

AMENDED IN ASSEMBLY APRIL 25, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1084

Introduced by Assembly Member Melendez
(Coauthors: Assembly Members Achadjian, Bigelow, Conway,
Beth Gaines, Gorell, Hagman, Harkey, Linder, and Morrell)
(Coauthor: Senator Gaines)

February 22, 2013

An act to amend Sections 626.9, 626.95, ~~3000.08, 3451,~~ 25400, 25850, 27590, 29800, 29805, 29900, and 29905 of the Penal Code, and to amend Sections 8100, 8101, 8103, and 8104 of the Welfare and Institutions Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1084, as amended, Melendez. Firearms: punishment.

(1) Existing law prohibits a person from possessing a firearm in a place that the person knows, or reasonably should know, is a school zone, unless it is with the written permission of the school district superintendent. Under existing law, any person who violates this provision by possessing a firearm in, or on the grounds of, a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, is punishable by imprisonment in a county jail for 2, 3, or 4 years. Under existing law, any person who violates this provision by possessing a firearm within a distance of 1,000 feet from the grounds of a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, is punishable by imprisonment in a county jail for 2, 3, or 4 years.

This bill would make a violation of the above provisions punishable in the state prison. If the person is within a class of persons prohibited

from possessing a firearm, the bill would require the person to be punished in the state prison for 4, 5, or 6 years if the violation was on the school grounds, and by imprisonment in the state prison for 3, 4, or 5 years if the violation was within 1,000 feet from the school grounds. In the case of a person who is within a class of persons prohibited from possessing a firearm, the bill would also require a mandatory 9-month term of incarceration in a county jail as a condition of probation. By increasing the punishment for certain crimes, this bill would impose a state-mandated local program.

(2) Existing law makes it unlawful for any person, with reckless disregard for the safety of another, to discharge, or attempt to discharge, a firearm in a school zone, punishable by imprisonment in a county jail for 3, 5, or 7 years.

This bill would make this crime punishable in the state prison.

(3) Existing law makes it a crime to bring or possess a firearm, or a loaded firearm, upon the grounds of a campus of a public or private university. Under existing law the crime is punishable by imprisonment in a county jail for 1, 2, or 3 years if the firearm was unloaded, and 2, 3, or 4 years if loaded.

This bill would make these crimes punishable in a state prison, and in the case of an unloaded firearm, would increase the minimum term from 1 year to 16 months. In the case of a person who is within a class of persons prohibited from possessing a firearm, the bill would impose a state prison sentence of 3, 4, or 5 years, and a mandatory 6-month jail term as a condition of probation, if probation is granted, for a loaded firearm, and a state prison sentence of 2, 3, or 4 years, and a mandatory 3-month jail term as a condition of probation, if probation is granted, for an unloaded firearm. By increasing the punishment for a crime, and by creating new crimes, this bill would impose a state-mandated local program.

(4) Under existing law it is a crime for any person to brandish a firearm, unlawfully carry a concealed firearm, or carry a loaded firearm, upon the grounds of or within a playground, or a public or private youth center during operating hours, punishable by imprisonment in a county jail for 1, 2, or 3 years.

This bill would make a felony violation of this crime punishable in the state prison and would increase the minimum term from 1 year to 16 months. In the case of a person who is within a class of persons prohibited from possessing a firearm, the bill would impose a prison sentence of 2, 3, or 4 years, and a mandatory 6-month jail term as a

condition of probation, if probation is granted. By increasing the punishment for a crime, this bill would impose a state-mandated local program.

~~(5) Existing law requires that all persons released from prison on and after October 1, 2011, after serving a prison term for a felony be subject to postrelease community supervision provided by a county agency for a period of 3 years immediately following release, except for persons released after serving a term for a serious felony, a violent felony, an offense for which the person was sentenced pursuant to the 3 strikes law, a crime where the person is classified as a High Risk Sex Offender, or a crime where the person is required to undergo treatment by the State Department of State Hospitals because the person has a severe mental disorder. Existing law requires these persons to be subject to parole supervision by the Department of Corrections and Rehabilitation following release from state prison.~~

~~This bill would additionally require that specified persons released from state prison on or after January 1, 2014, be subject to parole supervision by the Department of Corrections and Rehabilitation, including persons who have a current or prior felony conviction for any offense involving deadly weapons, any person who commits assault upon a person with a deadly weapon, a firearm, a machinegun, or a semiautomatic firearm, or who commits assault on a peace officer, any person who has a prior conviction for a serious or violent felony involving the use of a deadly or dangerous weapon or firearm, any person who has a current or prior conviction for any homicide or attempted homicide offense, any person who receives a sentence enhancement for carrying a firearm in the commission of any street gang crimes, who was armed with a firearm in the commission of a felony, or who had in his or her immediate possession ammunition designed primarily to penetrate metal armor or who wore a body vest in the commission of a felony or violent offense, and any person who has a current or prior conviction of a crime involving bringing firearms in a school zone or playground.~~

~~(6)~~

~~(5) Existing law generally prohibits the carrying of a concealed firearm. If a person has previously been convicted of any felony, or certain other specified crimes, existing law makes a violation of the law against carrying a concealed weapon a felony, punishable by imprisonment in the state prison for 16 months, or 2 or 3 years, and~~

imposes a mandatory 3-month jail term as a condition of probation, if probation is granted.

This bill would instead make this crime punishable by imprisonment in the state prison for 2, 3, or 4 years, and would increase the mandatory jail term imposed as a condition of probation to 6 months. If the person has been previously convicted of certain specified violent felonies, the bill would require imprisonment in the state prison for 3, 4, or 5 years, and would impose a mandatory jail term of 9 months as a condition of probation, if probation is granted. By increasing the punishment for a crime, this bill would impose a state mandated local program.

(7)

(6) Under existing law, a person is guilty of carrying a loaded firearm when the person carries a loaded firearm on the person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory. Under existing law, a violation of this provision where the person has been convicted of any felony, or of certain specified crimes, is punishable by imprisonment in the state prison for 16 months, or 2 or 3 years.

This bill would instead make this crime punishable by imprisonment in the state prison for 2, 3, or 4 years, and would impose a mandatory jail term of 6 months as a condition of probation, if probation is granted. If the person has previously been convicted of certain specified felonies, the bill would require imprisonment in the state prison for 3, 4, or 5 years, and would impose a mandatory jail term of 9 months as a condition of probation, if probation is granted. By increasing the punishment for a crime, this bill would impose a state-mandated local program.

(8)

(7) Existing law makes it a misdemeanor to furnish a firearm to certain specified classes of people who are prohibited from having a firearm. If the violation involves knowingly providing a firearm to persons specified as having been convicted of violating certain laws, existing law makes a violation punishable by imprisonment in a county jail for 2, 3, or 4 years. If the firearm is provided where the person furnishing the firearm has cause to believe the recipient is within the prohibited class, or is within a class of people prohibited for reasons of mental illness, existing law makes a violation punishable by imprisonment in a county jail for 16 months, or 2 or 3 years.

This bill would make a violation of the above provisions punishable in the state prison for 2, 3, or 4 years, and would impose a mandatory jail term of 6 months as a condition of probation, if probation is granted. The bill would also impose this mandatory jail term as a condition of probation if the violation involved furnishing a firearm to a person who actively participates in a criminal street gang.

~~(9)~~

(8) Existing law makes it a crime to furnish a firearm to anyone the person knows is not the actual purchaser. Under existing law no dealer may acquire a firearm with the intent to violate provisions of law prohibiting the furnishing of a handgun to any person who is under 21 years of age, or any other firearm to a person under 18 years of age, or with the intent to violate the provisions of law requiring a 10-day waiting period. Under existing law no person may acquire a firearm with the intent to avoid completing a firearms transaction through a licensed dealer. Existing law makes these crimes punishable in a county jail for 16 months, or 2 or 3 years, or by a fine not to exceed \$1,000, or by both that fine and imprisonment.

This bill would instead make these provisions punishable in the state prison for 16 months, or 2 or 3 years.

~~(10)~~

(9) Existing law makes it a felony for any person who has been convicted of a felony or certain other specified crimes, or who is addicted to the use of any narcotic drug, to possess a firearm. Existing law makes it a felony for any person who has been convicted of a felony or certain other specified crimes, when the conviction resulted from a certification by the juvenile court for prosecution as an adult, to possess a firearm. Under existing law these crimes are punishable by imprisonment in the state prison for 16 months, or 2 or 3 years.

This bill would make these crimes punishable by imprisonment in the state prison for 2, 3, or 4, years, and would impose a mandatory jail term of 6 months as a condition of probation, if probation is granted. By increasing the punishment for a crime, this bill would impose a state-mandated local program.

~~(11)~~

(10) Existing law prohibits any person who has been convicted of specified misdemeanors from having a firearm. A violation of this provision is punishable by imprisonment in a county jail not exceeding one year or in the state prison for 16 months, or 2 or 3 years.

This bill would make a felony conviction under these provisions punishable by imprisonment in the state prison for 2, 3, or 4 years, and would impose a mandatory jail term of 3 months as a condition of probation, if probation is granted. By increasing the punishment for a crime, this bill would impose a state-mandated local program.

~~(12)~~

(11) Under existing law, any person who has been convicted of certain enumerated violent offenses, or who has been convicted of certain enumerated violent offenses resulting from a certification by the juvenile court for prosecution as an adult, who possesses a firearm, is guilty of a felony, punishable by imprisonment in the state prison for 16 months, or 2 or 3 years. Existing law imposes a 9-month mandatory jail term as a condition of probation for a violation of these provisions.

This bill would instead make a violation of these provisions punishable in the state prison for 3, 4, or 5 years and would increase the mandatory jail term imposed as a condition of probation to 9 months. By increasing the punishment for a crime, this bill would impose a state-mandated local program.

~~(13)~~

(12) Under existing law, any person who has been convicted of certain crimes enumerated as violent offenses, who possesses a firearm, is guilty of a felony.

This bill would add additional crimes to the list of enumerated violent offenses, as provided. By creating new crimes, this bill would impose a state mandated local program.

~~(14)~~

(13) Existing law prohibits a person from possessing a firearm or deadly weapon if the person has been admitted to a facility and is receiving inpatient treatment and the attending health professional is of the opinion that the person is a danger to self or others. Under existing a law a violation of this provision is punishable by imprisonment in a county jail for 16 months, or 2 or 3 years, or by imprisonment in a county jail for not more than one year, by a fine not exceeding \$1,000, or by both that imprisonment and fine. Under existing law it is a crime to furnish a person described by these provisions with a firearm, punishable by imprisonment in a county jail for 16 months, or 2 or 3 years.

This bill would instead punish a violation of these provisions for possession by imprisonment in the state prison for 2, 3, or 4 years. The bill would punish a violation of the provisions for furnishing a firearm

to a person prohibited from having a firearm pursuant to these provisions by imprisonment in the state prison for 2, 3, or 4 years, and would impose a mandatory jail term of 6 months as a condition of probation, if probation is granted. The bill would also provide that furnishing a deadly weapon to a person described in the above provisions would be punishable in the state prison instead of a county jail. By increasing the punishment of a crime, this bill would impose a state-mandated local program.

