

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 introduced, 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) 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) 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) 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) 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) 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) 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) 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) 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) 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 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) 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) 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) 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.

20 This section does not prohibit or limit the otherwise lawful
21 transportation of any other firearm, other than a pistol, revolver,
22 or other firearm capable of being concealed on the person, in
23 accordance with state law.

24 (3) When the person possessing the firearm reasonably believes
25 that he or she is in grave danger because of circumstances forming
26 the basis of a current restraining order issued by a court against
27 another person or persons who has or have been found to pose a
28 threat to his or her life or safety. This subdivision may not apply
29 when the circumstances involve a mutual restraining order issued
30 pursuant to Division 10 (commencing with Section 6200) of the
31 Family Code absent a factual finding of a specific threat to the
32 person’s life or safety. Upon a trial for violating subdivision (b),

1 the trier of a fact shall determine whether the defendant was acting
2 out of a reasonable belief that he or she was in grave danger.

3 (4) When the person is exempt from the prohibition against
4 carrying a concealed firearm pursuant to Section 25615, 25625,
5 25630, or 25645.

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

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

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

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

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

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

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

24 ~~(f) (1) Any~~

25 (f) (1) (A) *Except as provided in subparagraph (B), any person*
26 *who violates subdivision (b) by possessing a firearm in, or on the*
27 *grounds of, a public or private school providing instruction in*
28 *kindergarten or grades 1 to 12, inclusive, shall be punished by*
29 *imprisonment pursuant to subdivision (h) of Section 1170 in the*
30 *state prison for two, three, or five years.*

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

1 (2) Any person who violates subdivision (b) by possessing a
2 firearm within a distance of 1,000 feet from the grounds of a public
3 or private school providing instruction in kindergarten or grades
4 1 to 12, inclusive, shall be punished as follows:

5 (A) By imprisonment ~~pursuant to subdivision (h) of Section~~
6 ~~1170 in the state prison~~ for two, three, or five years, if any of the
7 following circumstances apply:

8 (i) If the person previously has been convicted of any felony,
9 or of any crime made punishable by any provision listed in Section
10 16580.

11 ~~(ii) If the person is within a class of persons prohibited from~~
12 ~~possessing or acquiring a firearm pursuant to Chapter 2~~
13 ~~(commencing with Section 29800) or Chapter 3 (commencing with~~
14 ~~Section 29900) of Division 9 of Title 4 of Part 6 of this code or~~
15 ~~Section 8100 or 8103 of the Welfare and Institutions Code.~~

16 ~~(iii)~~

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

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

26 ~~(B)~~

27 (C) By imprisonment in a county jail for not more than one year
28 or by imprisonment ~~pursuant to subdivision (h) of Section 1170~~
29 ~~in the state prison~~ for two, three, or five years, in all cases other
30 than those specified in subparagraph (A).

31 (3) Any person who violates subdivision (d) shall be punished
32 by imprisonment ~~pursuant to subdivision (h) of Section 1170 in~~
33 ~~the state prison~~ for three, five, or seven years.

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

27 (h) (1) *Notwithstanding* Section 25605, any person who brings
28 or possesses a loaded firearm upon the grounds of a campus of, or
29 buildings owned or operated for student housing, teaching,
30 research, or administration by, a public or private university or
31 college, that are contiguous or are clearly marked university
32 property, unless it is with the written permission of the university
33 or college president, his or her designee, or equivalent university
34 or college authority, shall be punished by imprisonment ~~pursuant~~
35 ~~to subdivision (h) of Section 1170 in the state prison~~ for two, three,
36 or four years. Notwithstanding subdivision (k), a university or
37 college shall post a prominent notice at primary entrances on
38 noncontiguous property stating that firearms are prohibited on that
39 property pursuant to this subdivision.

1 (2) *Notwithstanding Section 25605, any person who brings or*
 2 *possesses a loaded firearm upon the grounds of a campus of, or*
 3 *buildings owned or operated for student housing, teaching,*
 4 *research, or administration by, a public or private university or*
 5 *college, that are contiguous or are clearly marked university*
 6 *property, unless it is with the written permission of the university*
 7 *or college president, his or her designee, or equivalent university*
 8 *or college authority, if the person is within a class of persons*
 9 *prohibited from possessing or acquiring a firearm pursuant to*
 10 *Chapter 2 (commencing with Section 29800) or Chapter 3*
 11 *(commencing with Section 29900) of Division 9 of Title 4 of Part*
 12 *6 of this code or Section 8100 or 8103 of the Welfare and*
 13 *Institutions Code, shall be punished by imprisonment in the state*
 14 *prison for three, four, or five years.*

15 ~~(i) Notwithstanding~~

16 *(i) (1) Notwithstanding Section 25605, any person who brings*
 17 *or possesses a firearm upon the grounds of a campus of, or*
 18 *buildings owned or operated for student housing, teaching,*
 19 *research, or administration by, a public or private university or*
 20 *college, that are contiguous or are clearly marked university*
 21 *property, unless it is with the written permission of the university*
 22 *or college president, his or her designee, or equivalent university*
 23 *or college authority, shall be punished by imprisonment pursuant*
 24 ~~*to subdivision (h) of Section 1170 for one, in the state prison for*~~
 25 *16 months or, two, or three years. Notwithstanding subdivision*
 26 *(k), a university or college shall post a prominent notice at primary*
 27 *entrances on noncontiguous property stating that firearms are*
 28 *prohibited on that property pursuant to this subdivision.*

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

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

3 (j) For purposes of this section, a firearm shall be deemed to be
4 loaded when there is an unexpended cartridge or shell, consisting
5 of a case that holds a charge of powder and a bullet or shot, in, or
6 attached in any manner to, the firearm, including, but not limited
7 to, in the firing chamber, magazine, or clip thereof attached to the
8 firearm. A muzzle-loader firearm shall be deemed to be loaded
9 when it is capped or primed and has a powder charge and ball or
10 shot in the barrel or cylinder.

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

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

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

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

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

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

37 (2) Section 25650.

38 (3) Sections 25900 to 25910, inclusive.

39 (4) Section 26020.

1 (p) (1) Every person convicted pursuant to subparagraph (B)
2 of paragraph (1) of subdivision (f), and every person convicted
3 under subparagraph (B) of paragraph (2) of subdivision (f), if
4 probation is granted or the execution or imposition of sentence is
5 suspended, shall be required, as a condition thereof, to be
6 imprisoned in a county jail for not less than nine months.

