or ammunition presently known by the petitioner to be
33 possessed or controlled by the respondent.

34 (4) A court holding a hearing on this matter shall review the
35 file to determine whether the receipt has been filed and inquire of
36 the respondent whether they have complied with the requirement.
37 Violations of the firearms prohibition of any restraining order
38 under this section shall be reported to the prosecuting attorney in
39 the jurisdiction where the order has been issued within two business
40 days of the court hearing unless the restrained party provides a

1 receipt showing compliance at a subsequent hearing or by direct
2 filing with the clerk of the court.

3 (5) Every law enforcement agency in the state shall develop,
4 adopt, and implement written policies and standards for law
5 enforcement officers who request immediate relinquishment of
6 firearms or ammunition.

7 (d) If the respondent declines to relinquish possession of a
8 firearm or ammunition based on the assertion of the right against
9 self-incrimination, as provided by the Fifth Amendment to the
10 United States Constitution and Section 15 of Article I of the
11 California Constitution, the court may grant use immunity for the
12 act of relinquishing the firearm or ammunition required under this
13 section.

14 (e) A local law enforcement agency may charge the respondent
15 a fee for the storage of a firearm or ammunition pursuant to this
16 section. This fee shall not exceed the actual cost incurred by the
17 local law enforcement agency for the storage of the firearm or
18 ammunition. For purposes of this subdivision, “actual cost” means
19 expenses directly related to taking possession of a firearm or
20 ammunition, storing the firearm or ammunition, and surrendering
21 possession of the firearm or ammunition to a licensed dealer as
22 defined in Section 26700 of the Penal Code or to the respondent.

23 (f) The restraining order requiring a person to relinquish a
24 firearm or ammunition pursuant to subdivision (c) shall state on
25 its face that the respondent is prohibited from owning, possessing,
26 purchasing, or receiving a firearm or ammunition while the
27 protective order is in effect and that the firearm or ammunition
28 shall be relinquished to the local law enforcement agency for that
29 jurisdiction or sold to a licensed gun dealer, and that proof of
30 surrender or sale shall be filed with the court within a specified
31 period of receipt of the order. The order shall also state on its face
32 the expiration date for relinquishment. This section does not limit
33 a respondent’s right under existing law to petition the court at a
34 later date for modification of the order.

35 (g) The restraining order requiring a person to relinquish a
36 firearm or ammunition pursuant to subdivision (c) shall prohibit
37 the person from possessing or controlling a firearm or ammunition
38 for the duration of the order. At the expiration of the order, the
39 local law enforcement agency shall return possession of the
40 surrendered firearm or ammunition to the respondent, within five

1 days after the expiration of the relinquishment order, unless the
2 local law enforcement agency determines that (1) the firearm or
3 ammunition has been stolen, (2) the respondent is prohibited from
4 possessing a firearm or ammunition because the respondent is in
5 a prohibited class for the possession of firearms or ammunition,
6 as defined in Chapter 2 (commencing with Section 29800) and
7 Chapter 3 (commencing with Section 29900) of Division 9 of Title
8 4 of Part 6 of the Penal Code, Section 30305 of the Penal Code,
9 and Sections 8100 and 8103 of the Welfare and Institutions Code,
10 or (3) another successive restraining order is issued against the
11 respondent under this section. If the local law enforcement agency
12 determines that the respondent is the legal owner of a firearm or
13 ammunition deposited with the local law enforcement agency and
14 is prohibited from possessing a firearm or ammunition, the
15 respondent shall be entitled to sell or transfer the firearm or
16 ammunition to a licensed dealer as defined in Section 26700 of
17 the Penal Code. If the firearm or ammunition has been stolen, the
18 firearm or ammunition shall be restored to the lawful owner upon
19 the owner identifying the firearm and ammunition and providing
20 proof of ownership.

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

1 counseling or other remedial treatment program to deal with any
2 propensity for domestic violence.

3 (i) During the period of the relinquishment order, a respondent
4 is entitled to make one sale of all firearms or ammunition that are
5 in the possession of a local law enforcement agency pursuant to
6 this section. A licensed gun dealer, who presents a local law
7 enforcement agency with a bill of sale indicating that all firearms
8 or ammunition owned by the respondent that are in the possession
9 of the local law enforcement agency have been sold by the
10 respondent to the licensed gun dealer, shall be given possession
11 of those firearms or ammunition, at the location where a
12 respondent's firearms or ammunition are stored, within five days
13 of presenting the local law enforcement agency with a bill of sale.

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

16 (k) (1) The relinquishment of a firearm to a law enforcement
17 agency pursuant to subdivision (g) shall not be subject to the
18 requirements of Section 27545 of the Penal Code.

19 (2) The return of firearms and ammunition by a law enforcement
20 agency pursuant to this section shall be governed by the applicable
21 provisions of Chapter 2 (commencing with Section 33850) of
22 Division 11 of Title 4 of Part 6 of the Penal Code.

23 (l) If the respondent notifies the court that the respondent owns
24 a firearm or ammunition that is not in their immediate possession,
25 the court may limit the order to exclude that firearm or ammunition
26 if the judge is satisfied the respondent is unable to gain access to
27 that firearm or ammunition while the protective order is in effect.

28 (m) A respondent to a protective order who violates an order
29 issued pursuant to this section shall be punished under the
30 provisions of Section 29825 of the Penal Code.

31 ~~SEC. 6.~~

32 *SEC. 7.* Section 1524 of the Penal Code is amended to read:

33 1524. (a) A search warrant may be issued upon any of the
34 following grounds:

35 (1) When the property was stolen or embezzled.

36 (2) When the property or things were used as the means of
37 committing a felony.

38 (3) When the property or things are in the possession of any
39 person with the intent to use them as a means of committing a
40 public offense, or in the possession of another to whom that person

1 may have delivered them for the purpose of concealing them or
2 preventing them from being discovered.

3 (4) When the property or things to be seized consist of an item
4 or constitute evidence that tends to show a felony has been
5 committed, or tends to show that a particular person has committed
6 a felony.

7 (5) When the property or things to be seized consist of evidence
8 that tends to show that sexual exploitation of a child, in violation
9 of Section 311.3, or possession of matter depicting sexual conduct
10 of a person under 18 years of age, in violation of Section 311.11,
11 has occurred or is occurring.

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

13 (7) When a provider of electronic communication service or
14 remote computing service has records or evidence, as specified in
15 Section 1524.3, showing that property was stolen or embezzled
16 constituting a misdemeanor, or that property or things are in the
17 possession of any person with the intent to use them as a means
18 of committing a misdemeanor public offense, or in the possession
19 of another to whom that person may have delivered them for the
20 purpose of concealing them or preventing their discovery.

21 (8) When the property or things to be seized include an item or
22 evidence that tends to show a violation of Section 3700.5 of the
23 Labor Code, or tends to show that a particular person has violated
24 Section 3700.5 of the Labor Code.

25 (9) When the property or things to be seized include a firearm
26 or other deadly weapon at the scene of, or at the premises occupied
27 or under the control of the person arrested in connection with, a
28 domestic violence incident involving a threat to human life or a
29 physical assault as provided in Section 18250. This section does
30 not affect warrantless seizures otherwise authorized by Section
31 18250.