(15)

(14) Existing law prohibits a person from possessing a firearm or deadly weapon for a period of 6 months when the person has communicated a serious threat of physical violence to a licensed psychotherapist, unless a court finds that the person is likely to use firearms or other deadly weapons in a safe and lawful manner. Under existing law a felony violation of these provisions is punishable in a county jail for 16 months, or 2 or 3 years, by a fine not exceeding \$1,000, or by both that fine and imprisonment. Existing law prohibits a person who has been adjudicated a danger to others as a result of a mental disorder, who has been adjudicated a mentally disordered sex offender, who has been found not guilty by reason of insanity, who has been found mentally incompetent to stand trial, who has been placed under a conservatorship by a court because the person is gravely disabled as a result of a mental disorder or impairment of chronic alcoholism, who has been taken into custody because he or she is a danger or self to others, or who has been certified for intensive treatment, from possessing a firearm or deadly weapon. Under existing law a felony violation of these provisions is punishable by imprisonment in a county jail for 16 months, or 2 or 3 years. Existing law also makes it a crime to provide a firearm to these individuals, a felony violation of which is punishable in a county jail for 2, 3, or 4 years.

This bill would instead punish a violation of these provisions for possession by imprisonment in the state prison for 2, 3, or 4 years. The bill would punish a violation of the provisions for furnishing a firearm to a person prohibited from having a firearm pursuant to these provisions by imprisonment in the state prison for 2, 3, or 4 years, and would impose a mandatory jail term of 6 months as a condition of probation, if probation is granted. The bill would also provide that furnishing of a deadly weapon to a person described in the above provisions would be punishable the state prison instead of a county jail. By increasing

the punishment of a crime, this bill would impose a state-mandated local program.

(16)

(15) Existing law requires the State Department of State Hospitals to maintain the records it has in its possession that are necessary to identify persons who are prohibited from having weapons. Existing law requires the State Department of State Hospitals to make these records available to the Department of Justice upon request.

This bill would require the State Department of State Hospitals to make these records immediately available to the Department of Justice.

(17)

(16) 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 no reimbursement is required by this act for a specified reason.

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 626.9 of the Penal Code is amended to
2 read:

3 626.9. (a) This section shall be known, and may be cited, as
4 the Gun-Free School Zone Act of 1995.

5 (b) Any person who possesses a firearm in a place that the
6 person knows, or reasonably should know, is a school zone, as
7 defined in paragraph (1) of subdivision (e), unless it is with the
8 written permission of the school district superintendent, his or her
9 designee, or equivalent school authority, shall be punished as
10 specified in subdivision (f).

11 (c) Subdivision (b) does not apply to the possession of a firearm
12 under any of the following circumstances:

13 (1) Within a place of residence or place of business or on private
14 property, if the place of residence, place of business, or private
15 property is not part of the school grounds and the possession of
16 the firearm is otherwise lawful.

17 (2) When the firearm is an unloaded pistol, revolver, or other
18 firearm capable of being concealed on the person and is in a locked
19 container or within the locked trunk of a motor vehicle.

1 This section does not prohibit or limit the otherwise lawful
2 transportation of any other firearm, other than a pistol, revolver,
3 or other firearm capable of being concealed on the person, in
4 accordance with state law.

5 (3) When the person possessing the firearm reasonably believes
6 that he or she is in grave danger because of circumstances forming
7 the basis of a current restraining order issued by a court against
8 another person or persons who has or have been found to pose a
9 threat to his or her life or safety. This subdivision may not apply
10 when the circumstances involve a mutual restraining order issued
11 pursuant to Division 10 (commencing with Section 6200) of the
12 Family Code absent a factual finding of a specific threat to the
13 person's life or safety. Upon a trial for violating subdivision (b),
14 the trier of a fact shall determine whether the defendant was acting
15 out of a reasonable belief that he or she was in grave danger.

16 (4) When the person is exempt from the prohibition against
17 carrying a concealed firearm pursuant to Section 25615, 25625,
18 25630, or 25645.

19 (d) Except as provided in subdivision (b), it shall be unlawful
20 for any person, with reckless disregard for the safety of another,
21 to discharge, or attempt to discharge, a firearm in a school zone,
22 as defined in paragraph (1) of subdivision (e).

23 The prohibition contained in this subdivision does not apply to
24 the discharge of a firearm to the extent that the conditions of
25 paragraph (1) of subdivision (c) are satisfied.

26 (e) As used in this section, the following definitions shall apply:

27 (1) "School zone" means an area in, or on the grounds of, a
28 public or private school providing instruction in kindergarten or
29 grades 1 to 12, inclusive, or within a distance of 1,000 feet from
30 the grounds of the public or private school.

31 (2) "Firearm" has the same meaning as that term is given in
32 subdivisions (a) to (d), inclusive, of Section 16520.

33 (3) "Locked container" has the same meaning as that term is
34 given in Section 16850.

35 (4) "Concealed firearm" has the same meaning as that term is
36 given in Sections 25400 and 25610.

37 (f) (1) (A) Except as provided in subparagraph (B), any person
38 who violates subdivision (b) by possessing a firearm in, or on the
39 grounds of, a public or private school providing instruction in

1 kindergarten or grades 1 to 12, inclusive, shall be punished by
2 imprisonment in the state prison for two, three, or five years.

3 (B) Any person who violates subdivision (b) by possessing a
4 firearm in, or on the grounds of, a public or private school
5 providing instruction in kindergarten or grades 1 to 12, inclusive,
6 if the person is within a class of persons prohibited from possessing
7 or acquiring a firearm pursuant to Chapter 2 (commencing with
8 Section 29800) or Chapter 3 (commencing with Section 29900)
9 of Division 9 of Title 4 of Part 6 of this code or Section 8100 or
10 8103 of the Welfare and Institutions Code, shall be punished by
11 imprisonment in the state prison for four, five, or six years.

12 (2) Any person who violates subdivision (b) by possessing a
13 firearm within a distance of 1,000 feet from the grounds of a public
14 or private school providing instruction in kindergarten or grades
15 1 to 12, inclusive, shall be punished as follows:

16 (A) By imprisonment in the state prison for two, three, or five
17 years, if any of the following circumstances apply:

18 (i) If the person previously has been convicted of any felony,
19 or of any crime made punishable by any provision listed in Section
20 16580.

21 (ii) If the firearm is any pistol, revolver, or other firearm capable
22 of being concealed upon the person and the offense is punished as
23 a felony pursuant to Section 25400.

24 (B) By imprisonment in the state prison for three, four, or five
25 years, if the person is within a class of persons prohibited from
26 possessing or acquiring a firearm pursuant to Chapter 2
27 (commencing with Section 29800) or Chapter 3 (commencing with
28 Section 29900) of Division 9 of Title 4 of Part 6 of this code or
29 Section 8100 or 8103 of the Welfare and Institutions Code.

30 (C) By imprisonment in a county jail for not more than one year
31 or by imprisonment in the state prison for two, three, or five years,
32 in all cases other than those specified in subparagraph (A).

33 (3) Any person who violates subdivision (d) shall be punished
34 by imprisonment in the state prison for three, five, or seven years.

35 (g) (1) Every person convicted under this section for a
36 misdemeanor violation of subdivision (b) who has been convicted
37 previously of a misdemeanor offense enumerated in Section 23515
38 shall be punished by imprisonment in a county jail for not less
39 than three months, or if probation is granted or if the execution or
40 imposition of sentence is suspended, it shall be a condition thereof

1 that he or she be imprisoned in a county jail for not less than three
2 months.

3 (2) Every person convicted under this section of a felony
4 violation of subdivision (b) or (d) who has been convicted
5 previously of a misdemeanor offense enumerated in Section 23515,
6 if probation is granted or if the execution of sentence is suspended,
7 it shall be a condition thereof that he or she be imprisoned in a
8 county jail for not less than three months.

9 (3) Every person convicted under this section for a felony
10 violation of subdivision (b) or (d) who has been convicted
11 previously of any felony, or of any crime made punishable by any
12 provision listed in Section 16580, if probation is granted or if the
13 execution or imposition of sentence is suspended, it shall be a
14 condition thereof that he or she be imprisoned in a county jail for
15 not less than three months.

16 (4) The court shall apply the three-month minimum sentence
17 specified in this subdivision, except in unusual cases where the
18 interests of justice would best be served by granting probation or
19 suspending the execution or imposition of sentence without the
20 minimum imprisonment required in this subdivision or by granting
21 probation or suspending the execution or imposition of sentence
22 with conditions other than those set forth in this subdivision, in
23 which case the court shall specify on the record and shall enter on
24 the minutes the circumstances indicating that the interests of justice
25 would best be served by this disposition.

26 (h) (1) Notwithstanding Section 25605, any person who brings
27 or possesses a loaded firearm upon the grounds of a campus of, or
28 buildings owned or operated for student housing, teaching,
29 research, or administration by, a public or private university or
30 college, that are contiguous or are clearly marked university
31 property, unless it is with the written permission of the university
32 or college president, his or her designee, or equivalent university
33 or college authority, shall be punished by imprisonment in the state
34 prison for two, three, or four years. Notwithstanding subdivision
35 (k), a university or college shall post a prominent notice at primary
36 entrances on noncontiguous property stating that firearms are
37 prohibited on that property pursuant to this subdivision.

38 (2) Notwithstanding Section 25605, any person who brings or
39 possesses a loaded firearm upon the grounds of a campus of, or
40 buildings owned or operated for student housing, teaching,

1 research, or administration by, a public or private university or
2 college, that are contiguous or are clearly marked university
3 property, unless it is with the written permission of the university
4 or college president, his or her designee, or equivalent university
5 or college authority, if the person is within a class of persons
6 prohibited from possessing or acquiring a firearm pursuant to
7 Chapter 2 (commencing with Section 29800) or Chapter 3
8 (commencing with Section 29900) of Division 9 of Title 4 of Part
9 6 of this code or Section 8100 or 8103 of the Welfare and
10 Institutions Code, shall be punished by imprisonment in the state
11 prison for three, four, or five years.

12 (i) (1) Notwithstanding Section 25605, any person who brings
13 or possesses a firearm upon the grounds of a campus of, or
14 buildings owned or operated for student housing, teaching,
15 research, or administration by, a public or private university or
16 college, that are contiguous or are clearly marked university
17 property, unless it is with the written permission of the university
18 or college president, his or her designee, or equivalent university
19 or college authority, shall be punished by imprisonment in the state
20 prison for 16 months or, two or three years. Notwithstanding
21 subdivision (k), a university or college shall post a prominent
22 notice at primary entrances on noncontiguous property stating that
23 firearms are prohibited on that property pursuant to this
24 subdivision.

25 (2) Notwithstanding Section 25605, any person who brings or
26 possesses a firearm upon the grounds of a campus of, or buildings
27 owned or operated for student housing, teaching, research, or
28 administration by, a public or private university or college, that
29 are contiguous or are clearly marked university property, unless
30 it is with the written permission of the university or college
31 president, his or her designee, or equivalent university or college
32 authority, if the person is within a class of persons prohibited from
33 possessing or acquiring a firearm pursuant to Chapter 2
34 (commencing with Section 29800) or Chapter 3 (commencing with
35 Section 29900) of Division 9 of Title 4 of Part 6 of this code or
36 Section 8100 or 8103 of the Welfare and Institutions Code, shall
37 be punished by imprisonment in the state prison for two, three, or
38 four years.

39 (j) For purposes of this section, a firearm shall be deemed to be
40 loaded when there is an unexpended cartridge or shell, consisting

1 of a case that holds a charge of powder and a bullet or shot, in, or
2 attached in any manner to, the firearm, including, but not limited
3 to, in the firing chamber, magazine, or clip thereof attached to the
4 firearm. A muzzle-loader firearm shall be deemed to be loaded
5 when it is capped or primed and has a powder charge and ball or
6 shot in the barrel or cylinder.