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

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

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

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

37 (2) The court shall apply the three-month minimum sentence
38 specified in this subdivision, except in unusual cases where the
39 interests of justice would best be served by granting probation or
40 suspending the execution or imposition of sentence without the

1 *minimum imprisonment required in this subdivision or by granting*
2 *probation or suspending the execution or imposition of sentence*
3 *with different conditions, in which case the court shall specify on*
4 *the record and shall enter on the minutes the circumstances*
5 *indicating that the interests of justice would best be served by this*
6 *disposition.*

7 SEC. 2. Section 626.95 of the Penal Code is amended to read:
8 626.95. ~~(a) Any~~

9 *(a) (1) Any person who is in violation of paragraph (2) of*
10 *subdivision (a), or subdivision (b), of Section 417, or 25400 or*
11 *25850, upon the grounds of or within a playground, or a public or*
12 *private youth center during hours in which the facility is open for*
13 *business, classes, or school-related programs, or at any time when*
14 *minors are using the facility, knowing that he or she is on or within*
15 *those grounds, shall be punished by imprisonment—pursuant to*
16 *subdivision (h) of Section 1170 for one, in the state prison for 16*
17 *months or, two, or three years, or in a county jail not exceeding*
18 *one year.*

19 *(2) Any person who is in violation of paragraph (2) of*
20 *subdivision (a), or subdivision (b), of Section 417, or Section 25400*
21 *or 25850, upon the grounds of or within a playground, or a public*
22 *or private youth center during hours in which the facility is open*
23 *for business, classes, or school-related programs, or at any time*
24 *when minors are using the facility, knowing that he or she is on*
25 *or within those grounds, if the person is within a class of persons*
26 *prohibited from possessing or acquiring a firearm pursuant to*
27 *Chapter 2 (commencing with Section 29800) or Chapter 3*
28 *(commencing with Section 29900) of Division 9 of Title 4 of Part*
29 *6 of this code or Section 8100 or 8103 of the Welfare and*
30 *Institutions Code, shall be punished by imprisonment in the state*
31 *prison for two, three, or four years.*

32 *(b) State and local authorities are encouraged to cause signs to*
33 *be posted around playgrounds and youth centers giving warning*
34 *of prohibition of the possession of firearms upon the grounds of*
35 *or within playgrounds or youth centers.*

36 *(c) For purposes of this section, the following definitions shall*
37 *apply:*

38 *(1) “Playground” means any park or recreational area*
39 *specifically designed to be used by children that has play equipment*
40 *installed, including public grounds designed for athletic activities*

1 such as baseball, football, soccer, or basketball, or any similar
2 facility located on public or private school grounds, or on city or
3 county parks.

4 (2) “Youth center” means any public or private facility that is
5 used to host recreational or social activities for minors while minors
6 are present.

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

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

16 (2) *The court shall apply the six-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 different conditions, in which case the court shall specify on*
23 *the record and shall enter on the minutes the circumstances*
24 *indicating that the interests of justice would best be served by this*
25 *disposition.*

26 SEC. 3. Section 3000.08 of the Penal Code, as amended by
27 Section 35 of Chapter 43 of the Statutes of 2012, is amended to
28 read:

29 3000.08. (a) ~~Persons~~ *A person* released from state prison prior
30 to, or on or after, July 1, 2013, after serving a prison term or, whose
31 sentence has been deemed served pursuant to Section 2900.5, for
32 any of the following crimes ~~shall be~~ *is* subject to parole supervision
33 by the Department of Corrections and Rehabilitation and the
34 jurisdiction of the court in the county ~~where~~ *in which* the parolee
35 is released or resides for the purpose of hearing petitions to revoke
36 parole and impose a term of custody:

37 (1) A serious felony as described in subdivision (c) of Section
38 1192.7.

39 (2) A violent felony as described in subdivision (c) of Section
40 667.5.

1 (3) A crime for which the person was sentenced pursuant to
2 paragraph (2) of subdivision (e) of Section 667 or paragraph (2)
3 of subdivision (c) of Section 1170.12.

4 (4) Any crime ~~where for which~~ the person ~~eligible for release~~
5 ~~from prison~~ is classified as a High Risk Sex Offender.

6 (5) Any crime ~~where for which~~ the person is required, as a
7 condition of parole, to undergo treatment by the ~~Department of~~
8 ~~Mental Health State Department of State Hospitals~~ pursuant to
9 Section 2962.

10 (b) *A person released from state prison on or after January 1,*
11 *2014, after serving a prison term, or whose sentence has been*
12 *deemed served pursuant to Section 2900.5, to which any of the*
13 *following apply, is subject to the jurisdiction of, and parole*
14 *supervision by, the Department of Corrections and Rehabilitation:*

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

17 (2) *The person has a current or prior conviction for a violation*
18 *of Section 245, except that this subdivision does not apply to a*
19 *violation of paragraph (4) of subdivision (a) of Section 245 as*
20 *amended by Section 1 of Chapter 183 of the Statutes of 2011.*

21 (3) *The person has a prior conviction of a serious felony*
22 *described in subdivision (c) of Section 1192.7 involving the use of*
23 *a deadly or dangerous weapon or firearm.*

24 (4) *The person has a prior conviction of a violent felony*
25 *described in subdivision (c) of Section 667.5 involving the use of*
26 *a deadly or dangerous weapon or firearm.*

27 (5) *The person has a current or prior conviction for an offense*
28 *where the person used a firearm as specified in Section 12021.5,*
29 *12022, or 12022.2.*

30 (6) *The person has a current or prior conviction for any*
31 *homicide offense, including any attempted homicide offense,*
32 *defined in Sections 187 to 191.5, inclusive.*

33 ~~(b)~~

34 (7) *The person has a current or prior felony conviction of*
35 *Section 626.9 or 626.95.*

36 (c) Notwithstanding any other ~~provision~~ of law, all other
37 offenders released from prison shall be placed on postrelease
38 supervision pursuant to Title 2.05 (commencing with Section
39 3450).

40 ~~(e)~~

1 (d) At any time during the period of parole of a person subject
 2 to this section, if any parole agent or peace officer has probable
 3 cause to believe that the parolee is violating any term or condition
 4 of his or her parole, the agent or officer may, without warrant or
 5 other process and at any time until the final disposition of the case,
 6 arrest the person and bring him or her before the court, or the court
 7 may, in its discretion, issue a warrant for that person’s arrest
 8 pursuant to Section 1203.2.

9 (d)

10 (e) Upon review of the alleged violation and a finding of good
 11 cause that the parolee has committed a violation of law or violated
 12 his or her conditions of parole, the supervising parole agency may
 13 impose additional and appropriate conditions of supervision,
 14 including rehabilitation and treatment services and appropriate
 15 incentives for compliance, and impose immediate, structured, and
 16 intermediate sanctions for parole violations, including flash
 17 incarceration in a county jail. Periods of “flash incarceration,” as
 18 defined in subdivision (e) are encouraged as one method of
 19 punishment for violations of a parolee’s conditions of parole.
 20 ~~Nothing in this~~ This section is intended to *does not* preclude
 21 referrals to a reentry court pursuant to Section 3015.

22 (e)

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

30 (f)

31 (g) If the supervising parole agency has determined, following
 32 application of its assessment processes, that intermediate sanctions
 33 up to and including flash incarceration are not appropriate, the
 34 supervising parole agency shall, pursuant to Section 1203.2,
 35 petition the court in the county in which the parolee is being
 36 supervised to revoke parole. At any point during the process
 37 initiated pursuant to this section, a parolee may waive, in writing,
 38 his or her right to counsel, admit the parole violation, waive a court
 39 hearing, and accept the proposed parole modification or revocation.
 40 The petition shall include a written report that contains additional

1 information regarding the petition, including the relevant terms
2 and conditions of parole, the circumstances of the alleged
3 underlying violation, the history and background of the parolee,
4 and any recommendations. The Judicial Council shall adopt forms
5 and rules of court to establish uniform statewide procedures to
6 implement this subdivision, including the minimum contents of
7 supervision agency reports. Upon a finding that the person has
8 violated the conditions of parole, the court shall have authority to
9 do any of the following:

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

13 (2) Revoke parole and order the person to confinement in the
14 county jail.