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

36 (11) When the property or things to be seized include a firearm
37 that is owned by, or in the possession of, or in the custody or
38 control of, a person who is subject to the prohibitions regarding
39 firearms or ammunition or both pursuant to Section 6389 of the
40 Family Code, if a prohibited firearm or ammunition or both is

1 possessed, owned, in the custody of, or controlled by a person
2 against whom a protective order has been issued pursuant to
3 Section 6218 of the Family Code, the person has been lawfully
4 served with that order, and the person has failed to relinquish the
5 firearm or ammunition or both as required by law.

6 (12) When the information to be received from the use of a
7 tracking device constitutes evidence that tends to show that either
8 a felony, a misdemeanor violation of the Fish and Game Code, or
9 a misdemeanor violation of the Public Resources Code has been
10 committed or is being committed, tends to show that a particular
11 person has committed a felony, a misdemeanor violation of the
12 Fish and Game Code, or a misdemeanor violation of the Public
13 Resources Code, or is committing a felony, a misdemeanor
14 violation of the Fish and Game Code, or a misdemeanor violation
15 of the Public Resources Code, or will assist in locating an
16 individual who has committed or is committing a felony, a
17 misdemeanor violation of the Fish and Game Code, or a
18 misdemeanor violation of the Public Resources Code. A tracking
19 device search warrant issued pursuant to this paragraph shall be
20 executed in a manner meeting the requirements specified in
21 subdivision (b) of Section 1534.

22 (13) When a sample of the blood of a person constitutes
23 evidence that tends to show a violation of Section 23140, 23152,
24 or 23153 of the Vehicle Code and the person from whom the
25 sample is being sought has refused an officer's request to submit
26 to, or has failed to complete, a blood test as required by Section
27 23612 of the Vehicle Code, and the sample will be drawn from
28 the person in a reasonable, medically approved manner. This
29 paragraph is not intended to abrogate a court's mandate to
30 determine the propriety of the issuance of a search warrant on a
31 case-by-case basis.

32 (14) Beginning January 1, 2016, the property or things to be
33 seized are firearms or ammunition or both that are owned by, in
34 the possession of, or in the custody or control of a person who is
35 the subject of a gun violence restraining order that has been issued
36 pursuant to Division 3.2 (commencing with Section 18100) of
37 Title 2 of Part 6, if a prohibited firearm or ammunition or both is
38 possessed, owned, in the custody of, or controlled by a person
39 against whom a gun violence restraining order has been issued,

1 the person has been lawfully served with that order, and the person
2 has failed to relinquish the firearm as required by law.

3 (15) Beginning January 1, 2018, the property or things to be
4 seized include a firearm that is owned by, or in the possession of,
5 or in the custody or control of, a person who is subject to the
6 prohibitions regarding firearms pursuant to Section 29800, 29805,
7 or 29815 and the court has made a finding pursuant to subdivision
8 (c) of Section 29810 that the person has failed to relinquish the
9 firearm as required by law.

10 (16) When the property or things to be seized are controlled
11 substances or a device, contrivance, instrument, or paraphernalia
12 used for unlawfully using or administering a controlled substance
13 pursuant to the authority described in Section 11472 of the Health
14 and Safety Code.

15 (17) (A) When all of the following apply:

16 (i) A sample of the blood of a person constitutes evidence that
17 tends to show a violation of subdivision (b), (c), (d), (e), or (f) of
18 Section 655 of the Harbors and Navigation Code.

19 (ii) The person from whom the sample is being sought has
20 refused an officer's request to submit to, or has failed to complete,
21 a blood test as required by Section 655.1 of the Harbors and
22 Navigation Code.

23 (iii) The sample will be drawn from the person in a reasonable,
24 medically approved manner.

25 (B) This paragraph is not intended to abrogate a court's mandate
26 to determine the propriety of the issuance of a search warrant on
27 a case-by-case basis.

28 (18) When the property or things to be seized consists of
29 evidence that tends to show that a violation of paragraph (1), (2),
30 or (3) of subdivision (j) of Section 647 has occurred or is occurring.

31 (19) (A) When the property or things to be seized are data, from
32 a recording device installed by the manufacturer of a motor vehicle,
33 that constitutes evidence that tends to show the commission of a
34 felony or misdemeanor offense involving a motor vehicle, resulting
35 in death or serious bodily injury to any person. The data accessed
36 by a warrant pursuant to this paragraph shall not exceed the scope
37 of the data that is directly related to the offense for which the
38 warrant is issued.

39 (B) For the purposes of this paragraph, "recording device" has
40 the same meaning as defined in subdivision (b) of Section 9951

1 of the Vehicle Code. The scope of the data accessible by a warrant
2 issued pursuant to this paragraph shall be limited to the information
3 described in subdivision (b) of Section 9951 of the Vehicle Code.

4 (C) For the purposes of this paragraph, “serious bodily injury”
5 has the same meaning as defined in paragraph (4) of subdivision
6 (f) of Section 243 of the Penal Code.

7 (20) When the property or things to be seized consists of
8 evidence that tends to show that a violation of Section 647.9 has
9 occurred or is occurring. Evidence to be seized pursuant to this
10 paragraph shall be limited to evidence of a violation of Section
11 647.9 and shall not include evidence of a violation of a
12 departmental rule or guideline that is not a public offense under
13 California law.

14 (21) When the property or things to be seized include a firearm
15 or ammunition or both that is owned by, or in the possession of,
16 or in the custody or control of, a person who is subject to the
17 prohibitions regarding firearms pursuant to Section 527.9 of the
18 Code of Civil Procedure, the person has been lawfully served with
19 that order, and the person has failed to relinquish the firearm or
20 ammunition or both as required by law.

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

25 (c) Notwithstanding subdivision (a) or (b), a search warrant
26 shall not be issued for any documentary evidence in the possession
27 or under the control of any person who is a lawyer as defined in
28 Section 950 of the Evidence Code, a physician as defined in Section
29 990 of the Evidence Code, a psychotherapist as defined in Section
30 1010 of the Evidence Code, or a member of the clergy as defined
31 in Section 1030 of the Evidence Code, and who is not reasonably
32 suspected of engaging or having engaged in criminal activity
33 related to the documentary evidence for which a warrant is
34 requested unless the following procedure has been complied with:

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

1 judgment of the special master, fails to provide the items requested,
2 the special master shall conduct a search for the items in the areas
3 indicated in the search warrant.

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

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

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

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

28 (d) (1) As used in this section, a “special master” is an attorney
29 who is a member in good standing of the California State Bar and
30 who has been selected from a list of qualified attorneys that is
31 maintained by the State Bar particularly for the purposes of
32 conducting the searches described in this section. These attorneys
33 shall serve without compensation. A special master shall be
34 considered a public employee, and the governmental entity that
35 caused the search warrant to be issued shall be considered the
36 employer of the special master and the applicable public entity,
37 for purposes of Division 3.6 (commencing with Section 810) of
38 Title 1 of the Government Code, relating to claims and actions
39 against public entities and public employees. In selecting the
40 special master, the court shall make every reasonable effort to

1 ensure that the person selected has no relationship with any of the
2 parties involved in the pending matter. Information obtained by
3 the special master shall be confidential and may not be divulged
4 except in direct response to inquiry by the court.

