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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 48

Introduced by Assembly Member Skinner
(Coauthors: Assembly Members Alejo, Ammiano, Bloom, Bonta,
Ting, and Williams)
(Coauthors: Senators De León and Hancock)

December 20, 2012

An act to amend ~~Sections 16740, 16890, 32310, and 32390~~ *Section 32310* of, and to add Sections ~~16740.5, 30327, 30367~~ and 32311 to, the Penal Code, ~~and to amend Sections 8100, 8102, 8103, 8104, and 8105 of the Welfare and Institutions Code,~~ relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 48, as amended, Skinner. Firearms: ammunition: sales.

(1) Except as specified, existing law makes it a crime to manufacture, import, keep for sale, offer or expose for sale, or give or lend any large-capacity magazine, and makes a large-capacity magazine a nuisance. Existing law defines "large-capacity magazine" to mean any ammunition feeding device with the capacity to accept more than 10 rounds but excludes, in pertinent part, a feeding device that has been

permanently altered so that the magazine cannot accommodate more than 10 rounds.

This bill would make it a misdemeanor, punishable by a fine of not more than \$1,000 or imprisonment in a county jail not to exceed 6 months, or by both that fine and imprisonment, to *buy or receive a large capacity magazine or to knowingly manufacture, import, keep for sale, offer or expose for sale, or give or, lend, buy, or receive any device large capacity magazine conversion kit* that is capable of converting an ammunition feeding device into a large-capacity magazine. ~~The bill would revise the definition of “large-capacity magazine” to mean any ammunition feeding device with the capacity to accept more than 10 rounds, including a disassembled large-capacity magazine that is readily restorable, as defined, to accommodate more than 10 rounds of ammunition, and an oversize magazine body that appears to hold in excess of 10 rounds but has not been permanently altered to only accommodate 10 rounds of ammunition or less. The bill would make related, conforming changes. By creating a new crime, this bill would impose a state-mandated local program.~~

(2) Existing law prohibits any person, corporation, or dealer from selling ammunition to a person under 18 years of age, selling ammunition designed for use in a handgun to a person under 21 years of age, or providing possession of any ammunition to any minor who the person, corporation, or dealer knows is prohibited from possessing that ammunition at that time. Existing law prohibits a person, corporation, or firm from giving possession or control of ammunition to any person who he or she knows is prohibited by law from possessing ammunition. Existing law also regulates handgun ammunition vendors and provides that a handgun ammunition vendor shall not permit any employee who the vendor knows or reasonably should know is a person who has been convicted of a felony or other specified crimes to handle, sell, or deliver handgun ammunition in the course and scope of employment.

This bill would require the Department of Justice to create the California Ammunition Database, and would require an ammunition vendor, as defined, to record specified purchaser information and the number of rounds of ammunition sold to a purchaser and report that information to the Department of Justice. The bill would require the department to immediately cross-reference the purchaser’s information with the Prohibited Armed Persons File. The bill would require the department to forward the purchaser’s information to local law

enforcement through a secure means if the purchaser's name appears in the file.

This bill would require the Department of Justice to alert local law enforcement entities in the city, county, or city and county in which a purchaser resides if the purchaser obtains more than 3,000 rounds of ammunition within a 5-day period, as specified. ~~The bill would make this provision operative only if Senate Bill 53 of the 2013-14 Regular Session is enacted and becomes operative. The bill would make these provisions inoperative until there are sufficient funds in the Ammunition Vendor's Special Account of the General Fund, which this bill would create, and the department creates the California Ammunition Database. The bill would require the department to provide written notice to ammunition vendors that the database is operational and would require compliance by ammunition vendors as of 30 days after being notified.~~

(3) 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.

