

AMENDED IN ASSEMBLY AUGUST 19, 2024

AMENDED IN SENATE MARCH 21, 2024

SENATE BILL

No. 1025

Introduced by Senator Eggman

February 6, 2024

An act to amend Section 1001.80 of the Penal Code, *and to amend Section 8103 of the Welfare and Institutions Code*, relating to veteran diversion.

LEGISLATIVE COUNSEL'S DIGEST

SB 1025, as amended, Eggman. Pretrial diversion for veterans.

Existing law provides for the diversion of specified criminal offenders in alternate sentencing and treatment programs. Existing law provides for a pretrial diversion program for a defendant who was, or currently is, a member of the Armed Forces of the United States, who may be suffering from sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problems as a result of the defendant's military service. Existing law authorizes the court, with the consent of the defendant and a waiver of the defendant's speedy trial right, to postpone prosecution, either temporarily or permanently, of a criminal offense and place the defendant in a pretrial diversion program.

This bill would add felony offenses, as specified, to the pretrial diversion program for a defendant who was, or currently is, a member of the Armed Forces of the United States and when the defendant's condition was a significant factor in the commission of the charged offense. The bill would require the court to find that the defendant's condition was a significant factor in the commission of the offense unless there is clear and convincing evidence otherwise and would

authorize the court to consider any relevant and credible evidence in making this determination. By requiring counties to coordinate services for a new group of veterans, this bill would impose a state-mandated local program.

~~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.~~

Existing law prohibits a person, who has been found by a court to be prohibited from owning or controlling a firearm because they are a danger to themselves or others and has been granted pretrial mental health diversion, from owning or possessing a firearm until the person successfully completes diversion or their firearm rights are restored, as specified. A violation of this prohibition is punishable as a crime.

This bill would authorize the prosecution to request an order from the court, as specified, to prohibit a veteran defendant in diversion from controlling, owning, purchasing, possessing, or receiving a firearm because they are a danger to themselves or others until they successfully complete diversion or their firearm rights are restored, as specified. By expanding the group of people to whom a crime applies, this bill would impose a state-mandated local program.

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

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

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

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

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

1 SECTION 1. Section 1001.80 of the Penal Code is amended
2 to read:

3 1001.80. (a) This chapter shall apply to a case before a court
4 on an accusatory pleading alleging the commission of a
5 misdemeanor or felony offense not set forth in subdivision (o) to
6 a defendant who is eligible based on the criteria set forth in this
7 chapter.

8 (b) A defendant charged with a misdemeanor is eligible for
9 diversion if both of the following apply:

10 (1) The defendant was, or currently is, a member of the United
11 States military.

12 (2) (A) The defendant may be suffering from sexual trauma,
13 traumatic brain injury, post-traumatic stress disorder, substance
14 abuse, or mental health problems as a result of their military
15 service.

16 (B) The court may request, using existing resources, an
17 assessment to aid in the determination that this paragraph applies
18 to a defendant.

19 (c) A defendant charged with a felony offense not set forth in
20 subdivision (o) is eligible if both of the following apply:

21 (1) The defendant was, or currently is, a member of the United
22 States military.

23 (2) (A) The defendant may be suffering from sexual trauma,
24 traumatic brain injury, post-traumatic stress disorder, substance
25 abuse, or a mental health problem as a result of their military
26 service, and the defendant's condition was a significant factor in
27 the commission of the charged offense.

28 (B) The court shall find that the defendant's condition was a
29 significant factor in the commission of the offense unless there is
30 clear and convincing evidence that it was not a motivating factor,
31 causal factor, or contributing factor to the defendant's involvement
32 in the alleged offense.

33 (C) A court may consider any relevant and credible evidence,
34 including, but not limited to, a police report, preliminary hearing
35 transcript, witness statement, statement by the defendant's mental
36 health treatment provider, medical record, or record or report by
37 qualified medical expert, that the defendant displayed symptoms
38 consistent with the condition at or near the time of the offense.

1 (D) The court may request, using existing resources, an
2 assessment to aid in the determination that this paragraph applies
3 to a defendant.