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

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

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

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

26 (h) No warrant shall issue for any item or items that pertain to
27 an investigation into a prohibited violation, as defined in Section
28 629.51.

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

39 (j) Nothing in this section is intended to limit an attorney's
40 ability to request an in-camera hearing pursuant to the holding of

1 the Supreme Court of California in *People v. Superior Court (Laff)*
2 (2001) 25 Cal.4th 703.

3 (k) 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 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 (l) 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. 7.~~

16 *SEC. 8.* Section 11108.2 of the Penal Code is amended to read:

17 11108.2. (a) A law enforcement agency shall enter or cause
18 to be entered into the Department of Justice Automated Firearms
19 System each firearm that has been reported stolen, lost, found,
20 recovered, held for safekeeping, surrendered pursuant to Section
21 26892, 28050, or 29830, relinquished pursuant to Section 527.9
22 of the Code of Civil Procedure, Section 6389 of the Family Code,
23 Section 18120 of this code, or any other section of law that requires
24 relinquishment or surrender of firearms to that law enforcement
25 agency, or under observation, within seven calendar days after
26 being notified of the precipitating event.

27 (b) Information about a firearm entered into the automated
28 system for firearms shall remain in the system until the reported
29 firearm has been found, recovered, is no longer under observation,
30 or the record is determined to have been entered in error.

31 (c) Any costs incurred by the Department of Justice to
32 implement subdivision (b) shall be reimbursed from funds other
33 than fees charged and collected pursuant to Sections 28225, 28230,
34 and 28233.

35 (d) As used in this section, “law enforcement agency” means a
36 police or sheriff’s department, or any department or agency of the
37 state or any political subdivision thereof that employs any peace
38 officer as defined in Section 830, including, but not limited to, the
39 Department of the California Highway Patrol, the Department of
40 Fish and Wildlife, the University of California or California State

1 University Police Departments, and the police department of any
2 school district, transit district, airport, and harbor, port, or housing
3 authority.

4 ~~SEC. 8.~~

5 *SEC. 9.* Section 18120 of the Penal Code is amended to read:

6 18120. (a) A person subject to a gun violence restraining order
7 issued pursuant to this division shall not have in the person's
8 custody or control, own, purchase, possess, or receive any firearms
9 or ammunition while that order is in effect.

10 (b) (1) Upon issuance of a gun violence restraining order issued
11 pursuant to this division, the court shall order the restrained person
12 to surrender all firearms and ammunition in the restrained person's
13 custody or control, or which the restrained person possesses or
14 owns pursuant to this subdivision.

15 (2) The surrender ordered pursuant to paragraph (1) shall occur
16 by immediately surrendering all firearms and ammunition in a safe
17 manner, upon request of a law enforcement officer, to the control
18 of the officer, after being served with the restraining order. A law
19 enforcement officer serving a gun violence restraining order that
20 indicates that the restrained person possesses firearms or
21 ammunition shall request that all firearms and ammunition be
22 immediately surrendered.

23 (3) If the gun violence restraining order is issued as an ex parte
24 order or order after notice and hearing, and is served by a person
25 other than a law enforcement officer, and if no request is made by
26 a law enforcement officer, the surrender shall occur within 24
27 hours of being served with the order, by surrendering all firearms
28 and ammunition in a safe manner to the control of a local law
29 enforcement agency, selling all firearms and ammunition to a
30 licensed firearms dealer, or transferring all firearms and
31 ammunition to a licensed firearms dealer in accordance with
32 Section 29830.

33 (4) The law enforcement officer or licensed firearms dealer
34 taking possession of firearms or ammunition pursuant to this
35 subdivision shall issue a receipt to the person surrendering the
36 firearm or firearms or ammunition or both at the time of surrender.

37 (5) A person ordered to surrender all firearms and ammunition
38 pursuant to this subdivision shall, within 48 hours after being
39 served with the order, do both of the following:

1 (A) File with the court that issued the gun violence restraining
2 order the original receipt showing all firearms and ammunition
3 have been surrendered to a local law enforcement agency or sold
4 or transferred to a licensed firearms dealer. Failure to timely file
5 a receipt shall constitute a violation of the restraining order.

6 (B) File a copy of the receipt described in subparagraph (A)
7 with the law enforcement agency, if any, that served the gun
8 violence restraining order. Failure to timely file a copy of the
9 receipt shall constitute a violation of the restraining order.

10 (6) When issuing an order pursuant to this subdivision, the court
11 shall provide the person with information on how any firearms or
12 ammunition still in the restrained party's possession are to be
13 relinquished, according to local procedures, and the process for
14 submitting a receipt to the court showing proof of relinquishment.
15 A court holding a hearing on this matter shall review the file to
16 determine whether the receipt has been filed and inquire of the
17 respondent whether they have complied with the requirement.
18 Violations of the firearms prohibition of any restraining order
19 under this section shall be reported to the prosecuting attorney in
20 the jurisdiction where the order has been issued within two business
21 days of the court hearing unless the restrained party provides a
22 receipt showing compliance at a subsequent hearing or by direct
23 filing with the clerk of the court. If the person does not file a receipt
24 with the court within 48 hours after receiving the order for a
25 registered firearm in their possession, the court shall order the
26 clerk of the court to immediately notify, by the most effective
27 means available, appropriate law enforcement officials of the
28 issuance and contents of a protective order, information about the
29 firearm or ammunition, and of any other information the court
30 deems appropriate.

31 (c) (1) Except as provided in paragraph (2), firearms or
32 ammunition surrendered to a law enforcement officer or law
33 enforcement agency pursuant to this section shall be retained by
34 the law enforcement agency until the expiration of a gun violence
35 restraining order that has been issued against the restrained person.
36 Upon expiration of an order, the firearms or ammunition shall be
37 returned to the restrained person in accordance with the provisions
38 of Chapter 2 (commencing with Section 33850) of Division 11 of
39 Title 4. Firearms or ammunition that are not claimed are subject
40 to the requirements of Section 34000.

(2) A restrained person who owns firearms or ammunition that are in the custody of a law enforcement agency pursuant to this section is entitled to sell the firearms or ammunition to a licensed firearms dealer or transfer the firearms or ammunition to a licensed firearms dealer in accordance with Section 29830 if the firearm or firearms or ammunition are otherwise legal to own or possess and the restrained person otherwise has right to title of the firearm or firearms or ammunition.

(d) If a person other than the restrained person claims title to firearms or ammunition surrendered pursuant to this section, and the person is determined by the law enforcement agency to be the lawful owner of the firearm or firearms or ammunition, the firearm or firearms or ammunition shall be returned to the person pursuant to Chapter 2 (commencing with Section 33850) of Division 11 of Title 4.

(e) Within one business day of receiving the receipt referred to in paragraph (4) of subdivision (b), the court that issued the order shall transmit a copy of the receipt to the Department of Justice in a manner and pursuant to a process prescribed by the department.

(f) If the respondent declines to relinquish possession of a firearm or ammunition based on the assertion of the right against self-incrimination, as provided by the Fifth Amendment to the United States Constitution and Section 15 of Article I of the California Constitution, the court may grant use immunity for the act of relinquishing the firearm or ammunition required under this section.