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

17 ~~(g)~~

18 (h) Confinement pursuant to paragraphs (1) and (2) of
19 subdivision ~~(f)~~ (g) shall not exceed a period of 180 days in the
20 county jail.

21 ~~(h)~~

22 (i) Notwithstanding any other ~~provision of law, in any case~~
23 ~~where if~~ Section 3000.1 or paragraph (4) of subdivision (b) of
24 Section 3000 applies to a person who is on parole and the court
25 determines that the person has committed a violation of law or
26 violated his or her conditions of parole, the person on parole shall
27 be remanded to the custody of the Department of Corrections and
28 Rehabilitation and the jurisdiction of the Board of Parole Hearings
29 for the purpose of future parole consideration.

30 ~~(i)~~

31 (j) Notwithstanding subdivision (a), any of the following persons
32 released from state prison shall be subject to the jurisdiction of,
33 and parole supervision by, the Department of Corrections and
34 Rehabilitation for a period of parole up to three years or the parole
35 term the person was subject to at the time of the commission of
36 the offense, whichever is greater:

37 (1) The person is required to register as a sex offender pursuant
38 to Chapter 5.5 (commencing with Section 290) of Title 9 of Part
39 1, and was subject to a period of parole exceeding three years at

1 the time he or she committed a felony for which they were
2 convicted and subsequently sentenced to state prison.

3 (2) The person was subject to parole for life pursuant to Section
4 3000.1 at the time of the commission of the offense that resulted
5 in a conviction and state prison sentence.

6 ~~(j)~~

7 (k) Parolees subject to this section who have a pending
8 adjudication for a parole violation on July 1, 2013, ~~shall be~~ *are*
9 subject to the jurisdiction of the Board of Parole Hearings. Parole
10 revocation proceedings conducted by the Board of Parole Hearings
11 prior to July 1, 2013, if reopened on or after July 1, 2013, ~~shall be~~
12 *are* subject to the jurisdiction of the Board of Parole Hearings.

13 ~~(k)~~

14 (l) Except as described in subdivision ~~(e)~~ (d), any person who
15 is convicted of a felony that requires community supervision and
16 who still has a period of state parole to serve shall discharge from
17 state parole at the time of release to community supervision.

18 ~~(l)~~

19 (m) This section shall become operative on July 1, 2013.

20 SEC. 4. Section 3451 of the Penal Code is amended to read:

21 3451. (a) Notwithstanding any other law and except for persons
22 serving a prison term for any crime described in subdivision (b),
23 all persons released from prison on and after October 1, 2011, or,
24 whose sentence has been deemed served pursuant to Section 2900.5
25 after serving a prison term for a felony shall, upon release from
26 prison and for a period not exceeding three years immediately
27 following release, be subject to community supervision provided
28 by a county agency designated by each county’s board of
29 supervisors which is consistent with evidence-based practices,
30 including, but not limited to, supervision policies, procedures,
31 programs, and practices demonstrated by scientific research to
32 reduce recidivism among individuals under postrelease supervision.

33 (b) This section shall not apply to any person released from
34 prison after having served a prison term for any of the following:

35 (1) A serious felony described in subdivision (c) of Section
36 1192.7.

37 (2) A violent felony described in subdivision (c) of Section
38 667.5.

1 (3) A crime for which the person was sentenced pursuant to
2 paragraph (2) of subdivision (e) of Section 667 or paragraph (2)
3 of subdivision (c) of Section 1170.12.

4 (4) Any crime where the person eligible for release from prison
5 is classified as a High Risk Sex Offender.

6 (5) Any crime where the person is required, as a condition of
7 parole, to undergo treatment by the State Department of State
8 Hospitals pursuant to Section 2962.

9 *(c) This section shall not apply to any person released from*
10 *prison specified in subdivision (b) of Section 3000.08.*

11 *(e)*

12 *(d) (1) Postrelease supervision under this title shall be*
13 *implemented by a county agency according to a postrelease strategy*
14 *designated by each county's board of supervisors.*

15 *(2) The Department of Corrections and Rehabilitation shall*
16 *inform every prisoner subject to the provisions of this title, upon*
17 *release from state prison, of the requirements of this title and of*
18 *his or her responsibility to report to the county agency responsible*
19 *for serving that inmate. The department shall also inform persons*
20 *serving a term of parole for a felony offense who are subject to*
21 *this section of the requirements of this title and of his or her*
22 *responsibility to report to the county agency responsible for serving*
23 *that parolee. Thirty days prior to the release of any person subject*
24 *to postrelease supervision by a county, the department shall notify*
25 *the county of all information that would otherwise be required for*
26 *parolees under subdivision (e) of Section 3003.*

27 SEC. 5. Section 25400 of the Penal Code is amended to read:

28 25400. (a) A person is guilty of carrying a concealed firearm
29 when the person does any of the following:

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

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

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

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

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

3 (1) If the person previously has been convicted of any felony,
4 or of any crime made punishable by a provision listed in Section
5 16580, as a felony, *punishable in state prison for two, three, or*
6 *four years.*

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

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

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

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

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

29 (A) The pistol, revolver, or other firearm capable of being
30 concealed upon the person is loaded, or both it and the unexpended
31 ammunition capable of being discharged from it are in the
32 immediate possession of the person or readily accessible to that
33 person.

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

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

1 ~~(7)~~

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

6 (d) (1) Every person convicted under this section who
7 previously has been convicted of a misdemeanor offense
8 enumerated in Section 23515 shall be punished by imprisonment
9 in a county jail for at least three months and not exceeding six
10 months, or, if granted probation, or if the execution or imposition
11 of sentence is suspended, it shall be a condition thereof that the
12 person be imprisoned in a county jail for at least three months.

13 (2) Every person convicted under this section who has
14 previously been convicted of any felony, or of any crime made
15 punishable by a provision listed in Section 16580, if probation is
16 granted, or if the execution or imposition of sentence is suspended,
17 it shall be a condition thereof that the person be imprisoned in a
18 county jail for not less than ~~three~~ six months.

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

24 (e) The court shall apply the ~~three-month~~ minimum sentence
25 as specified in subdivision (d), except in unusual cases where the
26 interests of justice would best be served by granting probation or
27 suspending the imposition or execution of sentence without the
28 minimum imprisonment required in subdivision (d) or by granting
29 probation or suspending the imposition or execution of sentence
30 with conditions other than those set forth in subdivision (d), in
31 which case, the court shall specify on the record and shall enter
32 on the minutes the circumstances indicating that the interests of
33 justice would best be served by that disposition.

34 (f) A peace officer may arrest a person for a violation of
35 paragraph (6) of subdivision (c) if the peace officer has probable
36 cause to believe that the person is not listed with the Department
37 of Justice pursuant to paragraph (1) of subdivision (c) of Section
38 11106 as the registered owner of the pistol, revolver, or other
39 firearm capable of being concealed upon the person, and one or

1 more of the conditions in subparagraph (A) of paragraph (6) of
 2 subdivision (c) is met.

3 SEC. 6. Section 25850 of the Penal Code is amended to read:

4 25850. (a) A person is guilty of carrying a loaded firearm
 5 when the person carries a loaded firearm on the person or in a
 6 vehicle while in any public place or on any public street in an
 7 incorporated city or in any public place or on any public street in
 8 a prohibited area of unincorporated territory.