7 (k) This section does not require that notice be posted regarding
8 the proscribed conduct.

9 (l) This section does not apply to a duly appointed peace officer
10 as defined in Chapter 4.5 (commencing with Section 830) of Title
11 3 of Part 2, a full-time paid peace officer of another state or the
12 federal government who is carrying out official duties while in
13 California, any person summoned by any of these officers to assist
14 in making arrests or preserving the peace while he or she is actually
15 engaged in assisting the officer, a member of the military forces
16 of this state or of the United States who is engaged in the
17 performance of his or her duties, a person holding a valid license
18 to carry the firearm pursuant to Chapter 4 (commencing with
19 Section 26150) of Division 5 of Title 4 of Part 6, or an armored
20 vehicle guard, engaged in the performance of his or her duties, as
21 defined in subdivision (e) of Section 7521 of the Business and
22 Professions Code.

23 (m) This section does not apply to a security guard authorized
24 to carry a loaded firearm pursuant to Article 4 (commencing with
25 Section 26000) of Chapter 3 of Division 5 of Title 4 of Part 6.

26 (n) This section does not apply to an existing shooting range at
27 a public or private school or university or college campus.

28 (o) This section does not apply to an honorably retired peace
29 officer authorized to carry a concealed or loaded firearm pursuant
30 to any of the following:

31 (1) Article 2 (commencing with Section 25450) of Chapter 2
32 of Division 5 of Title 4 of Part 6.

33 (2) Section 25650.

34 (3) Sections 25900 to 25910, inclusive.

35 (4) Section 26020.

36 (p) (1) Every person convicted pursuant to subparagraph (B)
37 of paragraph (1) of subdivision (f), and every person convicted
38 under subparagraph (B) of paragraph (2) of subdivision (f), if
39 probation is granted or the execution or imposition of sentence is

1 suspended, shall be required, as a condition thereof, to be
2 imprisoned in a county jail for not less than nine months.

3 (2) The court shall apply the nine-month minimum sentence
4 specified in this subdivision, except in unusual cases where the
5 interests of justice would best be served by granting probation or
6 suspending the execution or imposition of sentence without
7 imposing the minimum imprisonment required in this subdivision
8 or by granting probation or suspending the execution or imposition
9 of sentence with different conditions, in which case the court shall
10 specify on the record and shall enter on the minutes the
11 circumstances indicating that the interests of justice would best be
12 served by this disposition.

13 (q) (1) Every person convicted pursuant to paragraph (2) of
14 subdivision (h), if probation is granted or the execution or
15 imposition of sentence is suspended, shall be required, as a
16 condition thereof, to be imprisoned in a county jail for not less
17 than six months.

18 (2) The court shall apply the six-month minimum sentence
19 specified in this subdivision, except in unusual cases where the
20 interests of justice would best be served by granting probation or
21 suspending the execution or imposition of sentence without the
22 minimum imprisonment required in this subdivision or by granting
23 probation or suspending the execution or imposition of sentence
24 with different conditions, in which case the court shall specify on
25 the record and shall enter on the minutes the circumstances
26 indicating that the interests of justice would best be served by this
27 disposition.

28 (r) (1) Every person convicted pursuant to paragraph (2) of
29 subdivision (i), if probation is granted or if the execution or
30 imposition of sentence is suspended, shall be required, as a
31 condition thereof, to be imprisoned in a county jail for not less
32 than three months.

33 (2) The court shall apply the three-month minimum sentence
34 specified in this subdivision, except in unusual cases where the
35 interests of justice would best be served by granting probation or
36 suspending the execution or imposition of sentence without the
37 minimum imprisonment required in this subdivision or by granting
38 probation or suspending the execution or imposition of sentence
39 with different conditions, in which case the court shall specify on
40 the record and shall enter on the minutes the circumstances

1 indicating that the interests of justice would best be served by this
2 disposition.

3 SEC. 2. Section 626.95 of the Penal Code is amended to read:

4 626.95. (a) (1) Any person who is in violation of paragraph
5 (2) of subdivision (a), or subdivision (b), of Section 417, or 25400
6 or 25850, upon the grounds of or within a playground, or a public
7 or private youth center during hours in which the facility is open
8 for business, classes, or school-related programs, or at any time
9 when minors are using the facility, knowing that he or she is on
10 or within those grounds, shall be punished by imprisonment in the
11 state prison for 16 months or, two or three years, or in a county
12 jail not exceeding one year.

13 (2) Any person who is in violation of paragraph (2) of
14 subdivision (a), or subdivision (b), of Section 417, or Section 25400
15 or 25850, upon the grounds of or within a playground, or a public
16 or private youth center during hours in which the facility is open
17 for business, classes, or school-related programs, or at any time
18 when minors are using the facility, knowing that he or she is on
19 or within those grounds, if the person is within a class of persons
20 prohibited from possessing or acquiring a firearm pursuant to
21 Chapter 2 (commencing with Section 29800) or Chapter 3
22 (commencing with Section 29900) of Division 9 of Title 4 of Part
23 6 of this code or Section 8100 or 8103 of the Welfare and
24 Institutions Code, shall be punished by imprisonment in the state
25 prison for two, three, or four years.

26 (b) State and local authorities are encouraged to cause signs to
27 be posted around playgrounds and youth centers giving warning
28 of prohibition of the possession of firearms upon the grounds of
29 or within playgrounds or youth centers.

30 (c) For purposes of this section, the following definitions shall
31 apply:

32 (1) "Playground" means any park or recreational area
33 specifically designed to be used by children that has play equipment
34 installed, including public grounds designed for athletic activities
35 such as baseball, football, soccer, or basketball, or any similar
36 facility located on public or private school grounds, or on city or
37 county parks.

38 (2) "Youth center" means any public or private facility that is
39 used to host recreational or social activities for minors while minors
40 are present.

1 (d) It is the Legislature’s intent that only an actual conviction
2 of a felony of one of the offenses specified in this section would
3 subject the person to firearms disabilities under the federal Gun
4 Control Act of 1968 (P.L. 90-618; 18 U.S.C. Sec. 921).

5 (e) (1) Every person convicted pursuant to paragraph (2) of
6 subdivision (a), if probation is granted or the execution or
7 imposition of sentence is suspended, shall be required, as a
8 condition thereof, to be imprisoned in a county jail for not less
9 than six months.

10 (2) The court shall apply the six-month minimum sentence
11 specified in this subdivision, except in unusual cases where the
12 interests of justice would best be served by granting probation or
13 suspending the execution or imposition of sentence without the
14 minimum imprisonment required in this subdivision or by granting
15 probation or suspending the execution or imposition of sentence
16 with different conditions, in which case the court shall specify on
17 the record and shall enter on the minutes the circumstances
18 indicating that the interests of justice would best be served by this
19 disposition.

20 ~~SEC. 3. Section 3000.08 of the Penal Code, as amended by~~
21 ~~Section 35 of Chapter 43 of the Statutes of 2012, is amended to~~
22 ~~read:~~

23 ~~3000.08. (a) A person released from state prison prior to, or~~
24 ~~on or after, July 1, 2013, after serving a prison term or, whose~~
25 ~~sentence has been deemed served pursuant to Section 2900.5, for~~
26 ~~any of the following crimes is subject to parole supervision by the~~
27 ~~Department of Corrections and Rehabilitation and the jurisdiction~~
28 ~~of the court in the county in which the parolee is released or resides~~
29 ~~for the purpose of hearing petitions to revoke parole and impose~~
30 ~~a term of eustody:~~

31 ~~(1) A serious felony as described in subdivision (c) of Section~~
32 ~~1192.7.~~

33 ~~(2) A violent felony as described in subdivision (c) of Section~~
34 ~~667.5.~~

35 ~~(3) A crime for which the person was sentenced pursuant to~~
36 ~~paragraph (2) of subdivision (c) of Section 667 or paragraph (2)~~
37 ~~of subdivision (c) of Section 1170.12.~~

38 ~~(4) Any crime for which the person is classified as a High Risk~~
39 ~~Sex Offender.~~

1 ~~(5) Any crime for which the person is required, as a condition~~
2 ~~of parole, to undergo treatment by the State Department of State~~
3 ~~Hospitals pursuant to Section 2962.~~

4 ~~(b) A person released from state prison on or after January 1,~~
5 ~~2014, after serving a prison term, or whose sentence has been~~
6 ~~deemed served pursuant to Section 2900.5, to which any of the~~
7 ~~following apply, is subject to the jurisdiction of, and parole~~
8 ~~supervision by, the Department of Corrections and Rehabilitation:~~

9 ~~(1) The person has a current or prior felony conviction for any~~
10 ~~offense included in Part 6 (commencing with Section 16000).~~

11 ~~(2) The person has a current or prior conviction for a violation~~
12 ~~of Section 245, except that this subdivision does not apply to a~~
13 ~~violation of paragraph (4) of subdivision (a) of Section 245 as~~
14 ~~amended by Section 1 of Chapter 183 of the Statutes of 2011.~~

15 ~~(3) The person has a prior conviction of a serious felony~~
16 ~~described in subdivision (c) of Section 1192.7 involving the use~~
17 ~~of a deadly or dangerous weapon or firearm.~~

18 ~~(4) The person has a prior conviction of a violent felony~~
19 ~~described in subdivision (c) of Section 667.5 involving the use of~~
20 ~~a deadly or dangerous weapon or firearm.~~

21 ~~(5) The person has a current or prior conviction for an offense~~
22 ~~where the person used a firearm as specified in Section 12021.5,~~
23 ~~12022, or 12022.2.~~

24 ~~(6) The person has a current or prior conviction for any homicide~~
25 ~~offense, including any attempted homicide offense, defined in~~
26 ~~Sections 187 to 191.5, inclusive.~~

27 ~~(7) The person has a current or prior felony conviction of Section~~
28 ~~626.9 or 626.95.~~

29 ~~(e) Notwithstanding any other law, all other offenders released~~
30 ~~from prison shall be placed on postrelease supervision pursuant~~
31 ~~to Title 2.05 (commencing with Section 3450).~~

32 ~~(d) At any time during the period of parole of a person subject~~
33 ~~to this section, if any parole agent or peace officer has probable~~
34 ~~cause to believe that the parolee is violating any term or condition~~
35 ~~of his or her parole, the agent or officer may, without warrant or~~
36 ~~other process and at any time until the final disposition of the case,~~
37 ~~arrest the person and bring him or her before the court, or the court~~
38 ~~may, in its discretion, issue a warrant for that person's arrest~~
39 ~~pursuant to Section 1203.2.~~

1 ~~(e) Upon review of the alleged violation and a finding of good~~
2 ~~cause that the parolee has committed a violation of law or violated~~
3 ~~his or her conditions of parole, the supervising parole agency may~~
4 ~~impose additional and appropriate conditions of supervision,~~
5 ~~including rehabilitation and treatment services and appropriate~~
6 ~~incentives for compliance, and impose immediate, structured, and~~
7 ~~intermediate sanctions for parole violations, including flash~~
8 ~~incarceration in a county jail. Periods of “flash incarceration,” as~~
9 ~~defined in subdivision (e) are encouraged as one method of~~
10 ~~punishment for violations of a parolee’s conditions of parole. This~~
11 ~~section does not preclude referrals to a reentry court pursuant to~~
12 ~~Section 3015.~~