(g) (1) The relinquishment or surrender of a firearm to a law enforcement agency pursuant to this section or the return of a firearm to a person pursuant to this section shall not be subject to the requirements of Section 27545.

(2) Returns of firearms or ammunition pursuant to this section shall be governed by the applicable provisions of Chapter 2 (commencing with Section 33850) of Division 11 of Title 4.

~~SEC. 9.~~

SEC. 10. Section 18120.5 is added to the Penal Code, to read:

18120.5. (a) When relevant information is presented to the court at any noticed hearing that a restrained person has a firearm, the court shall consider that information to determine, by a preponderance of the evidence, whether the person subject to an order defined in Section 136.2 or Division 3.2 (commencing with

1 Section 18100) of Title 2 of Part 6 has a firearm in or subject to
2 their immediate possession or control in violation of the order.

3 (b) (1) In making a determination under this section, the court
4 may consider whether the restrained person filed a firearm
5 relinquishment, storage, or sales receipt or if an exemption from
6 the firearm prohibition was granted.

7 (2) The court may make the determination at any noticed hearing
8 where a restraining order is issued, at a subsequent review hearing,
9 or at any subsequent hearing while the order remains in effect.

10 (3) If the court makes a determination that the restrained person
11 has a firearm in violation of the order, the court must make a
12 written record of the determination and provide a copy to any party
13 who is present at the hearing and, upon request, to any party not
14 present at the hearing.

15 (c) (1) When presented with information under subdivision (a),
16 the court may set a review hearing to determine whether a violation
17 of the order has taken place.

18 (2) The review hearing shall be held within 10 court days after
19 the noticed hearing at which the information was presented. If the
20 restrained person is not present when the court sets the review
21 hearing, the protected person must provide notice of the review
22 hearing to the restrained person at least two court days before the
23 review hearing, in accordance with Section 414.10 of the Code of
24 Civil Procedure, by personal service or by mail to the restrained
25 person's last known address.

26 (3) The court may for good cause extend the date of the review
27 hearing for a reasonable period or remove it from the calendar.

28 (4) The court shall order the restrained person to appear at the
29 review hearing.

30 (5) This section does not prohibit the court from permitting a
31 party or witness to appear through technology that enables remote
32 appearances, as determined by the court.

33 (d) The determination made pursuant to this section may be
34 considered by the court in issuing an order to show cause for
35 contempt pursuant to paragraph (5) of subdivision (a) of Section
36 1209 of the Code of Civil Procedure or an order for monetary
37 sanctions pursuant to Section 177.5 of the Code of Civil Procedure.

38 ~~SEC. 10.~~

39 *SEC. 11.* Section 25555 of the Penal Code is amended to read:

1 25555. (a) Section 25400 does not apply to, or affect, the
2 transportation of a firearm by a person in order to comply with or
3 utilize Section 26556, 26892, 27875, 27920, 27925, 29810, or
4 29830, as it pertains to that firearm.

5 (b) Section 25400 does not apply to or affect the transportation
6 of a firearm by a person in order to comply with paragraph (2) of
7 subdivision (e) of Section 32000 as it pertains to that firearm.

8 (c) Section 25400 does not apply to, or affect the transportation
9 of, a firearm by a person in order to comply with Section 6389 of
10 the Family Code.

11 (d) Section 25400 does not apply to, or affect the transportation
12 of, a firearm by a person in order to comply with Section 527.9 of
13 the Code of Civil Procedure.

14 (e) Section 25400 does not apply to, or affect the transportation
15 of, a firearm by a person in order to comply with Section 18120.

16 ~~SEC. 11.~~

17 *SEC. 12.* Section 26379 of the Penal Code is amended to read:

18 26379. Paragraph (1) of subdivision (a) of Section 26350 does
19 not apply to, or affect, the open carrying of an unloaded handgun
20 incident to any of the following:

21 (a) Complying with Section 27560 or 27565, as it pertains to
22 that handgun.

23 (b) Section 28000, as it pertains to that handgun.

24 (c) Section 27850 or 31725, as it pertains to that handgun.

25 (d) Complying with Section 27875, as it pertains to that
26 handgun.

27 (e) Complying with or utilizing Section 26556, 26892, 27920,
28 27925, 29810, or 29830, as it pertains to that handgun.

29 (f) Complying with paragraph (2) of subdivision (e) of Section
30 32000, as it pertains to that handgun.

31 (g) Complying with Section 6389 of the Family Code, as it
32 pertains to that handgun.

33 (h) Complying with Section 527.9 of the Code of Civil
34 Procedure, as it pertains to that handgun.

35 ~~SEC. 12.~~

36 *SEC. 13.* Section 26405 of the Penal Code is amended to read:

37 26405. Section 26400 does not apply to, or affect, the carrying
38 of an unloaded firearm that is not a handgun in any of the following
39 circumstances:

1 (a) By a person when carried within a place of business, a place
2 of residence, or on private real property, if that person, by virtue
3 of subdivision (a) of Section 25605, may carry a firearm within
4 that place of business, place of residence, or on that private real
5 property owned or lawfully occupied by that person.

6 (b) By a person when carried within a place of business, a place
7 of residence, or on private real property, if done with the
8 permission of a person who, by virtue of subdivision (a) of Section
9 25605, may carry a firearm within that place of business, place of
10 residence, or on that private real property owned or lawfully
11 occupied by that person.

12 (c) When the firearm is either in a locked container or encased
13 and it is being transported directly between places where a person
14 is not prohibited from possessing that firearm and the course of
15 travel shall include only those deviations between authorized
16 locations as are reasonably necessary under the circumstances.

17 (d) If the person possessing the firearm reasonably believes that
18 they are in grave danger because of circumstances forming the
19 basis of a current restraining order issued by a court against another
20 person or persons who has or have been found to pose a threat to
21 the person's life or safety. This subdivision may not apply when
22 the circumstances involve a mutual restraining order issued
23 pursuant to Division 10 (commencing with Section 6200) of the
24 Family Code absent a factual finding of a specific threat to the
25 person's life or safety. Upon a trial for violating Section 26400,
26 the trier of fact shall determine whether the defendant was acting
27 out of a reasonable belief that they were in grave danger.

28 (e) By a peace officer or an honorably retired peace officer if
29 that officer may carry a concealed firearm pursuant to Article 2
30 (commencing with Section 25450) of Chapter 2, or a loaded firearm
31 pursuant to Article 3 (commencing with Section 25900) of Chapter
32 3.

33 (f) By a person to the extent that person may openly carry a
34 loaded firearm that is not a handgun pursuant to Article 4
35 (commencing with Section 26000) of Chapter 3.

36 (g) As merchandise by a person who is engaged in the business
37 of manufacturing, importing, wholesaling, repairing, or dealing in
38 firearms and who is licensed to engage in that business, or the
39 authorized representative or authorized agent of that person, while
40 engaged in the lawful course of the business.

1 (h) By a duly authorized military or civil organization, or the
2 members thereof, while parading or while rehearsing or practicing
3 parading, when at the meeting place of the organization.