9 (b) In order to determine whether or not a firearm is loaded for
 10 the purpose of enforcing this section, peace officers are authorized
 11 to examine any firearm carried by anyone on the person or in a
 12 vehicle while in any public place or on any public street in an
 13 incorporated city or prohibited area of an unincorporated territory.
 14 Refusal to allow a peace officer to inspect a firearm pursuant to
 15 this section constitutes probable cause for arrest for violation of
 16 this section.

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

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

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

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

29 (4) Where the person is not in lawful possession of the firearm,
 30 or is within a class of persons prohibited from possessing or
 31 acquiring a firearm pursuant to Chapter 2 (commencing with
 32 Section 29800) or Chapter 3 (commencing with Section 29900)
 33 of Division 9 of this title, or Section 8100 or 8103 of the Welfare
 34 and Institutions Code, as a felony.

35 (5) Where the person has been convicted of a crime against a
 36 person or property, or of a narcotics or dangerous drug violation,
 37 by imprisonment pursuant to subdivision (h) of Section 1170, or
 38 by imprisonment in a county jail not to exceed one year, by a fine
 39 not to exceed one thousand dollars (\$1,000), or by both that
 40 imprisonment and fine.

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

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

10 ~~(7)~~

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

15 (d) (1) Every person convicted under this section who has
16 previously been convicted of an offense enumerated in Section
17 23515, or of any crime made punishable under a provision listed
18 in Section 16580, shall serve a term of at least three months in a
19 county jail, or, if granted probation or if the execution or imposition
20 of sentence is suspended, it shall be a condition thereof that the
21 person be imprisoned for a period of at least three months.

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

27 (3) *Except as provided in paragraph (1), and notwithstanding*
28 *paragraph (2), every person convicted under this section who has*
29 *previously been convicted of any felony enumerated in Section*
30 *29905, if probation is granted, or if the execution or imposition*
31 *of sentence is suspended, it shall be a condition thereof that the*
32 *person be imprisoned in a county jail for not less than nine months.*

33 ~~(2)~~

34 (4) The court shall apply the ~~three-month~~ minimum sentence
35 *specified in this subdivision* except in unusual cases where the
36 interests of justice would best be served by granting probation or
37 suspending the imposition or execution of sentence without the
38 minimum imprisonment required in this section or by granting
39 probation or suspending the imposition or execution of sentence
40 with conditions other than those set forth in this section, in which

1 case, the court shall specify on the record and shall enter on the
2 minutes the circumstances indicating that the interests of justice
3 would best be served by that disposition.

4 (e) A violation of this section that is punished by imprisonment
5 in a county jail not exceeding one year shall not constitute a
6 conviction of a crime punishable by imprisonment for a term
7 exceeding one year for the purposes of determining federal firearms
8 eligibility under Section 922(g)(1) of Title 18 of the United States
9 Code.

10 (f) Nothing in this section, or in Article 3 (commencing with
11 Section 25900) or Article 4 (commencing with Section 26000),
12 shall preclude prosecution under Chapter 2 (commencing with
13 Section 29800) or Chapter 3 (commencing with Section 29900)
14 of Division 9 of this title, Section 8100 or 8103 of the Welfare and
15 Institutions Code, or any other law with a greater penalty than this
16 section.

17 (g) Notwithstanding paragraphs (2) and (3) of subdivision (a)
18 of Section 836, a peace officer may make an arrest without a
19 warrant:

20 (1) When the person arrested has violated this section, although
21 not in the officer's presence.

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

25 (h) A peace officer may arrest a person for a violation of
26 paragraph (6) of subdivision (c), if the peace officer has probable
27 cause to believe that the person is carrying a handgun in violation
28 of this section and that person is not listed with the Department of
29 Justice pursuant to paragraph (1) of subdivision (c) of Section
30 11106 as the registered owner of that handgun.

31 SEC. 7. Section 27590 of the Penal Code is amended to read:

32 27590. (a) Except as provided in subdivision (b), (c), or (e),
33 a violation of this article is a misdemeanor.

34 (b) If any of the following circumstances apply, a violation of
35 this article is punishable by imprisonment pursuant to subdivision
36 ~~(h) of Section 1170~~ *in the state prison* for two, three, or four years.

37 (1) If the violation is of ~~subdivision (a) of Section 27500.~~

38 (2) If the defendant has a prior conviction of violating the
39 provisions, other than Section 27535, Section 27560 involving a
40 firearm that is not a handgun, or Section 27565 involving a firearm

1 that is not a handgun, of this article or former Section 12100 of
2 this code, as Section 12100 read at any time from when it was
3 enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to
4 when it was repealed by Section 18 of Chapter 23 of the Statutes
5 of 1994, or Section 8101 of the Welfare and Institutions Code.

6 (3) If the defendant has a prior conviction of violating any
7 offense specified in Section 29905 or of a violation of Section
8 32625 or 33410, or of former Section 12560, as that section read
9 at any time from when it was enacted by Section 4 of Chapter 931
10 of the Statutes of 1965 to when it was repealed by Section 14 of
11 Chapter 9 of the Statutes of 1990, or of any provision listed in
12 Section 16590.

13 (4) If the defendant is in a prohibited class described in Chapter
14 2 (commencing with Section 29800) or Chapter 3 (commencing
15 with Section 29900) of Division 9 of this title, or Section 8100 or
16 8103 of the Welfare and Institutions Code.

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

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

22 (c) If any of the following circumstances apply, a violation of
23 this article shall be punished by imprisonment in a county jail not
24 exceeding one year or ~~pursuant to subdivision (h) of Section 1170,~~
25 *in the state prison for 16 months, or two or three years*, or by a
26 fine not to exceed one thousand dollars (\$1,000), or by both that
27 fine and imprisonment.

28 ~~(1) A violation of Section 27515, 27520, or subdivision (b) of~~
29 ~~Section 27500.~~

30 ~~(2)~~

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

33 ~~(3)~~

34 (2) A violation of Section 27510 involving the delivery of a
35 handgun.

36 ~~(4)~~

37 (3) A violation of subdivision (a), (c), (d), (e), or (f) of Section
38 27540 involving a handgun.

39 ~~(5)~~

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

1 ~~(6)~~

2 (5) A violation of Section 27550.

3 (d) If both of the following circumstances apply, an additional
4 term of imprisonment pursuant to subdivision (h) of Section 1170
5 for one, in the state prison for 16 months or, two, or three years
6 shall be imposed in addition and consecutive to the sentence
7 prescribed.

8 (1) A violation of Section 27510 or subdivision (b) of Section
9 27500.

10 (2) The firearm transferred in violation of Section 27510 or
11 subdivision (b) of Section 27500 is used in the subsequent
12 commission of a felony for which a conviction is obtained and the
13 prescribed sentence is imposed.

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

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

18 (3) A third or subsequent violation of Section 27535 is a
19 misdemeanor.