13 ~~(f) “Flash incarceration” is a period of detention in county jail~~
14 ~~due to a violation of a parolee’s conditions of parole. The length~~
15 ~~of the detention period can range between one and 10 consecutive~~
16 ~~days. Shorter, but if necessary more frequent, periods of detention~~
17 ~~for violations of a parolee’s conditions of parole shall appropriately~~
18 ~~punish a parolee while preventing the disruption in a work or home~~
19 ~~establishment that typically arises from longer periods of detention.~~

20 ~~(g) If the supervising parole agency has determined, following~~
21 ~~application of its assessment processes, that intermediate sanctions~~
22 ~~up to and including flash incarceration are not appropriate, the~~
23 ~~supervising parole agency shall, pursuant to Section 1203.2,~~
24 ~~petition the court in the county in which the parolee is being~~
25 ~~supervised to revoke parole. At any point during the process~~
26 ~~initiated pursuant to this section, a parolee may waive, in writing,~~
27 ~~his or her right to counsel, admit the parole violation, waive a court~~
28 ~~hearing, and accept the proposed parole modification or revocation.~~
29 ~~The petition shall include a written report that contains additional~~
30 ~~information regarding the petition, including the relevant terms~~
31 ~~and conditions of parole, the circumstances of the alleged~~
32 ~~underlying violation, the history and background of the parolee,~~
33 ~~and any recommendations. The Judicial Council shall adopt forms~~
34 ~~and rules of court to establish uniform statewide procedures to~~
35 ~~implement this subdivision, including the minimum contents of~~
36 ~~supervision agency reports. Upon a finding that the person has~~
37 ~~violated the conditions of parole, the court shall have authority to~~
38 ~~do any of the following:~~

1 ~~(1) Return the person to parole supervision with modifications~~
2 ~~of conditions, if appropriate, including a period of incarceration~~
3 ~~in county jail.~~

4 ~~(2) Revoke parole and order the person to confinement in the~~
5 ~~county jail.~~

6 ~~(3) Refer the person to a reentry court pursuant to Section 3015~~
7 ~~or other evidence-based program in the court's discretion.~~

8 ~~(h) Confinement pursuant to paragraphs (1) and (2) of~~
9 ~~subdivision (g) shall not exceed a period of 180 days in the county~~
10 ~~jail.~~

11 ~~(i) Notwithstanding any other law, if Section 3000.1 or~~
12 ~~paragraph (4) of subdivision (b) of Section 3000 applies to a person~~
13 ~~who is on parole and the court determines that the person has~~
14 ~~committed a violation of law or violated his or her conditions of~~
15 ~~parole, the person on parole shall be remanded to the custody of~~
16 ~~the Department of Corrections and Rehabilitation and the~~
17 ~~jurisdiction of the Board of Parole Hearings for the purpose of~~
18 ~~future parole consideration.~~

19 ~~(j) Notwithstanding subdivision (a), any of the following persons~~
20 ~~released from state prison shall be subject to the jurisdiction of,~~
21 ~~and parole supervision by, the Department of Corrections and~~
22 ~~Rehabilitation for a period of parole up to three years or the parole~~
23 ~~term the person was subject to at the time of the commission of~~
24 ~~the offense, whichever is greater:~~

25 ~~(1) The person is required to register as a sex offender pursuant~~
26 ~~to Chapter 5.5 (commencing with Section 290) of Title 9 of Part~~
27 ~~1, and was subject to a period of parole exceeding three years at~~
28 ~~the time he or she committed a felony for which they were~~
29 ~~convicted and subsequently sentenced to state prison.~~

30 ~~(2) The person was subject to parole for life pursuant to Section~~
31 ~~3000.1 at the time of the commission of the offense that resulted~~
32 ~~in a conviction and state prison sentence.~~

33 ~~(k) Parolees subject to this section who have a pending~~
34 ~~adjudication for a parole violation on July 1, 2013, are subject to~~
35 ~~the jurisdiction of the Board of Parole Hearings. Parole revocation~~
36 ~~proceedings conducted by the Board of Parole Hearings prior to~~
37 ~~July 1, 2013, if reopened on or after July 1, 2013, are subject to~~
38 ~~the jurisdiction of the Board of Parole Hearings.~~

39 ~~(l) Except as described in subdivision (d), any person who is~~
40 ~~convicted of a felony that requires community supervision and~~

1 who still has a period of state parole to serve shall discharge from
 2 state parole at the time of release to community supervision.
 3 (m) This section shall become operative on July 1, 2013.
 4 SEC. 4. Section 3451 of the Penal Code is amended to read:
 5 3451. (a) Notwithstanding any other law and except for persons
 6 serving a prison term for any crime described in subdivision (b),
 7 all persons released from prison on and after October 1, 2011, or,
 8 whose sentence has been deemed served pursuant to Section 2900.5
 9 after serving a prison term for a felony shall, upon release from
 10 prison and for a period not exceeding three years immediately
 11 following release, be subject to community supervision provided
 12 by a county agency designated by each county's board of
 13 supervisors which is consistent with evidence-based practices,
 14 including, but not limited to, supervision policies, procedures,
 15 programs, and practices demonstrated by scientific research to
 16 reduce recidivism among individuals under postrelease supervision.
 17 (b) This section shall not apply to any person released from
 18 prison after having served a prison term for any of the following:
 19 (1) A serious felony described in subdivision (c) of Section
 20 1192.7.
 21 (2) A violent felony described in subdivision (c) of Section
 22 667.5.
 23 (3) A crime for which the person was sentenced pursuant to
 24 paragraph (2) of subdivision (c) of Section 667 or paragraph (2)
 25 of subdivision (c) of Section 1170.12.
 26 (4) Any crime where the person eligible for release from prison
 27 is classified as a High Risk Sex Offender.
 28 (5) Any crime where the person is required, as a condition of
 29 parole, to undergo treatment by the State Department of State
 30 Hospitals pursuant to Section 2962.
 31 (c) This section shall not apply to any person released from
 32 prison specified in subdivision (b) of Section 3000.08.
 33 (d) (1) Postrelease supervision under this title shall be
 34 implemented by a county agency according to a postrelease strategy
 35 designated by each county's board of supervisors.
 36 (2) The Department of Corrections and Rehabilitation shall
 37 inform every prisoner subject to the provisions of this title, upon
 38 release from state prison, of the requirements of this title and of
 39 his or her responsibility to report to the county agency responsible
 40 for serving that inmate. The department shall also inform persons

1 ~~servicing a term of parole for a felony offense who are subject to~~
2 ~~this section of the requirements of this title and of his or her~~
3 ~~responsibility to report to the county agency responsible for serving~~
4 ~~that parolee. Thirty days prior to the release of any person subject~~
5 ~~to postrelease supervision by a county, the department shall notify~~
6 ~~the county of all information that would otherwise be required for~~
7 ~~parolees under subdivision (c) of Section 3003.~~

8 ~~SEC. 5.~~

9 *SEC. 3.* Section 25400 of the Penal Code is amended to read:

10 25400. (a) A person is guilty of carrying a concealed firearm
11 when the person does any of the following:

12 (1) Carries concealed within any vehicle that is under the
13 person's control or direction any pistol, revolver, or other firearm
14 capable of being concealed upon the person.

15 (2) Carries concealed upon the person any pistol, revolver, or
16 other firearm capable of being concealed upon the person.

17 (3) Causes to be carried concealed within any vehicle in which
18 the person is an occupant any pistol, revolver, or other firearm
19 capable of being concealed upon the person.

20 (b) A firearm carried openly in a belt holster is not concealed
21 within the meaning of this section.

22 (c) Carrying a concealed firearm in violation of this section is
23 punishable as follows:

24 (1) If the person previously has been convicted of any felony,
25 or of any crime made punishable by a provision listed in Section
26 16580, as a felony, punishable in state prison for two, three, or
27 four years.

28 (2) If the firearm is stolen and the person knew or had reasonable
29 cause to believe that it was stolen, as a felony.

30 (3) If the person is an active participant in a criminal street gang,
31 as defined in subdivision (a) of Section 186.22, under the Street
32 Terrorism Enforcement and Prevention Act (Chapter 11
33 (commencing with Section 186.20) of Title 7 of Part 1), as a felony.

34 (4) If the person is not in lawful possession of the firearm or
35 the person is within a class of persons prohibited from possessing
36 or acquiring a firearm pursuant to Chapter 2 (commencing with
37 Section 29800) or Chapter 3 (commencing with Section 29900)
38 of Division 9 of this title, or Section 8100 or 8103 of the Welfare
39 and Institutions Code, as a felony.

1 (5) If the person has been convicted of a crime against a person
2 or property, or of a narcotics or dangerous drug violation, by
3 imprisonment pursuant to subdivision (h) of Section 1170, or by
4 imprisonment in a county jail not to exceed one year, by a fine not
5 to exceed one thousand dollars (\$1,000), or by both that
6 imprisonment and fine.

7 (6) If both of the following conditions are met, by imprisonment
8 pursuant to subdivision (h) of Section 1170, or by imprisonment
9 in a county jail not to exceed one year, by a fine not to exceed one
10 thousand dollars (\$1,000), or by both that fine and imprisonment:

11 (A) The pistol, revolver, or other firearm capable of being
12 concealed upon the person is loaded, or both it and the unexpended
13 ammunition capable of being discharged from it are in the
14 immediate possession of the person or readily accessible to that
15 person.

16 (B) The person is not listed with the Department of Justice
17 pursuant to paragraph (1) of subdivision (c) of Section 11106 as
18 the registered owner of that pistol, revolver, or other firearm
19 capable of being concealed upon the person.

20 (7) If the person has been convicted of any felony enumerated
21 in Section 29905, as a felony, punishable by imprisonment in the
22 state prison for three, four, or five years.

23 (8) In all cases other than those specified in paragraphs (1) to
24 (6), inclusive, by imprisonment in a county jail not to exceed one
25 year, by a fine not to exceed one thousand dollars (\$1,000), or by
26 both that imprisonment and fine.

27 (d) (1) Every person convicted under this section who
28 previously has been convicted of a misdemeanor offense
29 enumerated in Section 23515 shall be punished by imprisonment
30 in a county jail for at least three months and not exceeding six
31 months, or, if granted probation, or if the execution or imposition
32 of sentence is suspended, it shall be a condition thereof that the
33 person be imprisoned in a county jail for at least three months.

34 (2) Every person convicted under this section who has
35 previously been convicted of any felony, or of any crime made
36 punishable by a provision listed in Section 16580, if probation is
37 granted, or if the execution or imposition of sentence is suspended,
38 it shall be a condition thereof that the person be imprisoned in a
39 county jail for not less than six months.

1 (3) Every person convicted under this section who has
2 previously been convicted of any felony enumerated in Section
3 29905, if probation is granted, or if the execution or imposition of
4 sentence is suspended, it shall be a condition thereof that the person
5 be imprisoned in a county jail for not less than nine months.

6 (e) The court shall apply the minimum sentence as specified in
7 subdivision (d), except in unusual cases where the interests of
8 justice would best be served by granting probation or suspending
9 the imposition or execution of sentence without the minimum
10 imprisonment required in subdivision (d) or by granting probation
11 or suspending the imposition or execution of sentence with
12 conditions other than those set forth in subdivision (d), in which
13 case, the court shall specify on the record and shall enter on the
14 minutes the circumstances indicating that the interests of justice
15 would best be served by that disposition.