~~(3) Existing law prohibits a person from possessing a firearm or deadly weapon for a period of 6 months whenever he or she communicates to a licensed psychotherapist a serious threat of physical violence against a reasonably identifiable victim or victims. Under existing law, a violation of this provision is a crime. Existing law allows a person subject to these provisions to petition the superior court of his or her county for an order that he or she may possess a firearm, as provided.~~

~~This bill would increase the prohibitory period from 6 months to 5 years. By increasing the scope of an existing crime, this bill would impose a state-mandated local program. This bill would revise the provisions allowing a person to petition the court for an order that he or she may possess a firearm to conform with other provisions of existing law.~~

~~(4) Existing law requires that if a person who has been detained or apprehended for examination of his or her mental condition, or who is a mentally ill individual prohibited from possessing firearms, is found to own or possess a firearm, a law enforcement agency or peace officer is required to confiscate the firearm. Existing law requires the peace officer or law enforcement agency, upon confiscation of that firearm~~

from a person who has been detained or apprehended for examination of his or her mental condition, to notify the person of the procedure for the return of the firearm.

Existing law prescribes specified requirements that govern the return of confiscated firearms in the custody or control of a court or law enforcement agency. Under these provisions of law, a person who wishes to have the firearm returned is required to submit a specified application and fee to the Department of Justice, and to meet specified criteria.

This bill would apply these requirements to persons who have been detained or apprehended for examination and mentally ill individuals who are prohibited from possessing firearms who have had their firearms confiscated. By creating new notification duties for peace officers and law enforcement agencies, this bill would impose a state-mandated local program.

(5) Existing law requires reports to be submitted immediately to the Department of Justice in connection with mentally ill individuals who are prohibited from possessing firearms and dangerous weapons.

This bill would specify that, for these purposes, “immediately” means a period of time not exceeding 24 hours. The bill would require notices and reports submitted to the Department of Justice in connection with these provisions to be submitted in an electronic format, in a manner prescribed by the Department of Justice.

(6) Existing law requires the State Department of State Hospitals to maintain records in its possession that are necessary to identify persons who come within the prohibition on possessing firearms due to mental illness and 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 available to the Department of Justice in electronic format, within 24 hours of receiving the request.

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

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

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

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

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

1 SECTION 1. Section 30367 is added to the Penal Code, to
2 read:

3 30367. (a) The Department of Justice shall create the
4 California Ammunition Database.

5 (b) Commencing 30 days from the date of being notified by the
6 department of the operation of the California Ammunition
7 Database pursuant to subdivision (e), an ammunition vendor shall
8 record the purchaser information required by subdivision (a) of
9 Section 30352 and the number of rounds of ammunition sold to
10 the purchaser, and shall report that information to the department
11 in a manner to be determined by the department.

12 (c) Upon receipt of the information described in subdivision
13 (b), the department shall immediately cross-reference the
14 purchaser's information with the Prohibited Armed Persons File.
15 If a purchaser's name appears in the Prohibited Armed Persons
16 File, the department shall forward the purchaser's information to
17 local law enforcement through a secure means.

18 (d) The department shall also alert local law enforcement
19 entities in the city, county, or city and county in which the
20 purchaser resides if the purchaser obtains more than 3,000 rounds
21 of ammunition within a five-day period and the purchaser is an
22 individual and not an ammunition vendor.

23 (e) This section is not effective until there are sufficient funds
24 in the Ammunition Vendor's Special Account of the General Fund,
25 which is hereby created, for the department to create the California
26 Ammunition Database and the department creates the database.
27 At least 30 days prior to the date that the California Ammunition
28 Database is operational, the department shall provide written
29 notice of that fact to ammunition vendors.

30 (f) Subdivisions (b), (c), and (d) do not apply to or affect the
31 sale of ammunition to any of the following:

32 (1) An authorized law enforcement representative of a city,
33 county, city and county, or state or federal government, if the sale
34 is for the exclusive use by that government agency and, prior to
35 the sale of the ammunition, written authorization from the head

1 of the agency employing the purchaser or transferee is obtained
2 identifying the employee as an individual authorized to conduct
3 the transaction, and authorizing the transaction for the exclusive
4 use of the agency employing the individual.

5 (2) A sworn peace officer, as defined in Chapter 4.5
6 (commencing with Section 830) of Title 3 of Part 2 who is
7 authorized to carry a firearm in the course and scope of his or her
8 duties.

9 (3) An ammunition vendor.