4 (d) If the court determines that a defendant charged with an
5 applicable offense under this chapter is a person described in
6 subdivision (b) or (c), the court, with the consent of the defendant
7 and a waiver of the defendant's speedy trial right, may place the
8 defendant in a pretrial diversion program as defined in subdivision
9 (k).

10 (e) If it appears to the court that the defendant is performing
11 unsatisfactorily in the assigned program, or that the defendant is
12 not benefiting from the treatment and services provided under the
13 diversion program, after notice to the defendant, the court shall
14 hold a hearing to determine whether the criminal proceedings
15 should be reinstated. If the court finds that the defendant is not
16 performing satisfactorily in the assigned program, or that the
17 defendant is not benefiting from diversion, the court may end the
18 diversion and order resumption of the criminal proceedings. If the
19 defendant has performed satisfactorily during the period of
20 diversion, at the end of the period of diversion, the criminal charges
21 shall be dismissed.

22 (f) If a referral is made to the county mental health authority as
23 part of the pretrial diversion program, the county shall provide
24 mental health treatment services only to the extent that resources
25 are available for that purpose as described in paragraph (5) of
26 subdivision (b) of Section 5600.3 of the Welfare and Institutions
27 Code. If mental health treatment services are ordered by the court,
28 the county mental health agency shall coordinate appropriate
29 referral of the defendant to the county veterans service officer as
30 described in paragraph (5) of subdivision (b) of Section 5600.3 of
31 the Welfare and Institutions Code. The county mental health agency
32 is not responsible for providing services outside its traditional
33 scope of services. An order shall be made referring a defendant to
34 a county mental health agency only if that agency has agreed to
35 accept responsibility for all of the following:

36 (1) The treatment of the defendant.
37 (2) The coordination of appropriate referral to a county veterans
38 service officer.
39 (3) The filing of reports pursuant to subdivision (j).

1 (g) When determining the requirements of a pretrial diversion
2 program pursuant to this chapter, the court shall assess whether
3 the defendant should be ordered to participate in a federal or
4 community-based treatment service program with a demonstrated
5 history of specializing in the treatment of mental health problems,
6 including substance abuse, post-traumatic stress disorder, traumatic
7 brain injury, military sexual trauma, and other related mental health
8 problems.

9 (h) The court, in making an order pursuant to this section to
10 commit a defendant to an established treatment program, shall
11 give preference to a treatment program that has a history of
12 successfully treating veterans who suffer from sexual trauma,
13 traumatic brain injury, post-traumatic stress disorder, substance
14 abuse, or mental health problems as a result of military service,
15 including, but not limited to, programs operated by the United
16 States Department of Defense or the United States Department of
17 Veterans Affairs.

18 (i) The court and the assigned treatment program may
19 collaborate with the Department of Veterans Affairs and the United
20 States Department of Veterans Affairs to maximize benefits and
21 services provided to a veteran.

22 (j) The period during which criminal proceedings against the
23 defendant may be diverted shall be no longer than two years. The
24 responsible agency or agencies shall file reports on the defendant's
25 progress in the diversion program with the court and with the
26 prosecutor not less than every six months.

27 (k) A record filed with the Department of Justice shall indicate
28 the disposition of those cases diverted pursuant to this chapter.
29 Upon successful completion of a diversion program, the arrest
30 upon which the diversion was based shall be deemed to have never
31 occurred. The defendant may indicate in response to a question
32 concerning their prior criminal record that they were not arrested
33 or diverted for the offense, except as specified in subdivision (l).
34 A record pertaining to an arrest resulting in successful completion
35 of a diversion program shall not, without the defendant's consent,
36 be used in a way that could result in the denial of any employment,
37 benefit, license, or certificate.

38 (l) The defendant shall be advised that, regardless of their
39 successful completion of diversion, the arrest upon which the
40 diversion was based may be disclosed by the Department of Justice

1 in response to a peace officer application request and that,
2 notwithstanding subdivision (k), this section does not relieve them
3 of the obligation to disclose the arrest in response to a direct
4 question contained in a questionnaire or application for a position
5 as a peace officer as defined in Section 830.