16 (f) A peace officer may arrest a person for a violation of
17 paragraph (6) of subdivision (c) if the peace officer has probable
18 cause to believe that the person is not listed with the Department
19 of Justice pursuant to paragraph (1) of subdivision (c) of Section
20 11106 as the registered owner of the pistol, revolver, or other
21 firearm capable of being concealed upon the person, and one or
22 more of the conditions in subparagraph (A) of paragraph (6) of
23 subdivision (c) is met.

24 ~~SEC. 6.~~

25 *SEC. 4.* Section 25850 of the Penal Code is amended to read:

26 25850. (a) A person is guilty of carrying a loaded firearm
27 when the person carries a loaded firearm on the person or in a
28 vehicle while in any public place or on any public street in an
29 incorporated city or in any public place or on any public street in
30 a prohibited area of unincorporated territory.

31 (b) In order to determine whether or not a firearm is loaded for
32 the purpose of enforcing this section, peace officers are authorized
33 to examine any firearm carried by anyone on the person or in a
34 vehicle while in any public place or on any public street in an
35 incorporated city or prohibited area of an unincorporated territory.
36 Refusal to allow a peace officer to inspect a firearm pursuant to
37 this section constitutes probable cause for arrest for violation of
38 this section.

39 (c) Carrying a loaded firearm in violation of this section is
40 punishable, as follows:

1 (1) Where the person previously has been convicted of any
2 felony, or of any crime made punishable by a provision listed in
3 Section 16580, as a felony, punishable by imprisonment in the
4 state prison for two, three, or four years.

5 (2) Where the firearm is stolen and the person knew or had
6 reasonable cause to believe that it was stolen, as a felony.

7 (3) Where the person is an active participant in a criminal street
8 gang, as defined in subdivision (a) of Section 186.22, under the
9 Street Terrorism Enforcement and Prevention Act (Chapter 11
10 (commencing with Section 186.20) of Title 7 of Part 1), as a felony.

11 (4) Where the person is not in lawful possession of the firearm,
12 or is within a class of persons prohibited from possessing or
13 acquiring a firearm pursuant to Chapter 2 (commencing with
14 Section 29800) or Chapter 3 (commencing with Section 29900)
15 of Division 9 of this title, or Section 8100 or 8103 of the Welfare
16 and Institutions Code, as a felony.

17 (5) Where the person has been convicted of a crime against a
18 person or property, or of a narcotics or dangerous drug violation,
19 by imprisonment pursuant to subdivision (h) of Section 1170, or
20 by imprisonment in a county jail not to exceed one year, by a fine
21 not to exceed one thousand dollars (\$1,000), or by both that
22 imprisonment and fine.

23 (6) Where the person is not listed with the Department of Justice
24 pursuant to Section 11106 as the registered owner of the handgun,
25 by imprisonment pursuant to subdivision (h) of Section 1170, or
26 by imprisonment in a county jail not to exceed one year, or by a
27 fine not to exceed one thousand dollars (\$1,000), or *by* both that
28 fine and imprisonment.

29 (7) If the person has been convicted of any felony enumerated
30 in Section 29905, as a felony, punishable by imprisonment in the
31 state prison for three, four, or five years.

32 (8) In all cases other than those specified in paragraphs (1) to
33 (6), inclusive, as a misdemeanor, punishable by imprisonment in
34 a county jail not to exceed one year, by a fine not to exceed one
35 thousand dollars (\$1,000), or by both that imprisonment and fine.

36 (d) (1) Every person convicted under this section who has
37 previously been convicted of an offense enumerated in Section
38 23515, or of any crime made punishable under a provision listed
39 in Section 16580, shall serve a term of at least three months in a
40 county jail, or, if granted probation or if the execution or imposition

1 of sentence is suspended, it shall be a condition thereof that the
2 person be imprisoned for a period of at least three months.

3 (2) Except as provided in paragraph (1), every person convicted
4 under this section who has previously been convicted of any felony,
5 if probation is granted, or if the execution or imposition of sentence
6 is suspended, it shall be a condition thereof that the person be
7 imprisoned in a county jail for not less than six months.

8 (3) Except as provided in paragraph (1), and notwithstanding
9 paragraph (2), every person convicted under this section who has
10 previously been convicted of any felony enumerated in Section
11 29905, if probation is granted, or if the execution or imposition of
12 sentence is suspended, it shall be a condition thereof that the person
13 be imprisoned in a county jail for not less than nine months.

14 (4) The court shall apply the minimum sentence specified in
15 this subdivision except in unusual cases where the interests of
16 justice would best be served by granting probation or suspending
17 the imposition or execution of sentence without the minimum
18 imprisonment required in this section or by granting probation or
19 suspending the imposition or execution of sentence with conditions
20 other than those set forth in this section, in which case, the court
21 shall specify on the record and shall enter on the minutes the
22 circumstances indicating that the interests of justice would best be
23 served by that disposition.

24 (e) A violation of this section that is punished by imprisonment
25 in a county jail not exceeding one year shall not constitute a
26 conviction of a crime punishable by imprisonment for a term
27 exceeding one year for the purposes of determining federal firearms
28 eligibility under Section 922(g)(1) of Title 18 of the United States
29 Code.

30 (f) Nothing in this section, or in Article 3 (commencing with
31 Section 25900) or Article 4 (commencing with Section 26000),
32 shall preclude prosecution under Chapter 2 (commencing with
33 Section 29800) or Chapter 3 (commencing with Section 29900)
34 of Division 9 of this title, Section 8100 or 8103 of the Welfare and
35 Institutions Code, or any other law with a greater penalty than this
36 section.

37 (g) Notwithstanding paragraphs (2) and (3) of subdivision (a)
38 of Section 836, a peace officer may make an arrest without a
39 warrant:

1 (1) When the person arrested has violated this section, although
2 not in the officer’s presence.

3 (2) Whenever the officer has reasonable cause to believe that
4 the person to be arrested has violated this section, whether or not
5 this section has, in fact, been violated.

6 (h) A peace officer may arrest a person for a violation of
7 paragraph (6) of subdivision (c), if the peace officer has probable
8 cause to believe that the person is carrying a handgun in violation
9 of this section and that person is not listed with the Department of
10 Justice pursuant to paragraph (1) of subdivision (c) of Section
11 11106 as the registered owner of that handgun.

12 ~~SEC. 7.~~

13 *SEC. 5.* Section 27590 of the Penal Code is amended to read:
14 27590. (a) Except as provided in subdivision (b), (c), or (e),
15 a violation of this article is a misdemeanor.

16 (b) If any of the following circumstances apply, a violation of
17 this article is punishable by imprisonment in the state prison for
18 two, three, or four years.

19 (1) If the violation is of Section 27500.

20 (2) If the defendant has a prior conviction of violating the
21 provisions, other than Section 27535, Section 27560 involving a
22 firearm that is not a handgun, or Section 27565 involving a firearm
23 that is not a handgun, of this article or former Section 12100 of
24 this code, as Section 12100 read at any time from when it was
25 enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to
26 when it was repealed by Section 18 of Chapter 23 of the Statutes
27 of 1994, or Section 8101 of the Welfare and Institutions Code.

28 (3) If the defendant has a prior conviction of violating any
29 offense specified in Section 29905 or of a violation of Section
30 32625 or 33410, or of former Section 12560, as that section read
31 at any time from when it was enacted by Section 4 of Chapter 931
32 of the Statutes of 1965 to when it was repealed by Section 14 of
33 Chapter 9 of the Statutes of 1990, or of any provision listed in
34 Section 16590.

35 (4) If the defendant is in a prohibited class described in Chapter
36 2 (commencing with Section 29800) or Chapter 3 (commencing
37 with Section 29900) of Division 9 of this title, or Section 8100 or
38 8103 of the Welfare and Institutions Code.

39 (5) A violation of this article by a person who actively
40 participates in a “criminal street gang” as defined in Section 186.22.

1 (6) A violation of Section 27510 involving the delivery of any
2 firearm to a person who the dealer knows, or should know, is a
3 minor.

4 (c) If any of the following circumstances apply, a violation of
5 this article shall be punished by imprisonment in a county jail not
6 exceeding one year or in the state prison for 16 months, or two or
7 three years, or by a fine not to exceed one thousand dollars
8 (\$1,000), or by both that fine and imprisonment.

9 (1) A violation of Section 27505 involving the sale, loan, or
10 transfer of a handgun to a minor.

11 (2) A violation of Section 27510 involving the delivery of a
12 handgun.

13 (3) A violation of subdivision (a), (c), (d), (e), or (f) of Section
14 27540 involving a handgun.

15 (4) A violation of Section 27545 involving a handgun.

16 (5) A violation of Section 27550.

17 (d) If both of the following circumstances apply, an additional
18 term of imprisonment in the state prison for 16 months or, two or
19 three years shall be imposed in addition and consecutive to the
20 sentence prescribed.

21 (1) A violation of Section 27510 or Section 27500.

22 (2) The firearm transferred in violation of Section 27510 or
23 subdivision (b) of Section 27500 is used in the subsequent
24 commission of a felony for which a conviction is obtained and the
25 prescribed sentence is imposed.

26 (e) (1) A first violation of Section 27535 is an infraction
27 punishable by a fine of fifty dollars (\$50).

28 (2) A second violation of Section 27535 is an infraction
29 punishable by a fine of one hundred dollars (\$100).

30 (3) A third or subsequent violation of Section 27535 is a
31 misdemeanor.

32 (4) For purposes of this subdivision each application to purchase
33 a handgun in violation of Section 27535 shall be deemed a separate
34 offense.

35 (f) (1) Under the circumstances specified in paragraphs (1),
36 (4), and (5) of subdivision (b), if probation is granted, or if the
37 imposition or execution of sentence is suspended, it shall be a
38 condition thereof that the person be imprisoned in a county jail *for*
39 not less than six months.

1 (2) The court shall apply the minimum sentence specified in
 2 this subdivision except in unusual cases where the interests of
 3 justice would best be served by granting probation or suspending
 4 the imposition or execution of sentence without the minimum
 5 imprisonment required in this section or by granting probation or
 6 suspending the imposition or execution of sentence with conditions
 7 other than those set forth in this subdivision, in which case, the
 8 court shall specify on the record and shall enter on the minutes the
 9 circumstances indicating that the interests of justice would best be
 10 served by that disposition.

11 (g) If any of the following circumstances apply, a violation of
 12 this article shall be punished by imprisonment in the state prison
 13 for 16 months, or two or three years.

14 (1) A violation of Section 27515.

15 (2) A violation of Section 27520.

16 ~~SEC. 8.~~

17 *SEC. 6.* Section 29800 of the Penal Code is amended to read:

18 29800. (a) (1) Any person who has been convicted of a felony
 19 under the laws of the United States, the State of California, or any
 20 other state, government, or country, or of an offense enumerated
 21 in subdivision (a), (b), or (d) of Section 23515, or who is addicted
 22 to the use of any narcotic drug, and who owns, purchases, receives,
 23 or has in possession or under custody or control any firearm is
 24 guilty of a felony, punishable by imprisonment in the state prison
 25 for two, three, or four years.

26 (2) Any person who has two or more convictions for violating
 27 paragraph (2) of subdivision (a) of Section 417 and who owns,
 28 purchases, receives, or has in possession or under custody or
 29 control any firearm is guilty of a felony.