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

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

28 (2) *The court shall apply the minimum sentence specified in this
29 subdivision except in unusual cases where the interests of justice
30 would best be served by granting probation or suspending the
31 imposition or execution of sentence without the minimum
32 imprisonment required in this section or by granting probation or
33 suspending the imposition or execution of sentence with conditions
34 other than those set forth in this subdivision, in which case, the
35 court shall specify on the record and shall enter on the minutes
36 the circumstances indicating that the interests of justice would
37 best be served by that disposition.*

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

1 (1) *A violation of Section 27515.*

2 (2) *A violation of Section 27520.*

3 SEC. 8. Section 29800 of the Penal Code is amended to read:

4 29800. (a) (1) Any person who has been convicted of a felony
5 under the laws of the United States, the State of California, or any
6 other state, government, or country, or of an offense enumerated
7 in subdivision (a), (b), or (d) of Section 23515, or who is addicted
8 to the use of any narcotic drug, and who owns, purchases, receives,
9 or has in possession or under custody or control any firearm is
10 guilty of a felony, *punishable by imprisonment in the state prison*
11 *for two, three, or four years.*

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

16 (b) Notwithstanding subdivision (a), any person who has been
17 convicted of a felony or of an offense enumerated in Section 23515,
18 when that conviction results from certification by the juvenile court
19 for prosecution as an adult in an adult court under Section 707 of
20 the Welfare and Institutions Code, and who owns or has in
21 possession or under custody or control any firearm is guilty of a
22 felony, *punishable by imprisonment in state prison for two, three,*
23 *or four years.*

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

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

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

32 (d) (1) *Under the circumstances specified in paragraph (1) of*
33 *subdivision (a), and under the circumstances specified in*
34 *subdivision (b), if probation is granted, or if the imposition or*
35 *execution of sentence is suspended, it shall be a condition thereof*
36 *that the person be imprisoned in a county jail not less than six*
37 *months.*

38 (2) *The court shall apply the minimum sentence specified in this*
39 *subdivision except in unusual cases where the interests of justice*
40 *would best be served by granting probation or suspending the*

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

8 SEC. 9. Section 29805 of the Penal Code is amended to read:

9 29805. (a) Except as provided in Section 29855 or subdivision
10 (a) of Section 29800, any person who has been convicted of a
11 misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140,
12 subdivision (d) of Section 148, Section 171b, paragraph (1) of
13 subdivision (a) of Section 171c, 171d, 186.28, 240, 241, 242, 243,
14 243.4, 244.5, 245, 245.5, 246.3, 247, 273.5, 273.6, 417, 417.6,
15 422, 626.9, 646.9, or 830.95, subdivision (a) of former Section
16 12100, as that section read at any time from when it was enacted
17 by Section 3 of Chapter 1386 of the Statutes of 1988 to when it
18 was repealed by Section 18 of Chapter 23 of the Statutes of 1994,
19 Section 17500, 17510, 25300, 25800, 30315, or 32625, subdivision
20 (b) or (d) of Section 26100, or Section 27510, or Section 8100,
21 8101, or 8103 of the Welfare and Institutions Code, any
22 firearm-related offense pursuant to Sections 871.5 and 1001.5 of
23 the Welfare and Institutions Code, or of the conduct punished in
24 subdivision (c) of Section 27590, and who, within 10 years of the
25 conviction, owns, purchases, receives, or has in possession or under
26 custody or control, any firearm is guilty of a public offense, which
27 shall be punishable by imprisonment in a county jail not exceeding
28 one year or in the state prison *for two, three, or four years*, by a
29 fine not exceeding one thousand dollars (\$1,000), or by both that
30 imprisonment and fine. The court, on forms prescribed by the
31 Department of Justice, shall notify the department of persons
32 subject to this section. However, the prohibition in this section
33 may be reduced, eliminated, or conditioned as provided in Section
34 29855 or 29860.

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

39 (2) *The court shall apply the minimum sentence specified in this*
40 *subdivision except in unusual cases where the interests of justice*

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

9 SEC. 10. Section 29900 of the Penal Code is amended to read:

10 29900. (a) (1) Notwithstanding subdivision (a) of Section
11 29800, any person who has been previously convicted of any of
12 the offenses listed in Section 29905 and who owns or has in
13 possession or under custody or control any firearm is guilty of a
14 felony, *punishable by imprisonment in the state prison for three,*
15 *four, or five years.*

16 (2) A dismissal of an accusatory pleading pursuant to Section
17 1203.4a involving an offense set forth in Section 29905 does not
18 affect the finding of a previous conviction.

19 (3) If probation is granted, or if the imposition or execution of
20 sentence is suspended, it shall be a condition of the probation or
21 suspension that the defendant serve at least ~~six~~ *nine* months in a
22 county jail.

23 (b) (1) Any person previously convicted of any of the offenses
24 listed in Section 29905 which conviction results from certification
25 by the juvenile court for prosecution as an adult in adult court
26 under the provisions of Section 707 of the Welfare and Institutions
27 Code, who owns or has in possession or under custody or control
28 any firearm, is guilty of a felony, *punishable by imprisonment in*
29 *the state prison for three, four, or five years.*

30 (2) If probation is granted, or if the imposition or execution of
31 sentence is suspended, it shall be a condition of the probation or
32 suspension that the defendant serve at least ~~six~~ *nine* months in a
33 county jail.

34 (c) The court shall apply the minimum sentence as specified in
35 subdivisions (a) and (b) except in unusual cases where the interests
36 of justice would best be served by granting probation or suspending
37 the imposition or execution of sentence without the imprisonment
38 required by subdivisions (a) and (b), or by granting probation or
39 suspending the imposition or execution of sentence with conditions
40 other than those set forth in subdivisions (a) and (b), in which case

1 the court shall specify on the record and shall enter on the minutes
2 the circumstances indicating that the interests of justice would best
3 be served by the disposition.

4 SEC. 11. Section 29905 of the Penal Code is amended to read:

5 29905. (a) As used in this chapter, a violent offense includes
6 any of the following:

7 (1) Murder or voluntary manslaughter.

8 (2) Mayhem.

9 (3) Rape.

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

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

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

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

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

21 (9) Attempted murder.

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

23 (11) Assault with a deadly weapon or instrument on a peace
24 officer.

25 (12) Assault by a life prisoner on a noninmate.

26 (13) Assault with a deadly weapon by an inmate.

27 (14) Arson.

28 (15) Exploding a destructive device or any explosive with intent
29 to injure.

30 (16) Exploding a destructive device or any explosive causing
31 great bodily injury.

32 (17) Exploding a destructive device or any explosive with intent
33 to murder.

34 (18) Robbery.

35 (19) Kidnapping.

36 (20) Taking of a hostage by an inmate of a state prison.

37 (21) Attempt to commit a felony punishable by death or
38 imprisonment in the state prison for life.

39 (22) Any felony in which the defendant personally used a
40 dangerous or deadly weapon.

1 (23) Escape from a state prison by use of force or violence.

2 (24) Assault with a deadly weapon or force likely to produce
3 great bodily injury.

4 (25) Any felony violation of Section 186.22.

5 (26) Any offense enumerated in subdivision (a), (b), or (d) of
6 Section 23515.

7 (27) Carjacking.

8 (28) Any offense enumerated in subdivision (c) of Section 23515
9 if the person has two or more convictions for violating paragraph
10 (2) of subdivision (a) of Section 417.