6 (m) (1) As used in this chapter, “pretrial diversion” means the
7 procedure of postponing prosecution, either temporarily or
8 permanently, at any point in the judicial process from the point at
9 which the accused is charged until adjudication.

10 (2) A pretrial diversion program shall utilize existing resources
11 available to current or former members of the United States military
12 to address and treat those suffering from sexual trauma, traumatic
13 brain injury, post-traumatic stress disorder, substance abuse, or
14 mental health problems as a result of military service.

15 (n) Notwithstanding any other law, including Section 23640 of
16 the Vehicle Code, an offense for which a defendant may be placed
17 in a pretrial diversion program in accordance with this section
18 includes a misdemeanor violation of Section 23152 or 23153 of
19 the Vehicle Code. However, this section does not limit the authority
20 of the Department of Motor Vehicles to take administrative action
21 concerning the driving privileges of a person arrested for a violation
22 of Section 23152 or 23153 of the Vehicle Code.

23 (o) A defendant may not be placed into a diversion program,
24 pursuant to this section, for the following current charged offenses:

25 (1) Murder or voluntary manslaughter.

26 (2) An offense for which a person, if convicted, would be
27 required to register pursuant to Section 290, except for a violation
28 of Section 314.

29 (3) Rape.

30 (4) Lewd or lascivious act on a child under 14 years of age.

31 (5) Assault with intent to commit rape, sodomy, or oral
32 copulation in violation of Section 220.

33 (6) Commission of rape or sexual penetration in concert with
34 another person in violation of Section 264.1.

35 (7) Continuous sexual abuse of a child in violation of Section
36 288.5.

37 (8) A violation of subdivision (b) or (c) of Section 11418.

38 (p) (1) *The prosecution may request an order from the court
39 that the defendant be prohibited from controlling, owning,
40 purchasing, possessing, or receiving a firearm until they*

1 successfully complete diversion because they are a danger to
2 themselves or others pursuant to subdivision (i) of Section 8103
3 of the Welfare and Institutions Code.

4 (2) The prosecution shall bear the burden of proving, by clear
5 and convincing evidence, both of the following are true:

6 (A) The defendant poses a significant danger of causing personal
7 injury to themselves or another by controlling, owning, purchasing,
8 possessing, or receiving a firearm.

9 (B) The prohibition is necessary to prevent personal injury to
10 the defendant or another person because less restrictive
11 alternatives either have been tried and found to be ineffective or
12 are inadequate or inappropriate for the circumstances of the
13 defendant.

14 (3) (A) If the court finds that the prosecution has not met that
15 burden, the court shall not order that the person is prohibited from
16 controlling, owning, purchasing, possessing, or receiving a firearm.

17 (B) If the court finds that the prosecution has met the burden,
18 the court shall order that the person is prohibited, and shall inform
19 the person that they are prohibited, from controlling, owning,
20 purchasing, possessing, or receiving a firearm until they
21 successfully complete diversion because they are a danger to
22 themselves or others.

23 (4) An order imposed pursuant to this subdivision shall be in
24 effect until the defendant has successfully completed diversion or
25 until their firearm rights are restored pursuant to paragraph (4)
26 of subdivision (g) of Section 8103 of the Welfare and Institutions
27 Code.

28 SEC. 2. Section 8103 of the Welfare and Institutions Code is
29 amended to read:

30 8103. (a) (1) A person who after October 1, 1955, has been
31 adjudicated by a court of any state to be a danger to others as a
32 result of a mental disorder or mental illness, or who has been
33 adjudicated to be a mentally disordered sex offender, shall not
34 purchase or receive, or attempt to purchase or receive, or have
35 possession, custody, or control of a firearm or any other deadly
36 weapon unless there has been issued to the person a certificate by
37 the court of adjudication upon release from treatment or at a later
38 date stating that the person may possess a firearm or any other
39 deadly weapon without endangering others, and the person has
40 not, subsequent to the issuance of the certificate, again been

1 adjudicated by a court to be a danger to others as a result of a
2 mental disorder or mental illness.