4 (i) By a member of a club or organization organized for the
5 purpose of practicing shooting at targets upon established target
6 ranges, whether public or private, while the members are using
7 firearms that are not handguns upon the target ranges or incident
8 to the use of a firearm that is not a handgun at that target range.

9 (j) By a licensed hunter while engaged in hunting or while
10 transporting that firearm when going to or returning from that
11 hunting expedition.

12 (k) Incident to transportation of a handgun by a person operating
13 a licensed common carrier, or by an authorized agent or employee
14 thereof, when transported in conformance with applicable federal
15 law.

16 (l) By a member of an organization chartered by the Congress
17 of the United States or a nonprofit mutual or public benefit
18 corporation organized and recognized as a nonprofit tax-exempt
19 organization by the Internal Revenue Service while on official
20 parade duty or ceremonial occasions of that organization or while
21 rehearsing or practicing for official parade duty or ceremonial
22 occasions.

23 (m) Within a gun show conducted pursuant to Article 1
24 (commencing with Section 27200) and Article 2 (commencing
25 with Section 27300) of Chapter 3 of Division 6.

26 (n) Within a school zone, as defined in Section 626.9, if that
27 carrying is not prohibited by Section 626.9.

28 (o) When in accordance with the provisions of Section 171b.

29 (p) By a person while engaged in the act of making or attempting
30 to make a lawful arrest.

31 (q) By a person engaged in firearms-related activities, while on
32 the premises of a fixed place of business that is licensed to conduct
33 and conducts, as a regular course of its business, activities related
34 to the sale, making, repair, transfer, pawn, or the use of firearms,
35 or related to firearms training.

36 (r) By an authorized participant in, or an authorized employee
37 or agent of a supplier of firearms for, a motion picture, television,
38 or video production or entertainment event, when the participant
39 lawfully uses that firearm as part of that production or event, as
40 part of rehearsing or practicing for participation in that production

1 or event, or while the participant or authorized employee or agent
2 is at that production or event, or rehearsal or practice for that
3 production or event.

4 (s) Incident to obtaining an identification number or mark
5 assigned for that firearm from the Department of Justice pursuant
6 to Section 23910.

7 (t) At an established public target range while the person is
8 using that firearm upon that target range.

9 (u) By a person when that person is summoned by a peace
10 officer to assist in making arrests or preserving the peace, while
11 the person is actually engaged in assisting that officer.

12 (v) Incident to any of the following:

13 (1) Complying with Section 27560 or 27565, as it pertains to
14 that firearm.

15 (2) Section 28000, as it pertains to that firearm.

16 (3) Section 27850 or 31725, as it pertains to that firearm.

17 (4) Complying with Section 27875, as it pertains to that firearm.

18 (5) Complying with or utilizing Section 26556, 26892, 27920,
19 27925, 27966, 29810, or 29830, as it pertains to that firearm.

20 (6) Complying with Section 6389 of the Family Code, as it
21 pertains to that firearm.

22 (7) Complying with Section 527.9 of the Code of Civil
23 Procedure, as it pertains to that firearm.

24 (8) Complying with Section 18120, as it pertains to that firearm.

25 (w) Incident to, and in the course and scope of, training of, or
26 by an individual to become a sworn peace officer as part of a course
27 of study approved by the Commission on Peace Officer Standards
28 and Training.

29 (x) Incident to, and in the course and scope of, training of, or
30 by an individual to become licensed pursuant to Chapter 4
31 (commencing with Section 26150) as part of a course of study
32 necessary or authorized by the person authorized to issue the
33 license pursuant to that chapter.

34 (y) Incident to and at the request of a sheriff, chief, or other
35 head of a municipal police department.

36 (z) If all of the following conditions are satisfied:

37 (1) The open carrying occurs at an auction, raffle, or similar
38 event of a nonprofit public benefit or mutual benefit corporation
39 at which firearms are auctioned, raffled, or otherwise sold to fund

1 the activities of that corporation or the local chapters of that
2 corporation.

3 (2) The unloaded firearm that is not a handgun is to be
4 auctioned, raffled, or otherwise sold for that nonprofit public
5 benefit or mutual benefit corporation.

6 (3) The unloaded firearm that is not a handgun is to be delivered
7 by a person licensed pursuant to, and operating in accordance with,
8 Sections 26700 to 26915, inclusive.

9 (aa) Pursuant to paragraph (3) of subdivision (b) of Section
10 171c.

11 (ab) Pursuant to Section 171d.

12 (ac) Pursuant to subparagraph (F) of paragraph (1) of subdivision
13 (c) of Section 171.7.

14 (ad) On publicly owned land, if the possession and use of an
15 unloaded firearm that is not a handgun is specifically permitted
16 by the managing agency of the land and the person carrying that
17 firearm is in lawful possession of that firearm.

18 (ae) By any of the following:

19 (1) The carrying of an unloaded firearm that is not a handgun
20 that is regulated pursuant to Chapter 1 (commencing with Section
21 18710) of Division 5 of Title 2 by a person who holds a permit
22 issued pursuant to Article 3 (commencing with Section 18900) of
23 that chapter, if the carrying of that firearm is conducted in
24 accordance with the terms and conditions of the permit.

25 (2) The carrying of an unloaded firearm that is not a handgun
26 that is regulated pursuant to Chapter 2 (commencing with Section
27 30500) of Division 10 by a person who holds a permit issued
28 pursuant to Section 31005, if the carrying of that firearm is
29 conducted in accordance with the terms and conditions of the
30 permit.

31 (3) The carrying of an unloaded firearm that is not a handgun
32 that is regulated pursuant to Chapter 6 (commencing with Section
33 32610) of Division 10 by a person who holds a permit issued
34 pursuant to Section 32650, if the carrying of that firearm is
35 conducted in accordance with the terms and conditions of the
36 permit.

37 (4) The carrying of an unloaded firearm that is not a handgun
38 that is regulated pursuant to Article 2 (commencing with Section
39 33300) of Chapter 8 of Division 10 by a person who holds a permit
40 issued pursuant to Section 33300, if the carrying of that firearm is

1 conducted in accordance with the terms and conditions of the
2 permit.

3 (af) By a licensed hunter while actually engaged in training a
4 dog for the purpose of using the dog in hunting that is not
5 prohibited by law, or while transporting the firearm while going
6 to or returning from that training.

7 (ag) Pursuant to the provisions of subdivision (d) of Section
8 171.5.

9 (ah) By a person who is engaged in the business of
10 manufacturing ammunition and who is licensed to engage in that
11 business, or the authorized representative or authorized agent of
12 that person, while the firearm is being used in the lawful course
13 and scope of the licensee's activities as a person licensed pursuant
14 to Chapter 44 (commencing with Section 921) of Title 18 of the
15 United States Code and regulations issued pursuant thereto.

16 (ai) On the navigable waters of this state that are held in public
17 trust, if the possession and use of an unloaded firearm that is not
18 a handgun is not prohibited by the managing agency thereof and
19 the person carrying the firearm is in lawful possession of the
20 firearm.

21 ~~SEC. 13.~~

22 *SEC. 14.* Section 26540 of the Penal Code is amended to read:

23 26540. (a) Section 26500 does not apply to sales, deliveries,
24 transfers, or returns of firearms made pursuant to any of the
25 following:

26 (1) Sections 18000 and 18005.

