

ASSEMBLY BILL

No. 1078

Introduced by Assembly Member Berman

February 20, 2025

An act to amend Section 26202 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1078, as introduced, Berman. Firearms.

Existing law prohibits a person from carrying a concealed firearm or carrying a loaded firearm in public. Existing law authorizes a licensing authority, as specified, if certain requirements and other criteria are met, including, among other things, the applicant has completed a specified course of training, to issue a license to carry a concealed handgun or to carry a loaded and exposed handgun, as specified. Existing law requires a licensing authority to conduct an investigation to determine whether an applicant can receive or renew a license that includes, among other things, a review of all information provided in the application for a license, and a review of the information in the California Restraining and Protective Order System. Existing law prohibits the licensing authority from issuing a license if, among other things, the applicant has been convicted of contempt of court or has been subject to a restraining order, protective order, or other type of court order, unless that order expired or was vacated or otherwise canceled more than 5 years prior to receipt of the completed application.

This bill would require the review of the California Restraining and Protective Order System to include information concerning whether the applicant is reasonably likely to be a danger to self, others, or the community at large, as specified. By imposing new duties on local

licensing authorities, this bill would create a state-mandated local program.

The bill would additionally exempt from the licensure prohibition for applicants previously subject to a restraining order, protective order, or other type of court order, applicants who were previously subject to an above-described order that did not receive notice and an opportunity to be heard before the order was issued.

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: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 26202 of the Penal Code is amended to
2 read:

3 26202. (a) Unless a court makes a contrary determination
4 pursuant to Section 26206, an applicant shall be deemed to be a
5 disqualified person and cannot receive or renew a license pursuant
6 to Section 26150, 26155, or 26170 if the applicant:

7 (1) Is reasonably likely to be a danger to self, others, or the
8 community at large, as demonstrated by anything in the application
9 for a license or through the investigation described in subdivision
10 (b), or as shown by the results of any psychological assessment,
11 including, but not limited to, the assessment described in
12 subdivision (e) of Section 26190.

13 (2) Has been convicted of contempt of court under Section 166.

14 (3) Has been subject to any restraining order, protective order,
15 or other type of court order issued pursuant to the following
16 statutory provisions, unless that order expired or was vacated or
17 otherwise canceled more than five years prior to the licensing
18 authority receiving the completed ~~application~~: *application, or that*
19 *order expired or was vacated or otherwise canceled and the*
20 *applicant did not receive notice and an opportunity to be heard*
21 *before the order was issued:*

1 (A) Section 646.91 or Part 3 (commencing with Section 6240)
2 of Division 10 of the Family Code.

3 (B) Part 4 (commencing with Section 6300) of Division 10 of
4 the Family Code.

5 (C) Sections 136.2 and 18100.

6 (D) Section 527.6, 527.8, or 527.85 of the Code of Civil
7 Procedure.

8 (E) Section 213.5, 304, 362.4, 726.5, or 15657.03 of the Welfare
9 and Institutions Code.

10 (4) In the 10 years prior to the licensing authority receiving the
11 completed application for a new license or a license renewal, has
12 been convicted of an offense listed in Section 422.6, 422.7, 422.75,
13 or 29805.

14 (5) Has engaged in an unlawful or reckless use, display, or
15 brandishing of a firearm.

16 (6) In the 10 years prior to the licensing authority receiving the
17 completed application for a new license or a license renewal, has
18 been charged with any offense listed in Section 290, 667.5, 1192.7,
19 1192.8, or 29805 that was dismissed pursuant to a plea or dismissed
20 with a waiver pursuant to *People v. Harvey* (1979) 25 Cal.3d 754.

21 (7) In the five years prior to the licensing authority receiving
22 the completed application for a new license or a license renewal,
23 has been committed to or incarcerated in county jail or state prison
24 for, or on probation, parole, postrelease community supervision,
25 or mandatory supervision as a result of, a conviction of an offense,
26 an element of which involves controlled substances, as described
27 in Sections 11053 to 11058, inclusive, of the Health and Safety
28 Code, or alcohol.