3 (2) The court shall notify the Department of Justice of the court
4 order finding the individual to be a person described in paragraph
5 (1) as soon as possible, but not later than one court day after issuing
6 the order. The court shall also notify the Department of Justice of
7 any certificate issued as described in paragraph (1) as soon as
8 possible, but not later than one court day after issuing the
9 certificate.

10 (b) (1) A person who has been found, pursuant to Section 1026
11 of the Penal Code or the law of any other state or the United States,
12 not guilty by reason of insanity of murder, mayhem, a violation
13 of Section 207, 209, or 209.5 of the Penal Code in which the victim
14 suffers intentionally inflicted great bodily injury, carjacking or
15 robbery in which the victim suffers great bodily injury, a violation
16 of Section 451 or 452 of the Penal Code involving a trailer coach,
17 as defined in Section 635 of the Vehicle Code, or any dwelling
18 house, a violation of paragraph (1) or (2) of subdivision (a) of
19 Section 262 or paragraph (2) or (3) of subdivision (a) of Section
20 261 of the Penal Code, a violation of Section 459 of the Penal
21 Code in the first degree, assault with intent to commit murder, a
22 violation of Section 220 of the Penal Code in which the victim
23 suffers great bodily injury, a violation of Section 18715, 18725,
24 18740, 18745, 18750, or 18755 of the Penal Code, or of a felony
25 involving death, great bodily injury, or an act which poses a serious
26 threat of bodily harm to another person, or a violation of the law
27 of any other state or the United States that includes all the elements
28 of any of the above felonies as defined under California law, shall
29 not purchase or receive, or attempt to purchase or receive, or have
30 possession, custody, or control of any firearm or any other deadly
31 weapon.

32 (2) The court shall notify the Department of Justice of the court
33 order finding the person to be a person described in paragraph (1)
34 as soon as possible, but not later than one court day after issuing
35 the order.

36 (c) (1) A person who has been found, pursuant to Section 1026
37 of the Penal Code or the law of any other state or the United States,
38 not guilty by reason of insanity of any crime other than those
39 described in subdivision (b) shall not purchase or receive, or
40 attempt to purchase or receive, or have possession, custody, or

1 control of any firearm or any other deadly weapon unless the court
2 of commitment has found the person to have recovered sanity,
3 pursuant to Section 1026.2 of the Penal Code or the law of any
4 other state or the United States.

5 (2) The court shall notify the Department of Justice of the court
6 order finding the person to be a person described in paragraph (1)
7 as soon as possible, but not later than one court day after issuing
8 the order. The court shall also notify the Department of Justice
9 when it finds that the person has recovered their sanity as soon as
10 possible, but not later than one court day after making the finding.

11 (d) (1) A person found by a court to be mentally incompetent
12 to stand trial, pursuant to Section 1370 or 1370.1 of the Penal Code
13 or the law of any other state or the United States, shall not purchase
14 or receive, or attempt to purchase or receive, or have possession,
15 custody, or control of any firearm or any other deadly weapon,
16 unless there has been a finding with respect to the person of
17 restoration to competence to stand trial by the committing court,
18 pursuant to Section 1372 of the Penal Code or the law of any other
19 state or the United States.

20 (2) The court shall notify the Department of Justice of the court
21 order finding the person to be mentally incompetent as described
22 in paragraph (1) as soon as possible, but not later than one court
23 day after issuing the order. The court shall also notify the
24 Department of Justice when it finds that the person has recovered
25 competence as soon as possible, but not later than one court day
26 after making the finding.

27 (e) (1) A person who has been placed under conservatorship
28 by a court, pursuant to Section 5350 or the law of any other state
29 or the United States, because the person is gravely disabled as a
30 result of a mental disorder or impairment by chronic alcoholism,
31 shall not purchase or receive, or attempt to purchase or receive, or
32 have possession, custody, or control of any firearm or any other
33 deadly weapon while under the conservatorship if, at the time the
34 conservatorship was ordered or thereafter, the court that imposed
35 the conservatorship found that possession of a firearm or any other
36 deadly weapon by the person would present a danger to the safety
37 of the person or to others. Upon placing a person under
38 conservatorship, and prohibiting firearm or any other deadly
39 weapon possession by the person, the court shall notify the person
40 of this prohibition.