11 (29) *Any felony violation of Section 245, other than a violation*
12 *of paragraph (4) of subdivision (a).*

13 (30) *Any felony violation of Section 626.9 or 626.95.*

14 (31) *Human trafficking, as defined in Section 236.1.*

15 (32) *Sexual penetration as defined in subdivision (a) or (j) of*
16 *Section 289.*

17 (33) *Rape, spousal rape, or sexual penetration, in concert, in*
18 *violation of Section 264.*

19 (34) *Continuous sexual abuse of a child, as defined in Section*
20 *288.5.*

21 (35) *Any felony violation of Section 136.1.*

22 (36) *Use of a deadly weapon to intimidate witnesses as defined*
23 *in Section 136.5.*

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

25 (38) *Any felony violation of Section 246.*

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

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

31 SEC. 12. Section 8100 of the Welfare and Institutions Code is
32 amended to read:

33 8100. (a) A person shall not have in his or her possession or
34 under his or her custody or control, or purchase or receive, or
35 attempt to purchase or receive, any firearms whatsoever or any
36 other deadly weapon, if on or after January 1, 1992, he or she has
37 been admitted to a facility and is receiving inpatient treatment and,
38 in the opinion of the attending health professional who is primarily
39 responsible for the patient's treatment of a mental disorder, is a
40 danger to self or others, as specified by Section 5150, 5250, or

1 5300, even though the patient has consented to that treatment. A
2 person is not subject to this subdivision once he or she is discharged
3 from the facility.

4 (b) (1) A person shall not have in his or her possession or under
5 his or her custody or control, or purchase or receive, or attempt to
6 purchase or receive, any firearms whatsoever or any other deadly
7 weapon for a period of six months whenever, on or after January
8 1, 1992, he or she communicates to a licensed psychotherapist, as
9 defined in subdivisions (a) to (e), inclusive, of Section 1010 of the
10 Evidence Code, a serious threat of physical violence against a
11 reasonably identifiable victim or victims. The six-month period
12 shall commence from the date that the licensed psychotherapist
13 reports to the local law enforcement agency the identity of the
14 person making the communication. The prohibition provided for
15 in this subdivision shall not apply unless the licensed
16 psychotherapist notifies a local law enforcement agency of the
17 threat by that person. The person, however, may own, possess,
18 have custody or control over, or receive or purchase any firearm
19 if a superior court, pursuant to paragraph (3) and upon petition of
20 the person, has found, by a preponderance of the evidence, that
21 the person is likely to use firearms or other deadly weapons in a
22 safe and lawful manner.

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

27 (A) That he or she is prohibited from possessing, having custody
28 or control over, receiving, or purchasing any firearm or other
29 deadly weapon for a period of six months commencing from the
30 date that the licensed psychotherapist reports to the local law
31 enforcement agency the identity of the person making the
32 communication. The notice shall state the date when the prohibition
33 commences and ends.

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

37 (3) Any person who is subject to paragraph (1) may petition the
38 superior court of his or her county of residence for an order that
39 he or she may own, possess, have custody or control over, receive,
40 or purchase firearms. At the time the petition is filed, the clerk of

1 the court shall set a hearing date and notify the person, the
2 Department of Justice, and the district attorney. The people of the
3 State of California shall be the respondent in the proceeding and
4 shall be represented by the district attorney. Upon motion of the
5 district attorney, or upon its own motion, the superior court may
6 transfer the petition to the county in which the person resided at
7 the time of the statements, or the county in which the person made
8 the statements. Within seven days after receiving notice of the
9 petition, the Department of Justice shall file copies of the reports
10 described in Section 8105 with the superior court. The reports shall
11 be disclosed upon request to the person and to the district attorney.
12 The district attorney shall be entitled to a continuance of the
13 hearing to a date of not less than 14 days after the district attorney
14 is notified of the hearing date by the clerk of the court. The court,
15 upon motion of the petitioner establishing that confidential
16 information is likely to be discussed during the hearing that would
17 cause harm to the person, shall conduct the hearing in camera with
18 only the relevant parties present, unless the court finds that the
19 public interest would be better served by conducting the hearing
20 in public. Notwithstanding any other provision of law, declarations,
21 police reports, including criminal history information, and any
22 other material and relevant evidence that is not excluded under
23 Section 352 of the Evidence Code, shall be admissible at the
24 hearing under this paragraph. If the court finds by a preponderance
25 of the evidence that the person would be likely to use firearms in
26 a safe and lawful manner, the court shall order that the person may
27 have custody or control over, receive, possess, or purchase firearms.
28 A copy of the order shall be submitted to the Department of Justice.
29 Upon receipt of the order, the department shall delete any reference
30 to the prohibition against firearms from the person's state summary
31 criminal history information.

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

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

39 (e) "Deadly weapon," as used in this section and in Sections
40 8101, 8102, and 8103, means any weapon, the possession or

1 concealed carrying of which is prohibited by any provision listed
 2 in Section 16590 of the Penal Code.

3 (f) “Danger to self,” as used in subdivision (a), means a
 4 voluntary person who has made a serious threat of, or attempted,
 5 suicide with the use of a firearm or other deadly weapon.

6 (g) A violation of subdivision (a) of, or paragraph (1) of
 7 subdivision (b) of, this section shall be a public offense, punishable
 8 by imprisonment ~~pursuant to subdivision (h) of Section 1170 of~~
 9 ~~the Penal Code, or in a county jail for not more than one year, by~~
 10 ~~a fine not exceeding one thousand dollars (\$1,000), or by both that~~
 11 ~~imprisonment and fine in the state prison for two, three, or four~~
 12 ~~years.~~

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

15 (i) Any person admitted and receiving treatment prior to January
 16 1, 1992, shall be governed by this section, as amended by Chapter
 17 1090 of the Statutes of 1990, until discharged from the facility.

18 SEC. 13. Section 8101 of the Welfare and Institutions Code is
 19 amended to read:

20 8101. (a) Any person who shall knowingly supply, sell, give,
 21 or allow possession or control of a deadly weapon to any person
 22 described in Section 8100 or 8103 shall be punishable by
 23 imprisonment ~~pursuant to subdivision (h) of Section 1170 of the~~
 24 ~~Penal Code in the state prison for 16 months, or two or three years,~~
 25 or in a county jail for a period of not exceeding one year, by a fine
 26 of not exceeding one thousand dollars (\$1,000), or by both the fine
 27 and imprisonment.

28 (b) Any person who shall knowingly supply, sell, give, or allow
 29 possession or control of a firearm to any person described in
 30 Section 8100 or 8103 shall be punished by imprisonment ~~pursuant~~
 31 ~~to subdivision (h) of Section 1170 of the Penal Code in the state~~
 32 ~~prison~~ for two, three, or four years.

33 (c) “Deadly weapon,” as used in this section has the meaning
 34 prescribed by Section 8100.

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

39 (2) *The court shall apply the minimum sentence specified in this*
 40 *subdivision except in unusual cases where the interests of justice*

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

9 SEC. 14. Section 8103 of the Welfare and Institutions Code is
10 amended to read:

11 8103. (a) (1) No person who after October 1, 1955, has been
12 adjudicated by a court of any state to be a danger to others as a
13 result of a mental disorder or mental illness, or who has been
14 adjudicated to be a mentally disordered sex offender, shall purchase
15 or receive, or attempt to purchase or receive, or have in his or her
16 possession, custody, or control any firearm or any other deadly
17 weapon unless there has been issued to the person a certificate by
18 the court of adjudication upon release from treatment or at a later
19 date stating that the person may possess a firearm or any other
20 deadly weapon without endangering others, and the person has
21 not, subsequent to the issuance of the certificate, again been
22 adjudicated by a court to be a danger to others as a result of a
23 mental disorder or mental illness.