27 (2) Division 4 (commencing with Section 18250) of Title 2.

28 (3) Section 29810.

29 (4) Chapter 2 (commencing with Section 33850) of Division
30 11.

31 (5) Sections 34005 and 34010.

32 (b) Section 26500 does not apply to the sale, delivery, or transfer
33 of a firearm to a dealer to comply with Section 6389 of the Family
34 Code.

35 (c) Section 26500 does not apply to the sale, delivery, or transfer
36 of a firearm to a dealer to comply with Section 527.9 of the Code
37 of Civil Procedure.

38 (d) Section 26500 does not apply to the sale, delivery, or transfer
39 of a firearm to a dealer to comply with Section 18120.

~~SEC. 14.~~

SEC. 15. Section 28100 of the Penal Code is amended to read:

28100. (a) As required by the Department of Justice, every dealer shall keep a register or record of electronic or telephonic transfer in which shall be entered the information prescribed in Article 2 (commencing with Section 28150).

(b) This section shall not apply to any of the following transactions:

(1) The loan of an unloaded firearm by a dealer to a person who possesses a valid entertainment firearms permit issued pursuant to Chapter 2 (commencing with Section 29500) of Division 8, for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event.

(2) The delivery of an unloaded firearm by a dealer to a gunsmith for service or repair.

(3) Until January 1, 2014, the sale, delivery, or transfer of an unloaded firearm, other than a handgun, by a dealer to another dealer, upon proof of compliance with the requirements of Section 27555.

(4) The sale, delivery, or transfer of an unloaded firearm by a dealer who sells, delivers, or transfers the firearm to a person who resides outside this state and is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(5) The sale, delivery, or transfer of an unloaded firearm by a dealer to a wholesaler if that firearm is being returned to the wholesaler and is intended as merchandise in the wholesaler's business.

(6) The sale, delivery, or transfer of an unloaded firearm by a dealer to another dealer, upon proof of compliance with the requirements of Section 27555, if the firearm is intended as merchandise in the receiving dealer's business.

(7) Until January 1, 2014, the sale, delivery, or transfer of an unloaded firearm, other than a handgun, by a dealer to themselves.

(8) The loan of an unloaded firearm by a dealer who also operates a target facility which holds a business or regulatory license on the premises of the building designated in the license or whose building designated in the license is on the premises of any club or organization organized for the purpose of practicing shooting at targets upon established ranges, whether public or

1 private, to a person at that target facility or club or organization,
2 if the firearm is kept at all times within the premises of the target
3 range or on the premises of the club or organization.

4 (9) The loan of an unloaded firearm by a dealer to a
5 consultant-evaluator, if the loan does not exceed 45 days from the
6 date of delivery of the firearm by the dealer to the
7 consultant-evaluator.

8 (10) The return of an unloaded firearm to the owner of that
9 firearm by a dealer, if the owner initially delivered the firearm to
10 the dealer for service or repair.

11 (11) The sale, delivery, or transfer of an unloaded firearm by a
12 dealer to a person licensed as an importer or manufacturer pursuant
13 to Chapter 44 (commencing with Section 921) of Title 18 of the
14 United States Code and any regulations issued pursuant thereto.

15 (12) The delivery of an unloaded firearm to a law enforcement
16 agency pursuant to subdivision (e) or (f) of Section 28050.

17 (13) The delivery of an unloaded firearm to a law enforcement
18 agency pursuant to subdivision (e) of Section 26892.

19 (14) The delivery of an unloaded firearm to a law enforcement
20 agency pursuant to paragraph (3) of subdivision (f) of Section
21 29830.

22 (c) A violation of this section is a misdemeanor.

23 ~~SEC. 15.~~

24 *SEC. 16.* Section 29810 of the Penal Code is amended to read:

25 29810. (a) (1) Upon conviction of any offense that renders a
26 person subject to Section 29800, 29805, or 29815, the person shall
27 relinquish all firearms they own, possess, or have under their
28 custody or control in the manner provided in this section within
29 48 hours of the conviction if the defendant remains out of custody
30 or within 14 days of the conviction if the defendant is in custody.

31 (2) The court shall, upon conviction of a defendant for an offense
32 described in subdivision (a), instruct the defendant that they are
33 prohibited from owning, purchasing, receiving, possessing, or
34 having under their custody or control, any firearms, ammunition,
35 and ammunition feeding devices, including, but not limited to,
36 magazines, and shall order the defendant to relinquish all firearms
37 in the manner provided in this section. The court shall also provide
38 the defendant with a Prohibited Persons Relinquishment Form
39 developed by the Department of Justice.

1 (3) Using the Prohibited Persons Relinquishment Form, the
2 defendant shall name a designee and grant the designee power of
3 attorney for the purpose of transferring or disposing of any
4 firearms. The designee shall be either a local law enforcement
5 agency or a consenting third party who is not prohibited from
6 possessing firearms under state or federal law. The designee shall,
7 within the time periods specified in subdivisions (d) and (e),
8 surrender the firearms to the control of a local law enforcement
9 agency, sell the firearms to a licensed firearms dealer, or transfer
10 the firearms for storage to a firearms dealer pursuant to Section
11 29830.

12 (b) The Prohibited Persons Relinquishment Form shall do all
13 of the following:

14 (1) Inform the defendant that they are prohibited from owning,
15 purchasing, receiving, possessing, or having under their custody
16 or control, any firearms, ammunition, and, if applicable,
17 ammunition feeding devices, including, but not limited to,
18 magazines, and that they shall relinquish all firearms through a
19 designee within the time periods set forth in subdivision (d) or (e)
20 by surrendering the firearms to the control of a local law
21 enforcement agency, selling the firearms to a licensed firearms
22 dealer, or transferring the firearms for storage to a firearms dealer
23 pursuant to Section 29830.

24 (2) Inform the defendant that any cohabitant of the defendant
25 who owns firearms must store those firearms in accordance with
26 Section 25135.

27 (3) Require the defendant to declare any firearms that they
28 owned, possessed, or had under their custody or control at the time
29 of their conviction, and require the defendant to describe the
30 firearms and provide all reasonably available information about
31 the location of the firearms to enable a designee or law enforcement
32 officials to locate the firearms.

33 (4) Require the defendant to name a designee, if the defendant
34 declares that they owned, possessed, or had under their custody
35 or control any firearms at the time of their conviction, and grant
36 the designee power of attorney for the purpose of transferring or
37 disposing of all firearms.

38 (5) Require the designee to indicate their consent to the
39 designation and, except a designee that is a law enforcement

1 agency, to declare under penalty of perjury that they are not
2 prohibited from possessing any firearms under state or federal law.

3 (6) Require the designee to state the date each firearm was
4 relinquished and the name of the party to whom it was relinquished,
5 and to attach receipts from the law enforcement officer or licensed
6 firearms dealer who took possession of the relinquished firearms.

7 (7) Inform the defendant and the designee of the obligation to
8 submit the completed Prohibited Persons Relinquishment Form
9 to the assigned probation officer within the time periods specified
10 in subdivisions (d) and (e).