1 (2) The court shall notify the Department of Justice of the court
2 order placing the person under conservatorship and prohibiting
3 firearm or any other deadly weapon possession by the person as
4 described in paragraph (1) as soon as possible, but not later than
5 one court day after placing the person under conservatorship. The
6 notice shall include the date the conservatorship was imposed and
7 the date the conservatorship is to be terminated. If the
8 conservatorship is subsequently terminated before the date listed
9 in the notice to the Department of Justice or the court subsequently
10 finds that possession of a firearm or any other deadly weapon by
11 the person would no longer present a danger to the safety of the
12 person or others, the court shall notify the Department of Justice
13 as soon as possible, but not later than one court day after
14 terminating the conservatorship.

15 (3) All information provided to the Department of Justice
16 pursuant to paragraph (2) shall be kept confidential, separate, and
17 apart from all other records maintained by the Department of
18 Justice, and shall be used only to determine eligibility to purchase
19 or possess firearms or other deadly weapons. A person who
20 knowingly furnishes that information for any other purpose is
21 guilty of a misdemeanor. All the information concerning any person
22 shall be destroyed upon receipt by the Department of Justice of
23 notice of the termination of conservatorship as to that person
24 pursuant to paragraph (2).

25 (f) (1) (A) A person who has been (i) taken into custody as
26 provided in Section 5150 because that person is a danger to
27 themselves or to others, (ii) assessed within the meaning of Section
28 5151, and (iii) admitted to a designated facility within the meaning
29 of Sections 5151 and 5152 because that person is a danger to
30 themselves or others, shall not own, possess, control, receive, or
31 purchase, or attempt to own, possess, control, receive, or purchase,
32 any firearm for a period of five years after the person is released
33 from the facility.

34 (B) A person who has been taken into custody, assessed, and
35 admitted as specified in subparagraph (A), and who was previously
36 taken into custody, assessed, and admitted as specified in
37 subparagraph (A) one or more times within a period of one year
38 preceding the most recent admittance, shall not own, possess,
39 control, receive, or purchase, or attempt to own, possess, control,
40 receive, or purchase, any firearm for the remainder of their life.

1 (C) A person described in this paragraph, however, may own,
2 possess, control, receive, or purchase, or attempt to own, possess,
3 control, receive, or purchase any firearm if the superior court has,
4 pursuant to paragraph (5), found that the people of the State of
5 California have not met their burden pursuant to paragraph (6).

6 (2) (A) (i) For each person subject to this subdivision, the
7 facility shall, within 24 hours of the time of admission, submit a
8 report to the Department of Justice, on a form prescribed by the
9 Department of Justice, containing information that includes, but
10 is not limited to, the identity of the person and the legal grounds
11 upon which the person was admitted to the facility.

12 (ii) Any report submitted pursuant to this paragraph shall be
13 confidential, except for purposes of the court proceedings described
14 in this subdivision and for determining the eligibility of the person
15 to own, possess, control, receive, or purchase a firearm.

16 (B) Facilities shall submit reports pursuant to this paragraph
17 exclusively by electronic means, in a manner prescribed by the
18 Department of Justice.

19 (3) Prior to, or concurrent with, the discharge, the facility shall
20 inform a person subject to this subdivision that they are prohibited
21 from owning, possessing, controlling, receiving, or purchasing
22 any firearm for a period of five years or, if the person was
23 previously taken into custody, assessed, and admitted to custody
24 for a 72-hour hold because they were a danger to themselves or to
25 others during the previous one-year period, for life. Simultaneously,
26 the facility shall inform the person that they may request a hearing
27 from a court, as provided in this subdivision, for an order
28 permitting the person to own, possess, control, receive, or purchase
29 a firearm. The facility shall provide the person with a copy of the
30 most recent “Patient Notification of Firearm Prohibition and Right
31 to Hearing Form” prescribed by the Department of Justice. The
32 Department of Justice shall update this form in accordance with
33 the requirements of this section and distribute the updated form to
34 facilities by January 1, 2020. The form shall include information
35 regarding how the person was referred to the facility. The form
36 shall include an authorization for the release of the person’s mental
37 health records, upon request, to the appropriate court, solely for
38 use in the hearing conducted pursuant to paragraph (5). A request
39 for the records may be made by mail to the custodian of records
40 at the facility, and shall not require personal service. The facility

1 shall not submit the form on behalf of the person subject to this
2 subdivision.