29 (8) Is currently abusing controlled substances, as described in
30 Sections 11053 to 11058, inclusive, of the Health and Safety Code,
31 or alcohol.

32 (9) In the 10 years prior to the licensing authority receiving the
33 completed application for a new license or a license renewal, has
34 experienced the loss or theft of multiple firearms due to the
35 applicant's lack of compliance with federal, state, or local law
36 regarding storing, transporting, or securing the firearm. For
37 purposes of this paragraph, "multiple firearms" includes a loss of
38 more than one firearm on the same occasion, or the loss of a single
39 firearm on more than one occasion.

1 (10) Failed to report a loss of a firearm as required by Section
2 25250 or any other state, federal, or local law requiring the
3 reporting of the loss of a firearm.

4 (b) In determining whether an applicant is a disqualified person
5 and cannot receive or renew a license in accordance with
6 subdivision ~~(a) of this section~~, (a), the licensing authority shall
7 conduct an investigation that meets all of the following minimum
8 requirements:

9 (1) An in-person interview with the applicant. For renewal
10 applications, the licensing authority may elect to forgo this
11 requirement.

12 (2) In-person, virtual, or telephonic interviews with at least three
13 character references, at least one of whom must be a person
14 described in subdivision (b) of Section 273.5, if applicable, and at
15 least one of whom must be the applicant's cohabitant, if applicable.
16 For renewal applications, the licensing authority may elect to forgo
17 this requirement.

18 (3) A review of publicly available information about the
19 applicant, including publicly available statements published or
20 posted by the applicant.

21 (4) A review of all information provided in the application for
22 a license.

23 (5) A review of all information provided by the Department of
24 Justice in accordance with subdivision (a) of, paragraph (2) of
25 subdivision (b) of, and paragraph (3) of subdivision (c) of Section
26 26185, as well as firearms eligibility notices or any other
27 information subsequently provided to the licensing authority
28 regarding the applicant.

29 (6) A review of the information in the California Restraining
30 and Protective Order System accessible through the California
31 Law Enforcement Telecommunications ~~System~~. *System, including*
32 *information indicating that the applicant is reasonably likely to*
33 *be a danger to self, others, or the community at large pursuant to*
34 *paragraph (1) of subdivision (a), or that the applicant is otherwise*
35 *a disqualified person pursuant to paragraph (3) of subdivision*
36 *(a).*

37 (c) In determining whether an applicant is a disqualified person
38 and cannot receive or renew a license in accordance with
39 subdivision (a), ~~nothing in this section precludes~~ *this section does*

1 *not preclude* the licensing authority from engaging in investigative
2 efforts in addition to those listed in subdivision (b).

3 (d) Within 90 days of receiving the completed application for
4 a new license or a license renewal, the licensing authority shall
5 give written notice to the applicant of the licensing authority's
6 initial determination, based on its investigation thus far, of whether
7 an applicant is a disqualified person pursuant to Section 26150,
8 26155, or 26170 as follows:

9 (1) If the licensing authority makes an initial determination that,
10 based on its investigation thus far, the applicant is not a disqualified
11 person, the notice shall inform the applicant to proceed with the
12 training requirements specified in Section 26165. The licensing
13 authority shall then submit the applicant's fingerprints or the
14 renewal notification to the Department of Justice in accordance
15 with Section 26185.

16 (2) If, within 90 days of receiving the completed application
17 for a new license or a license renewal, the licensing authority
18 determines that the applicant is a disqualified person, the notice
19 shall inform the applicant that the request for a license has been
20 denied, state the reason as to why the determination was made,
21 and inform the applicant that they may request a hearing from a
22 court, as outlined in Section 26206. A licensing authority providing
23 notice under this paragraph informing the applicant that the request
24 for a license has been denied satisfies the requirement to provide
25 notice of a denial of a license pursuant to Section 26205.

26 (e) The prohibitions listed in subdivision (a) shall apply whether
27 or not the relevant conduct, order, conviction, charge, commitment,
28 or other relevant action took place or was issued or entered before
29 the effective date of the act that added this subdivision.

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