11 (c) (1) When a defendant is convicted of an offense described
12 in subdivision (a), the court shall immediately assign the matter
13 to a probation officer to investigate whether the Automated
14 Firearms System or other credible information, such as a police
15 report, reveals that the defendant owns, possesses, or has under
16 their custody or control any firearms. The assigned probation
17 officer shall receive the Prohibited Persons Relinquishment Form
18 from the defendant or the defendant's designee, as applicable, and
19 ensure that the Automated Firearms System has been properly
20 updated to indicate that the defendant has relinquished those
21 firearms.

22 (2) Prior to final disposition or sentencing in the case, the
23 assigned probation officer shall report to the court and the
24 prosecuting attorney whether the defendant has properly complied
25 with the requirements of this section by relinquishing all firearms
26 identified by the probation officer's investigation or declared by
27 the defendant on the Prohibited Persons Relinquishment Form,
28 and by timely submitting a completed Prohibited Persons
29 Relinquishment Form. The probation officer shall also report to
30 the Department of Justice on a form to be developed by the
31 department whether the Automated Firearms System has been
32 updated to indicate which firearms have been relinquished by the
33 defendant.

34 (3) If the report of the probation officer does not confirm
35 relinquishment of firearms registered in the defendant's name, the
36 court shall take one of the following actions:

37 (A) If the court finds probable cause, after a warrant request
38 has been submitted pursuant to Section 1524, that the defendant
39 has failed to relinquish any firearms as required, the court shall
40 order a search warrant for, and removal of, any firearms at any

1 location where the judge has probable cause to believe the
2 defendant's firearms are located. The court shall set a court date
3 to confirm relinquishment of all firearms. The search warrant shall
4 be executed within 10 days pursuant to subdivision (a) of Section
5 1534.

6 (B) If the court finds good cause to extend the time for providing
7 proof of relinquishment, the court shall set a court date within 14
8 days for the defendant to provide proof of relinquishment.

9 (C) If the court finds additional investigation is needed, the
10 court shall refer the matter to the prosecuting attorney and set a
11 court date within 14 days for status review.

12 (4) Prior to final disposition or sentencing in the case, the court
13 shall confirm that the defendant has relinquished all firearms as
14 required, and that the court has received a completed Prohibited
15 Persons Relinquishment Form, along with the receipts described
16 in paragraph (1) of subdivision (d) or paragraph (1) of subdivision
17 (e). The court shall ensure that these findings are included in the
18 abstract of judgment. If necessary to avoid a delay in sentencing,
19 the court may make and enter these findings within 14 days of
20 sentencing.

21 (5) Failure by a defendant to timely file the completed Prohibited
22 Persons Relinquishment Form with the assigned probation officer
23 shall constitute an infraction punishable by a fine not exceeding
24 one hundred dollars (\$100).

25 (d) The following procedures shall apply to any defendant who
26 is a prohibited person within the meaning of paragraph (1) of
27 subdivision (a) who does not remain in custody at any time within
28 the 48-hour period following conviction:

29 (1) The designee shall dispose of any firearms the defendant
30 owns, possesses, or has under their custody or control within 48
31 hours of the conviction by surrendering the firearms to the control
32 of a local law enforcement agency, selling the firearms to a licensed
33 firearms dealer, or transferring the firearms for storage to a firearms
34 dealer pursuant to Section 29830, in accordance with the wishes
35 of the defendant. Any proceeds from the sale of the firearms shall
36 become the property of the defendant. The law enforcement officer
37 or licensed dealer taking possession of any firearms pursuant to
38 this subdivision shall issue a receipt to the designee describing the
39 firearms and listing any serial number or other identification on
40 the firearms at the time of surrender.

(2) If the defendant owns, possesses, or has under their custody or control any firearms to relinquish, the defendant's designee shall submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer within 48 hours following the conviction, along with the receipts described in paragraph (1) of subdivision (d) showing the defendant's firearms were surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer.

(3) If the defendant does not own, possess, or have under their custody or control any firearms to relinquish, they shall, within 48 hours following conviction, submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, with a statement affirming that they have no firearms to be relinquished.

(e) The following procedures shall apply to any defendant who is a prohibited person within the meaning of paragraph (1) of subdivision (a) who is in custody at any point within the 48-hour period following conviction:

(1) The designee shall dispose of any firearms the defendant owns, possesses, or has under their custody or control within 14 days of the conviction by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830, in accordance with the wishes of the defendant. Any proceeds from the sale of the firearms shall become the property of the defendant. The law enforcement officer or licensed dealer taking possession of any firearms pursuant to this subdivision shall issue a receipt to the designee describing the firearms and listing any serial number or other identification on the firearms at the time of surrender.

(2) If the defendant owns, possesses, or has under their custody or control any firearms to relinquish, the defendant's designee shall submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, within 14 days following conviction, along with the receipts described in paragraph (1) of subdivision (e) showing the defendant's firearms were surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer.

(3) If the defendant does not own, possess, or have under their custody or control any firearms to relinquish, they shall, within 14

1 days following conviction, submit the completed Prohibited
2 Persons Relinquishment Form to the assigned probation officer,
3 with a statement affirming that they have no firearms to be
4 relinquished.

5 (4) If the defendant is released from custody during the 14 days
6 following conviction and a designee has not yet taken temporary
7 possession of each firearm to be relinquished as described above,
8 the defendant shall, within five days following their release,
9 relinquish each firearm required to be relinquished pursuant to
10 paragraph (1) of subdivision (d).

11 (f) For good cause, the court may shorten or enlarge the time
12 periods specified in subdivisions (d) and (e), enlarge the time
13 period specified in paragraph (3) of subdivision (c), or allow an
14 alternative method of relinquishment.

15 (g) The defendant shall not be subject to prosecution for
16 unlawful possession of any firearms declared on the Prohibited
17 Persons Relinquishment Form if the firearms are relinquished as
18 required.

19 (h) Any firearms that would otherwise be subject to
20 relinquishment by a defendant under this section, but which are
21 lawfully owned by a cohabitant of the defendant, shall be exempt
22 from relinquishment, provided the defendant is notified that the
23 cohabitant must store the firearm in accordance with Section 25135.

24 (i) A law enforcement agency shall update the Automated
25 Firearms System to reflect any firearms that were relinquished to
26 the agency pursuant to this section. A law enforcement agency
27 shall retain a firearm that was relinquished to the agency pursuant
28 to this section for 30 days after the date the firearm was
29 relinquished. After the 30-day period has expired, the firearm is
30 subject to destruction, retention, or other transfer by the agency,
31 except upon the certificate of a judge of a court of record, or of
32 the district attorney of the county, that the retention of the firearm
33 is necessary or proper to the ends of justice, or if the defendant
34 provides written notice of an intent to appeal a conviction for an
35 offense described in subdivision (a), or if the Automated Firearms
36 System indicates that the firearm was reported lost or stolen by
37 the lawful owner. If the firearm was reported lost or stolen, the
38 firearm shall be restored to the lawful owner, as soon as its use as
39 evidence has been served, upon the lawful owner's identification
40 of the weapon and proof of ownership, and after the law

1 enforcement agency has complied with Chapter 2 (commencing
2 with Section 33850) of Division 11 of Title 4. The agency shall
3 notify the Department of Justice of the disposition of relinquished
4 firearms pursuant to Section 34010.