3 (4) The Department of Justice shall provide the form upon
4 request to any person described in paragraph (1). The Department
5 of Justice shall also provide the form to the superior court in each
6 county. A person described in paragraph (1) may make a single
7 request for a hearing at any time during the five-year period or
8 period of the lifetime prohibition. The request for hearing shall be
9 made on the form prescribed by the department or in a document
10 that includes equivalent language.

11 (5) A person who is subject to paragraph (1) who has requested
12 a hearing from the superior court of the county of their residence
13 for an order that they may own, possess, control, receive, or
14 purchase firearms shall be given a hearing. The clerk of the court
15 shall set a hearing date and notify the person, the Department of
16 Justice, and the district attorney. The people of the State of
17 California shall be the plaintiff in the proceeding and shall be
18 represented by the district attorney. Upon motion of the district
19 attorney, or on its own motion, the superior court may transfer the
20 hearing to the county in which the person resided at the time of
21 their detention, the county in which the person was detained, or
22 the county in which the person was evaluated or treated. Within
23 seven days after the request for a hearing, the Department of Justice
24 shall file copies of the reports described in this section with the
25 superior court. The reports shall be disclosed upon request to the
26 person and to the district attorney. The court shall set the hearing
27 within 60 days of receipt of the request for a hearing. Upon
28 showing good cause, the district attorney shall be entitled to a
29 continuance not to exceed 30 days after the district attorney was
30 notified of the hearing date by the clerk of the court. If additional
31 continuances are granted, the total length of time for continuances
32 shall not exceed 60 days. The district attorney may notify the
33 county behavioral health director of the hearing who shall provide
34 information about the detention of the person that may be relevant
35 to the court and shall file that information with the superior court.
36 That information shall be disclosed to the person and to the district
37 attorney. The court, upon motion of the person subject to paragraph
38 (1) establishing that confidential information is likely to be
39 discussed during the hearing that would cause harm to the person,
40 shall conduct the hearing in camera with only the relevant parties

1 present, unless the court finds that the public interest would be
2 better served by conducting the hearing in public. Notwithstanding
3 any other law, declarations, police reports, including criminal
4 history information, and any other material and relevant evidence
5 that is not excluded under Section 352 of the Evidence Code shall
6 be admissible at the hearing under this section.

7 (6) The people shall bear the burden of showing by a
8 preponderance of the evidence that the person would not be likely
9 to use firearms in a safe and lawful manner.

10 (7) If the court finds at the hearing set forth in paragraph (5)
11 that the people have not met their burden as set forth in paragraph
12 (6), the court shall order that the person shall not be subject to the
13 five-year prohibition or lifetime prohibition, as appropriate, in this
14 section on the ownership, control, receipt, possession, or purchase
15 of firearms, and that person shall comply with the procedure
16 described in Chapter 2 (commencing with Section 33850) of
17 Division 11 of Title 4 of Part 6 of the Penal Code for the return of
18 any firearms. A copy of the order shall be submitted to the
19 Department of Justice. Upon receipt of the order, the Department
20 of Justice shall delete any reference to the prohibition against
21 firearms from the person's state mental health firearms prohibition
22 system information.

23 (8) If the district attorney declines or fails to go forward in the
24 hearing, the court shall order that the person shall not be subject
25 to the five-year prohibition or lifetime prohibition required by this
26 subdivision on the ownership, control, receipt, possession, or
27 purchase of firearms. A copy of the order shall be submitted to the
28 Department of Justice. Upon receipt of the order, the Department
29 of Justice shall, within 15 days, delete any reference to the
30 prohibition against firearms from the person's state mental health
31 firearms prohibition system information, and that person shall
32 comply with the procedure described in Chapter 2 (commencing
33 with Section 33850) of Division 11 of Title 4 of Part 6 of the Penal
34 Code for the return of any firearms.