30 (b) Notwithstanding subdivision (a), any person who has been
 31 convicted of a felony or of an offense enumerated in Section 23515,
 32 when that conviction results from certification by the juvenile court
 33 for prosecution as an adult in an adult court under Section 707 of
 34 the Welfare and Institutions Code, and who owns or has in
 35 possession or under custody or control any firearm is guilty of a
 36 felony, punishable by imprisonment in state prison for two, three,
 37 or four years.

38 (c) Subdivision (a) shall not apply to a person who has been
 39 convicted of a felony under the laws of the United States unless
 40 either of the following criteria is satisfied:

1 (1) Conviction of a like offense under California law can only
2 result in imposition of felony punishment.

3 (2) The defendant was sentenced to a federal correctional facility
4 for more than 30 days, or received a fine of more than one thousand
5 dollars (\$1,000), or received both punishments.

6 (d) (1) Under the circumstances specified in paragraph (1) of
7 subdivision (a), and under the circumstances specified in
8 subdivision (b), if probation is granted, or if the imposition or
9 execution of sentence is suspended, it shall be a condition thereof
10 that the person be imprisoned in a county jail *for* not less than six
11 months.

12 (2) The court shall apply the minimum sentence specified in
13 this subdivision except in unusual cases where the interests of
14 justice would best be served by granting probation or suspending
15 the imposition or execution of sentence without the minimum
16 imprisonment required in this section or by granting probation or
17 suspending the imposition or execution of sentence with conditions
18 other than those set forth in this subdivision, in which case, the
19 court shall specify on the record and shall enter on the minutes the
20 circumstances indicating that the interests of justice would best be
21 served by that disposition.

22 ~~SEC. 9.~~

23 *SEC. 7.* Section 29805 of the Penal Code is amended to read:

24 29805. (a) Except as provided in Section 29855 or subdivision
25 (a) of Section 29800, any person who has been convicted of a
26 misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140,
27 subdivision (d) of Section 148, Section 171b, paragraph (1) of
28 subdivision (a) of Section 171c, 171d, 186.28, 240, 241, 242, 243,
29 243.4, 244.5, 245, 245.5, 246.3, 247, 273.5, 273.6, 417, 417.6,
30 422, 626.9, 646.9, or 830.95, subdivision (a) of former Section
31 12100, as that section read at any time from when it was enacted
32 by Section 3 of Chapter 1386 of the Statutes of 1988 to when it
33 was repealed by Section 18 of Chapter 23 of the Statutes of 1994,
34 Section 17500, 17510, 25300, 25800, 30315, or 32625, subdivision
35 (b) or (d) of Section 26100, or Section 27510, or Section 8100,
36 8101, or 8103 of the Welfare and Institutions Code, any
37 firearm-related offense pursuant to Sections 871.5 and 1001.5 of
38 the Welfare and Institutions Code, or of the conduct punished in
39 subdivision (c) of Section 27590, and who, within 10 years of the
40 conviction, owns, purchases, receives, or has in possession or under

1 custody or control, any firearm is guilty of a public offense, which
 2 shall be punishable by imprisonment in a county jail not exceeding
 3 one year or in the state prison for two, three, or four years, by a
 4 fine not exceeding one thousand dollars (\$1,000), or by both that
 5 imprisonment and fine. The court, on forms prescribed by the
 6 Department of Justice, shall notify the department of persons
 7 subject to this section. However, the prohibition in this section
 8 may be reduced, eliminated, or conditioned as provided in Section
 9 29855 or 29860.

10 (b) (1) For a felony violation of this section, if probation is
 11 granted, or if the imposition or execution of sentence is suspended,
 12 it shall be a condition thereof that the person be imprisoned in a
 13 county jail *for* not less than three months.

14 (2) The court shall apply the minimum sentence specified in
 15 this subdivision except in unusual cases where the interests of
 16 justice would best be served by granting probation or suspending
 17 the imposition or execution of sentence without the minimum
 18 imprisonment required in this section or by granting probation or
 19 suspending the imposition or execution of sentence with conditions
 20 other than those set forth in this subdivision, in which case, the
 21 court shall specify on the record and shall enter on the minutes the
 22 circumstances indicating that the interests of justice would best be
 23 served by that disposition.

24 ~~SEC. 10.~~

25 *SEC. 8.* Section 29900 of the Penal Code is amended to read:

26 29900. (a) (1) Notwithstanding subdivision (a) of Section
 27 29800, any person who has been previously convicted of any of
 28 the offenses listed in Section 29905 and who owns or has in
 29 possession or under custody or control any firearm is guilty of a
 30 felony, punishable by imprisonment in the state prison for three,
 31 four, or five years.

32 (2) A dismissal of an accusatory pleading pursuant to Section
 33 1203.4a involving an offense set forth in Section 29905 does not
 34 affect the finding of a previous conviction.

35 (3) If probation is granted, or if the imposition or execution of
 36 sentence is suspended, it shall be a condition of the probation or
 37 suspension that the defendant serve at least nine months in a county
 38 jail.

39 (b) (1) Any person previously convicted of any of the offenses
 40 listed in Section 29905 which conviction results from certification

1 by the juvenile court for prosecution as an adult in adult court
2 under the provisions of Section 707 of the Welfare and Institutions
3 Code, who owns or has in possession or under custody or control
4 any firearm, is guilty of a felony, punishable by imprisonment in
5 the state prison for three, four, or five years.

6 (2) If probation is granted, or if the imposition or execution of
7 sentence is suspended, it shall be a condition of the probation or
8 suspension that the defendant serve at least nine months in a county
9 jail.

10 (c) The court shall apply the minimum sentence as specified in
11 subdivisions (a) and (b) except in unusual cases where the interests
12 of justice would best be served by granting probation or suspending
13 the imposition or execution of sentence without the imprisonment
14 required by subdivisions (a) and (b), or by granting probation or
15 suspending the imposition or execution of sentence with conditions
16 other than those set forth in subdivisions (a) and (b), in which case
17 the court shall specify on the record and shall enter on the minutes
18 the circumstances indicating that the interests of justice would best
19 be served by the disposition.

20 ~~SEC. 11.~~

21 *SEC. 9.* Section 29905 of the Penal Code is amended to read:

22 29905. (a) As used in this chapter, a violent offense includes
23 any of the following:

24 (1) Murder or voluntary manslaughter.

25 (2) Mayhem.

26 (3) Rape.

27 (4) Sodomy by force, violence, duress, menace, or threat of
28 great bodily harm.

29 (5) Oral copulation by force, violence, duress, menace, or threat
30 of great bodily harm.

31 (6) Lewd acts on a child under the age of 14 years.

32 (7) Any felony punishable by death or imprisonment in the state
33 prison for life.

34 (8) Any other felony in which the defendant inflicts great bodily
35 injury on any person, other than an accomplice, that has been
36 charged and proven, or any felony in which the defendant uses a
37 firearm which use has been charged and proven.

38 (9) Attempted murder.

39 (10) Assault with intent to commit rape or robbery.

- 1 (11) Assault with a deadly weapon or instrument on a peace
2 officer.
- 3 (12) Assault by a life prisoner on a noninmate.
- 4 (13) Assault with a deadly weapon by an inmate.
- 5 (14) Arson.
- 6 (15) Exploding a destructive device or any explosive with intent
7 to injure.
- 8 (16) Exploding a destructive device or any explosive causing
9 great bodily injury.
- 10 (17) Exploding a destructive device or any explosive with intent
11 to murder.
- 12 (18) Robbery.
- 13 (19) Kidnapping.
- 14 (20) Taking of a hostage by an inmate of a state prison.
- 15 (21) Attempt to commit a felony punishable by death or
16 imprisonment in the state prison for life.
- 17 (22) Any felony in which the defendant personally used a
18 dangerous or deadly weapon.
- 19 (23) Escape from a state prison by use of force or violence.
- 20 (24) Assault with a deadly weapon or force likely to produce
21 great bodily injury.
- 22 (25) Any felony violation of Section 186.22.
- 23 (26) Any offense enumerated in subdivision (a), (b), or (d) of
24 Section 23515.
- 25 (27) Carjacking.
- 26 (28) Any offense enumerated in subdivision (c) of Section 23515
27 if the person has two or more convictions for violating paragraph
28 (2) of subdivision (a) of Section 417.
- 29 (29) Any felony violation of Section 245, other than a violation
30 of paragraph (4) of subdivision (a).
- 31 (30) Any felony violation of Section 626.9 or 626.95.
- 32 (31) Human trafficking, as defined in Section 236.1.
- 33 (32) Sexual penetration as defined in subdivision (a) or (j) of
34 Section 289.
- 35 (33) Rape, spousal rape, or sexual penetration, in concert, in
36 violation of Section 264.
- 37 (34) Continuous sexual abuse of a child, as defined in Section
38 288.5.
- 39 (35) Any felony violation of Section 136.1.

1 (36) Use of a deadly weapon to intimidate witnesses as defined
2 in Section 136.5.

3 (37) Holding a hostage by an inmate as defined in Section 4503.

4 (38) Any felony violation of Section 246.

5 (b) As used in this chapter, a violent offense also includes any
6 attempt to commit a crime listed in subdivision (a) other than an
7 assault.

8 (c) As used in this chapter, a violent offense includes any
9 conspiracy to commit a crime listed in subdivision (a).

10 ~~SEC. 12.~~

11 *SEC. 10.* Section 8100 of the Welfare and Institutions Code is
12 amended to read:

13 8100. (a) A person shall not have in his or her possession or
14 under his or her custody or control, or purchase or receive, or
15 attempt to purchase or receive, any firearms whatsoever or any
16 other deadly weapon, if on or after January 1, 1992, he or she has
17 been admitted to a facility and is receiving inpatient treatment and,
18 in the opinion of the attending health professional who is primarily
19 responsible for the patient's treatment of a mental disorder, is a
20 danger to self or others, as specified by Section 5150, 5250, or
21 5300, even though the patient has consented to that treatment. A
22 person is not subject to this subdivision once he or she is discharged
23 from the facility.

24 (b) (1) A person shall not have in his or her possession or under
25 his or her custody or control, or purchase or receive, or attempt to
26 purchase or receive, any firearms whatsoever or any other deadly
27 weapon for a period of six months whenever, on or after January
28 1, 1992, he or she communicates to a licensed psychotherapist, as
29 defined in subdivisions (a) to (e), inclusive, of Section 1010 of the
30 Evidence Code, a serious threat of physical violence against a
31 reasonably identifiable victim or victims. The six-month period
32 shall commence from the date that the licensed psychotherapist
33 reports to the local law enforcement agency the identity of the
34 person making the communication. The prohibition provided for
35 in this subdivision shall not apply unless the licensed
36 psychotherapist notifies a local law enforcement agency of the
37 threat by that person. The person, however, may own, possess,
38 have custody or control over, or receive or purchase any firearm
39 if a superior court, pursuant to paragraph (3) and upon petition of
40 the person, has found, by a preponderance of the evidence, that

1 the person is likely to use firearms or other deadly weapons in a
2 safe and lawful manner.

3 (2) Upon receipt of the report from the local law enforcement
4 agency pursuant to subdivision (c) of Section 8105, the Department
5 of Justice shall notify by certified mail, return receipt requested,
6 a person subject to this subdivision of the following:

7 (A) That he or she is prohibited from possessing, having custody
8 or control over, receiving, or purchasing any firearm or other
9 deadly weapon for a period of six months commencing from the
10 date that the licensed psychotherapist reports to the local law
11 enforcement agency the identity of the person making the
12 communication. The notice shall state the date when the prohibition
13 commences and ends.