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

28 (b) (1) No person who has been found, pursuant to Section
29 1026 of the Penal Code or the law of any other state or the United
30 States, not guilty by reason of insanity of murder, mayhem, a
31 violation of Section 207, 209, or 209.5 of the Penal Code in which
32 the victim suffers intentionally inflicted great bodily injury,
33 carjacking or robbery in which the victim suffers great bodily
34 injury, a violation of Section 451 or 452 of the Penal Code
35 involving a trailer coach, as defined in Section 635 of the Vehicle
36 Code, or any dwelling house, a violation of paragraph (1) or (2)
37 of subdivision (a) of Section 262 or paragraph (2) or (3) of
38 subdivision (a) of Section 261 of the Penal Code, a violation of
39 Section 459 of the Penal Code in the first degree, assault with
40 intent to commit murder, a violation of Section 220 of the Penal

1 Code in which the victim suffers great bodily injury, a violation
2 of Section 18715, 18725, 18740, 18745, 18750, or 18755 of the
3 Penal Code, or of a felony involving death, great bodily injury, or
4 an act which poses a serious threat of bodily harm to another
5 person, or a violation of the law of any other state or the United
6 States that includes all the elements of any of the above felonies
7 as defined under California law, shall purchase or receive, or
8 attempt to purchase or receive, or have in his or her possession or
9 under his or her custody or control any firearm or any other deadly
10 weapon.

11 (2) The court shall immediately notify the Department of Justice
12 of the court order finding the person to be a person described in
13 paragraph (1).

14 (c) (1) No person who has been found, pursuant to Section 1026
15 of the Penal Code or the law of any other state or the United States,
16 not guilty by reason of insanity of any crime other than those
17 described in subdivision (b) shall purchase or receive, or attempt
18 to purchase or receive, or shall have in his or her possession,
19 custody, or control any firearm or any other deadly weapon unless
20 the court of commitment has found the person to have recovered
21 sanity, pursuant to Section 1026.2 of the Penal Code or the law of
22 any other state or the United States.

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

27 (d) (1) No person found by a court to be mentally incompetent
28 to stand trial, pursuant to Section 1370 or 1370.1 of the Penal Code
29 or the law of any other state or the United States, shall purchase
30 or receive, or attempt to purchase or receive, or shall have in his
31 or her possession, custody, or control, any firearm or any other
32 deadly weapon, unless there has been a finding with respect to the
33 person of restoration to competence to stand trial by the committing
34 court, pursuant to Section 1372 of the Penal Code or the law of
35 any other state or the United States.

36 (2) The court shall immediately notify the Department of Justice
37 of the court order finding the person to be mentally incompetent
38 as described in paragraph (1). The court shall also notify the
39 Department of Justice when it finds that the person has recovered
40 his or her competence.

1 (e) (1) No person who has been placed under conservatorship
2 by a court, pursuant to Section 5350 or the law of any other state
3 or the United States, because the person is gravely disabled as a
4 result of a mental disorder or impairment by chronic alcoholism,
5 shall purchase or receive, or attempt to purchase or receive, or
6 shall have in his or her possession, custody, or control, any firearm
7 or any other deadly weapon while under the conservatorship if, at
8 the time the conservatorship was ordered or thereafter, the court
9 which imposed the conservatorship found that possession of a
10 firearm or any other deadly weapon by the person would present
11 a danger to the safety of the person or to others. Upon placing any
12 person under conservatorship, and prohibiting firearm or any other
13 deadly weapon possession by the person, the court shall notify the
14 person of this prohibition.

15 (2) The court shall immediately notify the Department of Justice
16 of the court order placing the person under conservatorship and
17 prohibiting firearm or any other deadly weapon possession by the
18 person as described in paragraph (1). The notice shall include the
19 date the conservatorship was imposed and the date the
20 conservatorship is to be terminated. If the conservatorship is
21 subsequently terminated before the date listed in the notice to the
22 Department of Justice or the court subsequently finds that
23 possession of a firearm or any other deadly weapon by the person
24 would no longer present a danger to the safety of the person or
25 others, the court shall immediately notify the Department of Justice.

26 (3) All information provided to the Department of Justice
27 pursuant to paragraph (2) shall be kept confidential, separate, and
28 apart from all other records maintained by the Department of
29 Justice, and shall be used only to determine eligibility to purchase
30 or possess firearms or other deadly weapons. Any person who
31 knowingly furnishes that information for any other purpose is
32 guilty of a misdemeanor. All the information concerning any person
33 shall be destroyed upon receipt by the Department of Justice of
34 notice of the termination of conservatorship as to that person
35 pursuant to paragraph (2).

36 (f) (1) No person who has been (A) taken into custody as
37 provided in Section 5150 because that person is a danger to himself,
38 herself, or to others, (B) assessed within the meaning of Section
39 5151, and (C) admitted to a designated facility within the meaning
40 of Sections 5151 and 5152 because that person is a danger to

1 himself, herself, or others, shall own, possess, control, receive, or
2 purchase, or attempt to own, possess, control, receive, or purchase
3 any firearm for a period of five years after the person is released
4 from the facility. A person described in the preceding sentence,
5 however, may own, possess, control, receive, or purchase, or
6 attempt to own, possess, control, receive, or purchase any firearm
7 if the superior court has, pursuant to paragraph (5), found that the
8 people of the State of California have not met their burden pursuant
9 to paragraph (6).

10 (2) (A) For each person subject to this subdivision, the facility
11 shall immediately, on the date of admission, submit a report to the
12 Department of Justice, on a form prescribed by the Department of
13 Justice, containing information that includes, but is not limited to,
14 the identity of the person and the legal grounds upon which the
15 person was admitted to the facility.

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

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, the facility shall
24 inform a person subject to this subdivision that he or she is
25 prohibited from owning, possessing, controlling, receiving, or
26 purchasing any firearm for a period of five years. Simultaneously,
27 the facility shall inform the person that he or she may request a
28 hearing from a court, as provided in this subdivision, for an order
29 permitting the person to own, possess, control, receive, or purchase
30 a firearm. The facility shall provide the person with a form for a
31 request for a hearing. The Department of Justice shall prescribe
32 the form. Where the person requests a hearing at the time of
33 discharge, the facility shall forward the form to the superior court
34 unless the person states that he or she will submit the form to the
35 superior court.