35 (9) This subdivision does not prohibit the use of reports filed
36 pursuant to this section to determine the eligibility of persons to
37 own, possess, control, receive, or purchase a firearm if the person
38 is the subject of a criminal investigation, a part of which involves
39 the ownership, possession, control, receipt, or purchase of a
40 firearm.

1 (10) If the court finds that the people have met their burden to
2 show by a preponderance of the evidence that the person would
3 not be likely to use firearms in a safe and lawful manner and the
4 person is subject to a lifetime firearm prohibition because the
5 person had been admitted as specified in subparagraph (A) of
6 paragraph (1) more than once within the previous one-year period,
7 the court shall inform the person of their right to file a subsequent
8 petition no sooner than five years from the date of the hearing.

9 (11) A person subject to a lifetime firearm prohibition is entitled
10 to bring subsequent petitions pursuant to this subdivision. A person
11 shall not be entitled to file a subsequent petition, and shall not be
12 entitled to a subsequent hearing, until five years have passed since
13 the determination on the person's last petition. A hearing on
14 subsequent petitions shall be conducted as described in this
15 subdivision, with the exception that the burden of proof shall be
16 on the petitioner to establish by a preponderance of the evidence
17 that the petitioner can use a firearm in a safe and lawful manner.
18 Subsequent petitions shall be filed in the same court of jurisdiction
19 as the initial petition regarding the lifetime firearm prohibition.

20 (g) (1) (A) A person who has been certified for intensive
21 treatment under Section 5250, 5260, or 5270.15 shall not own,
22 possess, control, receive, or purchase, or attempt to own, possess,
23 control, receive, or purchase, any firearm for a period of five years.

24 (B) Any person who meets the criteria contained in subdivision
25 (e) or (f) who is released from intensive treatment shall
26 nevertheless, if applicable, remain subject to the prohibition
27 contained in subdivision (e) or (f).

28 (2) (A) For each person certified for intensive treatment under
29 paragraph (1), the facility shall, within 24 hours of the certification,
30 submit a report to the Department of Justice, on a form prescribed
31 by the department, containing information regarding the person,
32 including, but not limited to, the legal identity of the person and
33 the legal grounds upon which the person was certified. A report
34 submitted pursuant to this paragraph shall only be used for the
35 purposes specified in paragraph (2) of subdivision (f).

36 (B) Facilities shall submit reports pursuant to this paragraph
37 exclusively by electronic means, in a manner prescribed by the
38 Department of Justice.

39 (3) Prior to, or concurrent with, the discharge of each person
40 certified for intensive treatment under paragraph (1), the facility

1 shall inform the person of that information specified in paragraph
2 (3) of subdivision (f).

3 (4) A person who is subject to paragraph (1) may petition the
4 superior court of the county of their residence for an order that
5 they may own, possess, control, receive, or purchase firearms. At
6 the time the petition is filed, the clerk of the court shall set a
7 hearing date within 60 days of receipt of the petition and notify
8 the person, the Department of Justice, and the district attorney.

9 The people of the State of California shall be the respondent in the
10 proceeding and shall be represented by the district attorney. Upon
11 motion of the district attorney, or on its own motion, the superior
12 court may transfer the petition to the county in which the person
13 resided at the time of their detention, the county in which the
14 person was detained, or the county in which the person was
15 evaluated or treated. Within seven days after receiving notice of
16 the petition, the Department of Justice shall file copies of the
17 reports described in this section with the superior court. The reports
18 shall be disclosed upon request to the person and to the district
19 attorney. The district attorney shall be entitled to a continuance of
20 the hearing to a date of not less than 30 days after the district
21 attorney was notified of the hearing date by the clerk of the court.