14 (B) That he or she may petition a court, as provided in this
15 subdivision, for an order permitting the person to own, possess,
16 control, receive, or purchase a firearm.

17 (3) Any person who is subject to paragraph (1) may petition the
18 superior court of his or her county of residence for an order that
19 he or she may own, possess, have custody or control over, receive,
20 or purchase firearms. At the time the petition is filed, the clerk of
21 the court shall set a hearing date and notify the person, the
22 Department of Justice, and the district attorney. The people of the
23 State of California shall be the respondent in the proceeding and
24 shall be represented by the district attorney. Upon motion of the
25 district attorney, or upon its own motion, the superior court may
26 transfer the petition to the county in which the person resided at
27 the time of the statements, or the county in which the person made
28 the statements. Within seven days after receiving notice of the
29 petition, the Department of Justice shall file copies of the reports
30 described in Section 8105 with the superior court. The reports shall
31 be disclosed upon request to the person and to the district attorney.
32 The district attorney shall be entitled to a continuance of the
33 hearing to a date of not less than 14 days after the district attorney
34 is notified of the hearing date by the clerk of the court. The court,
35 upon motion of the petitioner establishing that confidential
36 information is likely to be discussed during the hearing that would
37 cause harm to the person, shall conduct the hearing in camera with
38 only the relevant parties present, unless the court finds that the
39 public interest would be better served by conducting the hearing
40 in public. Notwithstanding any other provision of law, declarations,

1 police reports, including criminal history information, and any
2 other material and relevant evidence that is not excluded under
3 Section 352 of the Evidence Code, shall be admissible at the
4 hearing under this paragraph. If the court finds by a preponderance
5 of the evidence that the person would be likely to use firearms in
6 a safe and lawful manner, the court shall order that the person may
7 have custody or control over, receive, possess, or purchase firearms.
8 A copy of the order shall be submitted to the Department of Justice.
9 Upon receipt of the order, the department shall delete any reference
10 to the prohibition against firearms from the person's state summary
11 criminal history information.

12 (c) "Discharge," for the purposes of this section, does not include
13 a leave of absence from a facility.

14 (d) "Attending health care professional," as used in this section,
15 means the licensed health care professional primarily responsible
16 for the person's treatment who is qualified to make the decision
17 that the person has a mental disorder and has probable cause to
18 believe that the person is a danger to self or others.

19 (e) "Deadly weapon," as used in this section and in Sections
20 8101, 8102, and 8103, means any weapon, the possession or
21 concealed carrying of which is prohibited by any provision listed
22 in Section 16590 of the Penal Code.

23 (f) "Danger to self," as used in subdivision (a), means a
24 voluntary person who has made a serious threat of, or attempted,
25 suicide with the use of a firearm or other deadly weapon.

26 (g) A violation of subdivision (a) of, or paragraph (1) of
27 subdivision (b) of, this section shall be a public offense, punishable
28 by imprisonment in the state prison for two, three, or four years.

29 (h) The prohibitions set forth in this section shall be in addition
30 to those set forth in Section 8103.

31 (i) Any person admitted and receiving treatment prior to January
32 1, 1992, shall be governed by this section, as amended by Chapter
33 1090 of the Statutes of 1990, until discharged from the facility.

34 ~~SEC. 13.~~

35 *SEC. 11.* Section 8101 of the Welfare and Institutions Code is
36 amended to read:

37 8101. (a) Any person who shall knowingly supply, sell, give,
38 or allow possession or control of a deadly weapon to any person
39 described in Section 8100 or 8103 shall be punishable by
40 imprisonment in the state prison for 16 months, or two or three

1 years, or in a county jail for a period of not exceeding one year,
 2 by a fine of not exceeding one thousand dollars (\$1,000), or by
 3 both the fine and imprisonment.

4 (b) Any person who shall knowingly supply, sell, give, or allow
 5 possession or control of a firearm to any person described in
 6 Section 8100 or 8103 shall be punished by imprisonment in the
 7 state prison for two, three, or four years.

8 (c) "Deadly weapon," as used in this section has the meaning
 9 prescribed by Section 8100.

10 (d) (1) under the circumstances of subdivision (b), if probation
 11 is granted, or if the imposition or execution of sentence is
 12 suspended, it shall be a condition thereof that the person be
 13 imprisoned in a county jail *for* not less than six months.

14 (2) The court shall apply the minimum sentence specified in
 15 this subdivision except in unusual cases where the interests of
 16 justice would best be served by granting probation or suspending
 17 the imposition or execution of sentence without the minimum
 18 imprisonment required in this section or by granting probation or
 19 suspending the imposition or execution of sentence with conditions
 20 other than those set forth in this subdivision, in which case, the
 21 court shall specify on the record and shall enter on the minutes the
 22 circumstances indicating that the interests of justice would best be
 23 served by that disposition.

24 ~~SEC. 14.~~

25 *SEC. 12.* Section 8103 of the Welfare and Institutions Code is
 26 amended to read:

27 8103. (a) (1) No person who after October 1, 1955, has been
 28 adjudicated by a court of any state to be a danger to others as a
 29 result of a mental disorder or mental illness, or who has been
 30 adjudicated to be a mentally disordered sex offender, shall purchase
 31 or receive, or attempt to purchase or receive, or have in his or her
 32 possession, custody, or control any firearm or any other deadly
 33 weapon unless there has been issued to the person a certificate by
 34 the court of adjudication upon release from treatment or at a later
 35 date stating that the person may possess a firearm or any other
 36 deadly weapon without endangering others, and the person has
 37 not, subsequent to the issuance of the certificate, again been
 38 adjudicated by a court to be a danger to others as a result of a
 39 mental disorder or mental illness.

1 (2) The court shall immediately notify the Department of Justice
2 of the court order finding the individual to be a person described
3 in paragraph (1). The court shall also notify the Department of
4 Justice of any certificate issued as described in paragraph (1).

5 (b) (1) No person who has been found, pursuant to Section
6 1026 of the Penal Code or the law of any other state or the United
7 States, not guilty by reason of insanity of murder, mayhem, a
8 violation of Section 207, 209, or 209.5 of the Penal Code in which
9 the victim suffers intentionally inflicted great bodily injury,
10 carjacking or robbery in which the victim suffers great bodily
11 injury, a violation of Section 451 or 452 of the Penal Code
12 involving a trailer coach, as defined in Section 635 of the Vehicle
13 Code, or any dwelling house, a violation of paragraph (1) or (2)
14 of subdivision (a) of Section 262 or paragraph (2) or (3) of
15 subdivision (a) of Section 261 of the Penal Code, a violation of
16 Section 459 of the Penal Code in the first degree, assault with
17 intent to commit murder, a violation of Section 220 of the Penal
18 Code in which the victim suffers great bodily injury, a violation
19 of Section 18715, 18725, 18740, 18745, 18750, or 18755 of the
20 Penal Code, or of a felony involving death, great bodily injury, or
21 an act which poses a serious threat of bodily harm to another
22 person, or a violation of the law of any other state or the United
23 States that includes all the elements of any of the above felonies
24 as defined under California law, shall purchase or receive, or
25 attempt to purchase or receive, or have in his or her possession or
26 under his or her custody or control any firearm or any other deadly
27 weapon.

28 (2) The court shall immediately notify the Department of Justice
29 of the court order finding the person to be a person described in
30 paragraph (1).

31 (c) (1) No person who has been found, pursuant to Section 1026
32 of the Penal Code or the law of any other state or the United States,
33 not guilty by reason of insanity of any crime other than those
34 described in subdivision (b) shall purchase or receive, or attempt
35 to purchase or receive, or shall have in his or her possession,
36 custody, or control any firearm or any other deadly weapon unless
37 the court of commitment has found the person to have recovered
38 sanity, pursuant to Section 1026.2 of the Penal Code or the law of
39 any other state or the United States.

1 (2) The court shall immediately notify the Department of Justice
2 of the court order finding the person to be a person described in
3 paragraph (1). The court shall also notify the Department of Justice
4 when it finds that the person has recovered his or her sanity.

5 (d) (1) No person found by a court to be mentally incompetent
6 to stand trial, pursuant to Section 1370 or 1370.1 of the Penal Code
7 or the law of any other state or the United States, shall purchase
8 or receive, or attempt to purchase or receive, or shall have in his
9 or her possession, custody, or control, any firearm or any other
10 deadly weapon, unless there has been a finding with respect to the
11 person of restoration to competence to stand trial by the committing
12 court, pursuant to Section 1372 of the Penal Code or the law of
13 any other state or the United States.

14 (2) The court shall immediately notify the Department of Justice
15 of the court order finding the person to be mentally incompetent
16 as described in paragraph (1). The court shall also notify the
17 Department of Justice when it finds that the person has recovered
18 his or her competence.

19 (e) (1) No person who has been placed under conservatorship
20 by a court, pursuant to Section 5350 or the law of any other state
21 or the United States, because the person is gravely disabled as a
22 result of a mental disorder or impairment by chronic alcoholism,
23 shall purchase or receive, or attempt to purchase or receive, or
24 shall have in his or her possession, custody, or control, any firearm
25 or any other deadly weapon while under the conservatorship if, at
26 the time the conservatorship was ordered or thereafter, the court
27 which imposed the conservatorship found that possession of a
28 firearm or any other deadly weapon by the person would present
29 a danger to the safety of the person or to others. Upon placing any
30 person under conservatorship, and prohibiting firearm or any other
31 deadly weapon possession by the person, the court shall notify the
32 person of this prohibition.

33 (2) The court shall immediately notify the Department of Justice
34 of the court order placing the person under conservatorship and
35 prohibiting firearm or any other deadly weapon possession by the
36 person as described in paragraph (1). The notice shall include the
37 date the conservatorship was imposed and the date the
38 conservatorship is to be terminated. If the conservatorship is
39 subsequently terminated before the date listed in the notice to the
40 Department of Justice or the court subsequently finds that

1 possession of a firearm or any other deadly weapon by the person
2 would no longer present a danger to the safety of the person or
3 others, the court shall immediately notify the Department of Justice.

4 (3) All information provided to the Department of Justice
5 pursuant to paragraph (2) shall be kept confidential, separate, and
6 apart from all other records maintained by the Department of
7 Justice, and shall be used only to determine eligibility to purchase
8 or possess firearms or other deadly weapons. Any person who
9 knowingly furnishes that information for any other purpose is
10 guilty of a misdemeanor. All the information concerning any person
11 shall be destroyed upon receipt by the Department of Justice of
12 notice of the termination of conservatorship as to that person
13 pursuant to paragraph (2).

14 (f) (1) No person who has been (A) taken into custody as
15 provided in Section 5150 because that person is a danger to himself,
16 herself, or to others, (B) assessed within the meaning of Section
17 5151, and (C) admitted to a designated facility within the meaning
18 of Sections 5151 and 5152 because that person is a danger to
19 himself, herself, or others, shall own, possess, control, receive, or
20 purchase, or attempt to own, possess, control, receive, or purchase
21 any firearm for a period of five years after the person is released
22 from the facility. A person described in the preceding sentence,
23 however, may own, possess, control, receive, or purchase, or
24 attempt to own, possess, control, receive, or purchase any firearm
25 if the superior court has, pursuant to paragraph (5), found that the
26 people of the State of California have not met their burden pursuant
27 to paragraph (6).