36 (4) The Department of Justice shall provide the form upon
37 request to any person described in paragraph (1). The Department
38 of Justice shall also provide the form to the superior court in each
39 county. A person described in paragraph (1) may make a single
40 request for a hearing at any time during the five-year period. The

1 request for hearing shall be made on the form prescribed by the
2 department or in a document that includes equivalent language.
3 (5) Any person who is subject to paragraph (1) who has
4 requested a hearing from the superior court of his or her county
5 of residence for an order that he or she may own, possess, control,
6 receive, or purchase firearms shall be given a hearing. The clerk
7 of the court shall set a hearing date and notify the person, the
8 Department of Justice, and the district attorney. The people of the
9 State of California shall be the plaintiff in the proceeding and shall
10 be represented by the district attorney. Upon motion of the district
11 attorney, or on its own motion, the superior court may transfer the
12 hearing to the county in which the person resided at the time of
13 his or her detention, the county in which the person was detained,
14 or the county in which the person was evaluated or treated. Within
15 seven days after the request for a hearing, the Department of Justice
16 shall file copies of the reports described in this section with the
17 superior court. The reports shall be disclosed upon request to the
18 person and to the district attorney. The court shall set the hearing
19 within 30 days of receipt of the request for a hearing. Upon
20 showing good cause, the district attorney shall be entitled to a
21 continuance not to exceed 14 days after the district attorney was
22 notified of the hearing date by the clerk of the court. If additional
23 continuances are granted, the total length of time for continuances
24 shall not exceed 60 days. The district attorney may notify the
25 county mental health director of the hearing who shall provide
26 information about the detention of the person that may be relevant
27 to the court and shall file that information with the superior court.
28 That information shall be disclosed to the person and to the district
29 attorney. The court, upon motion of the person subject to paragraph
30 (1) establishing that confidential information is likely to be
31 discussed during the hearing that would cause harm to the person,
32 shall conduct the hearing in camera with only the relevant parties
33 present, unless the court finds that the public interest would be
34 better served by conducting the hearing in public. Notwithstanding
35 any other law, declarations, police reports, including criminal
36 history information, and any other material and relevant evidence
37 that is not excluded under Section 352 of the Evidence Code shall
38 be admissible at the hearing under this section.

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

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

13 (8) Where the district attorney declines or fails to go forward
14 in the hearing, the court shall order that the person shall not be
15 subject to the five-year prohibition required by this subdivision
16 on the ownership, control, receipt, possession, or purchase of
17 firearms. A copy of the order shall be submitted to the Department
18 of Justice. Upon receipt of the order, the Department of Justice
19 shall, within 15 days, delete any reference to the prohibition against
20 firearms from the person's state mental health firearms prohibition
21 system information.

22 (9) Nothing in this subdivision shall prohibit the use of reports
23 filed pursuant to this section to determine the eligibility of persons
24 to own, possess, control, receive, or purchase a firearm if the person
25 is the subject of a criminal investigation, a part of which involves
26 the ownership, possession, control, receipt, or purchase of a
27 firearm.

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

32 Any person who meets the criteria contained in subdivision (e)
33 or (f) who is released from intensive treatment shall nevertheless,
34 if applicable, remain subject to the prohibition contained in
35 subdivision (e) or (f).

36 (2) (A) For each person certified for intensive treatment under
37 paragraph (1), the facility shall immediately submit a report to the
38 Department of Justice, on a form prescribed by the department,
39 containing information regarding the person, including, but not
40 limited to, the legal identity of the person and the legal grounds

1 upon which the person was certified. Any report submitted pursuant
2 to this paragraph shall only be used for the purposes specified in
3 paragraph (2) of subdivision (f).

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

7 (3) Prior to, or concurrent with, the discharge of each person
8 certified for intensive treatment under paragraph (1), the facility
9 shall inform the person of that information specified in paragraph
10 (3) of subdivision (f).

11 (4) Any person who is subject to paragraph (1) may petition the
12 superior court of his or her county of residence for an order that
13 he or she may own, possess, control, receive, or purchase firearms.
14 At the time the petition is filed, the clerk of the court shall set a
15 hearing date and notify the person, the Department of Justice, and
16 the district attorney. The people of the State of California shall be
17 the respondent in the proceeding and shall be represented by the
18 district attorney. Upon motion of the district attorney, or on its
19 own motion, the superior court may transfer the petition to the
20 county in which the person resided at the time of his or her
21 detention, the county in which the person was detained, or the
22 county in which the person was evaluated or treated. Within seven
23 days after receiving notice of the petition, the Department of Justice
24 shall file copies of the reports described in this section with the
25 superior court. The reports shall be disclosed upon request to the
26 person and to the district attorney. The district attorney shall be
27 entitled to a continuance of the hearing to a date of not less than
28 14 days after the district attorney was notified of the hearing date
29 by the clerk of the court. The district attorney may notify the county
30 mental health director of the petition, and the county mental health
31 director shall provide information about the detention of the person
32 that may be relevant to the court and shall file that information
33 with the superior court. That information shall be disclosed to the
34 person and to the district attorney. The court, upon motion of the
35 person subject to paragraph (1) 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, any

1 declaration, police reports, including criminal history information,
2 and any other material and relevant evidence that is not excluded
3 under Section 352 of the Evidence Code, shall be admissible at
4 the hearing under this section. 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 may order that the person may
7 own, control, receive, possess, or purchase firearms. A copy of
8 the order shall be submitted to the Department of Justice. Upon
9 receipt of the order, the Department of Justice shall delete any
10 reference to the prohibition against firearms from the person's
11 state mental health firearms prohibition system information.

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

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

22 (i) Every person who owns or possesses or has under his or her
23 custody or control, or purchases or receives, or attempts to purchase
24 or receive, any firearm or any other deadly weapon in violation of
25 this section shall be punished by imprisonment ~~pursuant to~~
26 ~~subdivision (h) of Section 1170 of the Penal Code or in a county~~
27 ~~jail for not more than one year in the state prison for two, three,~~
28 ~~or four years.~~

29 (j) "Deadly weapon," as used in this section, has the meaning
30 prescribed by Section 8100.

31 SEC. 15. Section 8104 of the Welfare and Institutions Code is
32 amended to read:

33 8104. The State Department of State Hospitals shall maintain
34 in a convenient central location and shall make *immediately*
35 available to the Department of Justice those records that the State
36 Department of State Hospitals has in its possession that are
37 necessary to identify persons who come within Section 8100 or
38 8103. These records shall be made available to the Department of
39 Justice upon request. The Department of Justice shall make these
40 requests only with respect to its duties with regard to applications

1 for permits for, or to carry, or the possession, purchase, or transfer
2 of, explosives as defined in Section 12000 of the Health and Safety
3 Code, devices defined in Section 16250, 16530, or 16640 of the
4 Penal Code, in subdivisions (a) to (d), inclusive, of Section 16520
5 of the Penal Code, or in subdivision (a) of Section 16840 of the
6 Penal Code, machineguns as defined in Section 16880 of the Penal
7 Code, short-barreled shotguns or short-barreled rifles as defined
8 in Sections 17170 and 17180 of the Penal Code, assault weapons
9 as defined in Section 30510 of the Penal Code, and destructive
10 devices as defined in Section 16460 of the Penal Code, or to
11 determine the eligibility of a person to acquire, carry, or possess
12 a firearm, explosive, or destructive device by a person who is
13 subject to a criminal investigation, a part of which involves the
14 acquisition, carrying, or possession of a firearm by that person.
15 These records shall not be furnished or made available to any
16 person unless the department determines that disclosure of any
17 information in the records is necessary to carry out its duties with
18 respect to applications for permits for, or to carry, or the possession,
19 purchase, or transfer of, explosives, destructive devices, devices
20 as defined in Section 16250, 16530, or 16640 of the Penal Code,
21 in subdivisions (a) to (d), inclusive, of Section 16520 of the Penal
22 Code, or in subdivision (a) of Section 16840 of the Penal Code,
23 short-barreled shotguns, short-barreled rifles, assault weapons,
24 and machineguns, or to determine the eligibility of a person to
25 acquire, carry, or possess a firearm, explosive, or destructive device
26 by a person who is subject to a criminal investigation, a part of
27 which involves the acquisition, carrying, or possession of a firearm
28 by that person.

29 SEC. 16. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 Constitution.

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