22 If additional continuances are granted, the total length of time for
23 continuances shall not exceed 60 days. The district attorney may
24 notify the county behavioral health director of the petition, and
25 the county behavioral health director shall provide information
26 about the detention of the person that may be relevant to the court
27 and shall file that information with the superior court. That
28 information shall be disclosed to the person and to the district
29 attorney. The court, upon motion of the person subject to paragraph
30 (1) establishing that confidential information is likely to be
31 discussed during the hearing that would cause harm to the person,
32 shall conduct the hearing in camera with only the relevant parties
33 present, unless the court finds that the public interest would be
34 better served by conducting the hearing in public. Notwithstanding
35 any other law, any declaration, police reports, including criminal
36 history information, and any other material and relevant evidence
37 that is not excluded under Section 352 of the Evidence Code, shall
38 be admissible at the hearing under this section. If the court finds
39 by a preponderance of the evidence that the person would be likely
40 to use firearms in a safe and lawful manner, the court may order

1 that the person may own, control, receive, possess, or purchase
2 firearms, and that person shall comply with the procedure described
3 in Chapter 2 (commencing with Section 33850) of Division 11 of
4 Title 4 of Part 6 of the Penal Code for the return of any firearms.
5 A copy of the order shall be submitted to the Department of Justice.
6 Upon receipt of the order, the Department of Justice shall delete
7 any reference to the prohibition against firearms from the person's
8 state mental health firearms prohibition system information.

9 (h) (1) For all persons identified in subdivisions (f) and (g),
10 facilities shall report to the Department of Justice as specified in
11 those subdivisions, except facilities shall not report persons under
12 subdivision (g) if the same persons previously have been reported
13 under subdivision (f).

14 (2) Additionally, all facilities shall report to the Department of
15 Justice upon the discharge of persons from whom reports have
16 been submitted pursuant to subdivision (f) or (g). However, a report
17 shall not be filed for persons who are discharged within 31 days
18 after the date of admission.

19 (i) (1) A person, who has been found by a court, on or after
20 July 1, 2024, to be prohibited from owning or controlling a firearm
21 because they are a danger to themselves or others and has been
22 granted pretrial mental health diversion pursuant to subdivision
23 (m) of Section 1001.36 *or subdivision (p) of Section 1001.80* of
24 the Penal Code, shall not own, possess, control, receive, or
25 purchase, or attempt to own, possess, control, receive, or purchase,
26 any firearm until the person successfully completes diversion or
27 their firearm rights are restored pursuant to paragraph (4) of
28 subdivision (g).

29 (2) The court shall notify the Department of Justice of the court
30 order finding the person to be an individual described in paragraph
31 (1) as soon as possible, but not later than one court day after issuing
32 the order. The court shall also notify the Department of Justice
33 that the person has successfully completed diversion as soon as
34 possible, but not later than one court day after completion.

35 (j) Every person who owns or possesses or has custody or
36 control of, or purchases or receives, or attempts to purchase or
37 receive, any firearm or any other deadly weapon in violation of
38 this section shall be punished by imprisonment pursuant to
39 subdivision (h) of Section 1170 of the Penal Code or in a county
40 jail for not more than one year.

1 (k) “Deadly weapon,” as used in this section, has the meaning
2 prescribed by Section 8100.

3 (l) Any notice or report required to be submitted to the
4 Department of Justice pursuant to this section shall be submitted
5 in an electronic format, in a manner prescribed by the Department
6 of Justice.

7 ~~SEC. 2. If the Commission on State Mandates determines that
8 this act contains costs mandated by the state, reimbursement to
9 local agencies and school districts for those costs shall be made
10 pursuant to Part 7 (commencing with Section 17500) of Division
11 4 of Title 2 of the Government Code.~~

12 ~~SEC. 3. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIIIIB of the California Constitution for certain
14 costs that may be incurred by a local agency or school district
15 because, in that regard, this act creates a new crime or infraction,
16 eliminates a crime or infraction, or changes the penalty for a crime
17 or infraction, within the meaning of Section 17556 of the
18 Government Code, or changes the definition of a crime within the
19 meaning of Section 6 of Article XIIIIB of the California
20 Constitution.~~

21 ~~However, if the Commission on State Mandates determines that
22 this act contains other costs mandated by the state, reimbursement
23 to local agencies and school districts for those costs shall be made
24 pursuant to Part 7 (commencing with Section 17500) of Division
25 4 of Title 2 of the Government Code.~~