5 (j) A city, county, or city and county, or a state agency may
6 adopt a regulation, ordinance, or resolution imposing a charge
7 equal to its administrative costs relating to the seizure, impounding,
8 storage, or release of a firearm pursuant to Section 33880.

9 (k) If a person declines to relinquish possession of a firearm or
10 ammunition based on the assertion of the right against
11 self-incrimination, as provided by the Fifth Amendment to the
12 United States Constitution and Section 15 of Article I of the
13 California Constitution, the court may grant use immunity for the
14 act of relinquishing the firearm or ammunition required under this
15 section.

16 ~~SEC. 16.~~

17 *SEC. 17.* Section 29830 of the Penal Code is amended to read:

18 29830. (a) A person who is prohibited from owning or
19 possessing a firearm, ammunition feeding device, or ammunition
20 pursuant to any law, may transfer or cause to be transferred, any
21 firearm, ammunition feeding device, or ammunition in their
22 possession, or of which they are the owner, to a firearms dealer
23 licensed pursuant to Sections 26700 to 26915, inclusive, or may
24 transfer ammunition to an ammunition vendor, licensed pursuant
25 to Sections 30385 to 30395, inclusive, for storage during the
26 duration of the prohibition, if the prohibition on owning or
27 possessing the firearm, ammunition feeding device, or ammunition
28 will expire on a specific ascertainable date, whether or not specified
29 in the court order, or pursuant to Section 29800, 29805, or 29810.

30 (b) A firearms dealer or ammunition vendor who stores a
31 firearm, ammunition feeding device, or ammunition pursuant to
32 subdivision (a), may charge the owner a reasonable fee for the
33 storage of the firearm, ammunition feeding device, or ammunition.

34 (c) A firearms dealer or ammunition vendor who stores a
35 firearm, ammunition feeding device, or ammunition pursuant to
36 subdivision (a) shall notify the Department of Justice of the date
37 that the firearms dealer or ammunition vendor has taken possession
38 of the firearm, ammunition feeding device, or ammunition.

39 (d) Any firearm that is returned by a dealer to the owner of the
40 firearm pursuant to this section shall be returned in accordance

1 with the procedures set forth in Section 27540 and Article 1
2 (commencing with Section 26700) and Article 2 (commencing
3 with Section 26800) of Chapter 2 of Division 6.

4 (e) Any ammunition that is returned by a firearms dealer or
5 ammunition vendor to the owner of the ammunition pursuant to
6 this section shall be returned in accordance with the procedures
7 set forth in Article 4 (commencing with Section 30370) of Chapter
8 1 of Division 10.

9 (f) If the dealer cannot legally return the firearm to the owner,
10 then the following procedure shall apply:

11 (1) The owner of the firearm may request, and the dealer shall
12 grant, that the dealer retain possession of the firearm for a period
13 of up to 45 days so that the owner may designate a person to take
14 possession of that firearm in accordance with Section 27540. This
15 45-day period shall be in addition to the waiting period described
16 in Sections 26815 and 27540, and any time necessary to process
17 a transaction.

18 (2) If, before the end of the 45-day period, the owner designates
19 a person to receive the firearm and that person completes an
20 application to purchase, the dealer shall process the transaction in
21 accordance with the provisions of Section 27540.

22 (3) If the owner of the firearm does not request that the firearm
23 be held by the dealer pursuant to this subdivision, the firearm
24 cannot be delivered to the designated person, or if the 45-day period
25 expires without action by the person loaning the firearm, the dealer
26 shall forthwith deliver the firearm to the sheriff of the county or
27 the chief of police or other head of a municipal police department
28 of any city or city and county where the dealership is located, who
29 shall then dispose of the firearm in the manner provided by
30 Sections 18000, 18005, and 34000.

31 (g) If the dealer or ammunition vendor cannot legally return the
32 ammunition or ammunition feeding device, then the following
33 procedure shall apply:

34 (1) The owner of the ammunition may request, and the dealer
35 or ammunition vendor shall grant, that the dealer or ammunition
36 vendor retain possession of the ammunition for a period of up to
37 45 days so that the owner of the ammunition or ammunition feeding
38 device may designate a person to take possession of that
39 ammunition.

(2) If, before the end of the 45-day period, the owner of the ammunition or ammunition feeding device designates a person to receive the ammunition and ammunition feeding device the ammunition and ammunition feeding device shall be transferred by that firearms dealer or ammunition vendor to the new owner of the same in accordance with the procedures set forth in Article 4 (commencing with Section 30370) of Chapter 1 of Division 10.

(3) If, before the end of the 45-day period, the only property is an ammunition feeding device, the owner designates a person to receive the ammunition feeding device, it shall be transferred by that firearms dealer or ammunition vendor to the new owner of the same in accordance with any procedures, if any, set forth by the Department of Justice.

(4) If the owner of the ammunition or ammunition feeding device, or both, does not request that the ammunition or ammunition feeding device, or both, be held by the dealer or ammunition vendor pursuant to this subdivision or the ammunition or ammunition feeding device, or both, cannot be delivered to the designated person, or the 45-day period expires without action by the owner, the dealer or ammunition vendor shall forthwith deliver the ammunition or ammunition feeding device, or both, to the sheriff of the county or the chief of police or other head of a municipal police department of any city or city and county where the dealership is located, who shall then dispose of the ammunition or ammunition feeding device in the manner provided by Sections 18000, 18005, and 34000.

~~SEC. 17.~~

SEC. 18. Section 30342 of the Penal Code is amended to read:

30342. (a) Commencing January 1, 2018, a valid ammunition vendor license shall be required for any person, firm, corporation, or other business enterprise to sell more than 500 rounds of ammunition in any 30-day period.

(b) Subdivision (a) does not apply to, or affect the sale of, ammunition to a person who holds a valid ammunition vendor license by a person in order to comply with Section 6389 of the Family Code.

(c) Subdivision (a) does not apply to, or affect the sale of, ammunition to a person who holds a valid ammunition vendor license by a person in order to comply with Section 527.9 of the Code of Civil Procedure.

1 (d) Subdivision (a) does not apply to, or affect the sale of,
2 ammunition to a person who holds a valid ammunition vendor
3 license by a person in order to comply with Section 18120.

4 (e) A violation of this section is a misdemeanor.

5 ~~SEC. 18.~~

6 *SEC. 19.* The Legislature finds and declares that the following
7 amendments in this act do not constitute a change in, but are
8 declaratory of, existing law:

9 (a) The amendments made to Section 6389 of the Family Code.

10 (b) The amendments made to paragraphs (11) and (15) of
11 subdivision (a) of Section 1524 of the Penal Code.

12 (c) The amendments made to Section 28100 of the Penal Code.

13 (d) The amendments made to Section 29810 of the Penal Code.

14 (e) The amendments made to Section 29830 of the Penal Code.

15 *SEC. 20. If the Commission on State Mandates determines that*
16 *this act contains costs mandated by the state, reimbursement to*
17 *local agencies and school districts for those costs shall be made*
18 *pursuant to Part 7 (commencing with Section 17500) of Division*
19 *4 of Title 2 of the Government Code.*