28 (2) (A) For each person subject to this subdivision, the facility
29 shall immediately, on the date of admission, submit a report to the
30 Department of Justice, on a form prescribed by the Department of
31 Justice, containing information that includes, but is not limited to,
32 the identity of the person and the legal grounds upon which the
33 person was admitted to the facility.

34 Any report submitted pursuant to this paragraph shall be
35 confidential, except for purposes of the court proceedings described
36 in this subdivision and for determining the eligibility of the person
37 to own, possess, control, receive, or purchase a firearm.

38 (B) Commencing July 1, 2012, facilities shall submit reports
39 pursuant to this paragraph exclusively by electronic means, in a
40 manner prescribed by the Department of Justice.

1 (3) Prior to, or concurrent with, the discharge, the facility shall
2 inform a person subject to this subdivision that he or she is
3 prohibited from owning, possessing, controlling, receiving, or
4 purchasing any firearm for a period of five years. Simultaneously,
5 the facility shall inform the person that he or she may request a
6 hearing from a court, as provided in this subdivision, for an order
7 permitting the person to own, possess, control, receive, or purchase
8 a firearm. The facility shall provide the person with a form for a
9 request for a hearing. The Department of Justice shall prescribe
10 the form. Where the person requests a hearing at the time of
11 discharge, the facility shall forward the form to the superior court
12 unless the person states that he or she will submit the form to the
13 superior court.

14 (4) The Department of Justice shall provide the form upon
15 request to any person described in paragraph (1). The Department
16 of Justice shall also provide the form to the superior court in each
17 county. A person described in paragraph (1) may make a single
18 request for a hearing at any time during the five-year period. The
19 request for hearing shall be made on the form prescribed by the
20 department or in a document that includes equivalent language.

21 (5) Any person who is subject to paragraph (1) who has
22 requested a hearing from the superior court of his or her county
23 of residence for an order that he or she may own, possess, control,
24 receive, or purchase firearms shall be given a hearing. The clerk
25 of the court shall set a hearing date and notify the person, the
26 Department of Justice, and the district attorney. The people of the
27 State of California shall be the plaintiff in the proceeding and shall
28 be represented by the district attorney. Upon motion of the district
29 attorney, or on its own motion, the superior court may transfer the
30 hearing to the county in which the person resided at the time of
31 his or her detention, the county in which the person was detained,
32 or the county in which the person was evaluated or treated. Within
33 seven days after the request for a hearing, the Department of Justice
34 shall file copies of the reports described in this section with the
35 superior court. The reports shall be disclosed upon request to the
36 person and to the district attorney. The court shall set the hearing
37 within 30 days of receipt of the request for a hearing. Upon
38 showing good cause, the district attorney shall be entitled to a
39 continuance not to exceed 14 days after the district attorney was
40 notified of the hearing date by the clerk of the court. If additional

1 continuances are granted, the total length of time for continuances
2 shall not exceed 60 days. The district attorney may notify the
3 county mental health director of the hearing who shall provide
4 information about the detention of the person that may be relevant
5 to the court and shall file that information with the superior court.
6 That information shall be disclosed to the person and to the district
7 attorney. The court, upon motion of the person subject to paragraph
8 (1) establishing that confidential information is likely to be
9 discussed during the hearing that would cause harm to the person,
10 shall conduct the hearing in camera with only the relevant parties
11 present, unless the court finds that the public interest would be
12 better served by conducting the hearing in public. Notwithstanding
13 any other law, declarations, police reports, including criminal
14 history information, and any other material and relevant evidence
15 that is not excluded under Section 352 of the Evidence Code shall
16 be admissible at the hearing under this section.

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

20 (7) If the court finds at the hearing set forth in paragraph (5)
21 that the people have not met their burden as set forth in paragraph
22 (6), the court shall order that the person shall not be subject to the
23 five-year prohibition in this section on the ownership, control,
24 receipt, possession, or purchase of firearms. A copy of the order
25 shall be submitted to the Department of Justice. Upon receipt of
26 the order, the Department of Justice shall delete any reference to
27 the prohibition against firearms from the person's state mental
28 health firearms prohibition system information.

29 (8) Where the district attorney declines or fails to go forward
30 in the hearing, the court shall order that the person shall not be
31 subject to the five-year prohibition required by this subdivision
32 on the ownership, control, receipt, possession, or purchase of
33 firearms. A copy of the order shall be submitted to the Department
34 of Justice. Upon receipt of the order, the Department of Justice
35 shall, within 15 days, delete any reference to the prohibition against
36 firearms from the person's state mental health firearms prohibition
37 system information.

38 (9) Nothing in this subdivision shall prohibit the use of reports
39 filed pursuant to this section to determine the eligibility of persons
40 to own, possess, control, receive, or purchase a firearm if the person

1 is the subject of a criminal investigation, a part of which involves
2 the ownership, possession, control, receipt, or purchase of a
3 firearm.

4 (g) (1) No person who has been certified for intensive treatment
5 under Section 5250, 5260, or 5270.15 shall own, possess, control,
6 receive, or purchase, or attempt to own, possess, control, receive,
7 or purchase, any firearm for a period of five years.

8 Any person who meets the criteria contained in subdivision (e)
9 or (f) who is released from intensive treatment shall nevertheless,
10 if applicable, remain subject to the prohibition contained in
11 subdivision (e) or (f).

12 (2) (A) For each person certified for intensive treatment under
13 paragraph (1), the facility shall immediately submit a report to the
14 Department of Justice, on a form prescribed by the department,
15 containing information regarding the person, including, but not
16 limited to, the legal identity of the person and the legal grounds
17 upon which the person was certified. Any report submitted pursuant
18 to this paragraph shall only be used for the purposes specified in
19 paragraph (2) of subdivision (f).

20 (B) Commencing July 1, 2012, facilities shall submit reports
21 pursuant to this paragraph exclusively by electronic means, in a
22 manner prescribed by the Department of Justice.

23 (3) Prior to, or concurrent with, the discharge of each person
24 certified for intensive treatment under paragraph (1), the facility
25 shall inform the person of that information specified in paragraph
26 (3) of subdivision (f).

27 (4) Any person who is subject to paragraph (1) may petition the
28 superior court of his or her county of residence for an order that
29 he or she may own, possess, control, receive, or purchase firearms.
30 At the time the petition is filed, the clerk of the court shall set a
31 hearing date and notify the person, the Department of Justice, and
32 the district attorney. The people of the State of California shall be
33 the respondent in the proceeding and shall be represented by the
34 district attorney. Upon motion of the district attorney, or on its
35 own motion, the superior court may transfer the petition to the
36 county in which the person resided at the time of his or her
37 detention, the county in which the person was detained, or the
38 county in which the person was evaluated or treated. Within seven
39 days after receiving notice of the petition, the Department of Justice
40 shall file copies of the reports described in this section with the

1 superior court. The reports shall be disclosed upon request to the
2 person and to the district attorney. The district attorney shall be
3 entitled to a continuance of the hearing to a date of not less than
4 14 days after the district attorney was notified of the hearing date
5 by the clerk of the court. The district attorney may notify the county
6 mental health director of the petition, and the county mental health
7 director shall provide information about the detention of the person
8 that may be relevant to the court and shall file that information
9 with the superior court. That information shall be disclosed to the
10 person and to the district attorney. The court, upon motion of the
11 person subject to paragraph (1) establishing that confidential
12 information is likely to be discussed during the hearing that would
13 cause harm to the person, shall conduct the hearing in camera with
14 only the relevant parties present, unless the court finds that the
15 public interest would be better served by conducting the hearing
16 in public. Notwithstanding any other provision of law, any
17 declaration, police reports, including criminal history information,
18 and any other material and relevant evidence that is not excluded
19 under Section 352 of the Evidence Code, shall be admissible at
20 the hearing under this section. If the court finds by a preponderance
21 of the evidence that the person would be likely to use firearms in
22 a safe and lawful manner, the court may order that the person may
23 own, control, receive, possess, or purchase firearms. A copy of
24 the order shall be submitted to the Department of Justice. Upon
25 receipt of the order, the Department of Justice shall delete any
26 reference to the prohibition against firearms from the person's
27 state mental health firearms prohibition system information.

28 (h) For all persons identified in subdivisions (f) and (g), facilities
29 shall report to the Department of Justice as specified in those
30 subdivisions, except facilities shall not report persons under
31 subdivision (g) if the same persons previously have been reported
32 under subdivision (f).

33 Additionally, all facilities shall report to the Department of
34 Justice upon the discharge of persons from whom reports have
35 been submitted pursuant to subdivision (f) or (g). However, a report
36 shall not be filed for persons who are discharged within 31 days
37 after the date of admission.

38 (i) Every person who owns or possesses or has under his or her
39 custody or control, or purchases or receives, or attempts to purchase
40 or receive, any firearm or any other deadly weapon in violation of

1 this section shall be punished by imprisonment in the state prison
2 for two, three, or four years.

3 (j) “Deadly weapon,” as used in this section, has the meaning
4 prescribed by Section 8100.

5 ~~SEC. 15.~~

6 *SEC. 13.* Section 8104 of the Welfare and Institutions Code is
7 amended to read:

8 8104. The State Department of State Hospitals shall maintain
9 in a convenient central location and shall make immediately
10 available to the Department of Justice those records that the State
11 Department of State Hospitals has in its possession that are
12 necessary to identify persons who come within Section 8100 or
13 8103. These records shall be made available to the Department of
14 Justice upon request. The Department of Justice shall make these
15 requests only with respect to its duties with regard to applications
16 for permits for, or to carry, or the possession, purchase, or transfer
17 of, explosives as defined in Section 12000 of the Health and Safety
18 Code, devices defined in Section 16250, 16530, or 16640 of the
19 Penal Code, in subdivisions (a) to (d), inclusive, of Section 16520
20 of the Penal Code, or in subdivision (a) of Section 16840 of the
21 Penal Code, machineguns as defined in Section 16880 of the Penal
22 Code, short-barreled shotguns or short-barreled rifles as defined
23 in Sections 17170 and 17180 of the Penal Code, assault weapons
24 as defined in Section 30510 of the Penal Code, and destructive
25 devices as defined in Section 16460 of the Penal Code, or to
26 determine the eligibility of a person to acquire, carry, or possess
27 a firearm, explosive, or destructive device by a person who is
28 subject to a criminal investigation, a part of which involves the
29 acquisition, carrying, or possession of a firearm by that person.
30 These records shall not be furnished or made available to any
31 person unless the department determines that disclosure of any
32 information in the records is necessary to carry out its duties with
33 respect to applications for permits for, or to carry, or the possession,
34 purchase, or transfer of, explosives, destructive devices, devices
35 as defined in Section 16250, 16530, or 16640 of the Penal Code,
36 in subdivisions (a) to (d), inclusive, of Section 16520 of the Penal
37 Code, or in subdivision (a) of Section 16840 of the Penal Code,
38 short-barreled shotguns, short-barreled rifles, assault weapons,
39 and machineguns, or to determine the eligibility of a person to
40 acquire, carry, or possess a firearm, explosive, or destructive device

1 by a person who is subject to a criminal investigation, a part of
2 which involves the acquisition, carrying, or possession of a firearm
3 by that person.

4 ~~SEC. 16.~~

5 *SEC. 14.* No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section 17556 of
11 the Government Code, or changes the definition of a crime within
12 the meaning of Section 6 of Article XIII B of the California
13 Constitution.

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