10 (g) For purposes of this section, the following definitions apply:

11 (1) As used in this section, "ammunition vendor" means any
12 person, firm, corporation, dealer, or any other business enterprise
13 that is engaged in the retail sale of any ammunition, including,
14 but not limited to, handgun ammunition, or that holds itself out as
15 engaged in the business of selling any ammunition.

16 (2) "Ammunition" does not include blanks.

17 SECTION 1. Section 16740 of the Penal Code is amended to
18 read:

19 16740. (a) As used in this part, "large-capacity magazine"
20 means any ammunition feeding device with the capacity to accept
21 more than 10 rounds, including, but not limited to, a disassembled
22 large-capacity magazine that is readily restorable to accommodate
23 more than 10 rounds of ammunition, and an oversize magazine
24 body that appears to hold in excess of 10 rounds but has not been
25 permanently altered to only accommodate 10 rounds of ammunition
26 or less. A magazine body is not a large-capacity magazine if it is
27 only of sufficient size to accommodate 10 or fewer rounds of
28 ammunition and the internal working parts of the magazine,
29 including the follower and spring.

30 (b) As used in this part, "readily restorable" includes all of the
31 magazine parts of a fully functioning large-capacity magazine,
32 including, but not limited to, the body, spring, follower, and floor
33 plate or end plate, under the custody and control of an individual
34 or individuals that can be assembled into a complete magazine.

35 SEC. 2. Section 16740.5 is added to the Penal Code, to read:

36 16740.5. As used in this part, a "large-capacity magazine" shall
37 not be construed to include any of the following:

38 (a) A .22 caliber tube ammunition feeding device.

39 (b) A tubular magazine that is contained in a lever-action
40 firearm.

1 ~~SEC. 3.~~ Section 16890 of the Penal Code is amended to read:
2 16890. As used in Section 16150, 16740, or 30515, “magazine”
3 means any ammunition feeding device, including a disassembled
4 magazine that is readily restorable to be an ammunition feeding
5 device. For purposes of this section, “readily restorable” means
6 all of the parts of a large-capacity magazine, including, but not
7 limited to, the body, spring, follower, and floor plate or end plate,
8 under the custody and control of an individual or individuals that
9 can be assembled as a fully functioning magazine.

10 ~~SEC. 4.~~ Section 30327 is added to the Penal Code, to read:
11 30327. The Department of Justice shall alert local law
12 enforcement entities in the city, county, or city and county in which
13 the purchaser resides if the purchaser obtains more than 3,000
14 rounds of ammunition within a five-day period and the purchaser
15 is an individual and not an ammunition vendor. The department
16 is not required to alert local law enforcement of sales of
17 ammunition made to peace officers.

18 ~~SEC. 5.~~
19 *SEC. 2.* Section 32310 of the Penal Code is amended to read:
20 32310. (a) Except as provided in Article 2 (commencing with
21 Section 32400) of this chapter and in Chapter 1 (commencing with
22 Section 17700) of Division 2 of Title 2, commencing January 1,
23 2000, any person in this state who manufactures or causes to be
24 manufactured, imports into the state, keeps for sale, or offers or
25 exposes for sale, or who gives, lends, buys, or receives any
26 large-capacity magazine is punishable by imprisonment in a county
27 jail not exceeding one year or imprisonment pursuant to subdivision
28 (h) of Section 1170.

29 (b) For purposes of this section, “manufacturing” includes both
30 fabricating a magazine and assembling a magazine from a
31 combination of parts, including, but not limited to, the body, spring,
32 follower, and floor plate or end plate, to be a fully functioning
33 large-capacity magazine.

34 ~~SEC. 6.~~
35 *SEC. 3.* Section 32311 is added to the Penal Code, to read:
36 32311. (a) Except as provided in Article 2 (commencing with
37 Section 32400) of this chapter and in Chapter 1 (commencing with
38 Section 17700) of Division 2 of Title 2, commencing January 1,
39 2014, any person in this state who knowingly manufactures or
40 causes to be manufactured, imports into the state, keeps for sale,

1 or offers or exposes for sale, or who gives, lends, buys, or receives
2 any device or combination of the parts of a fully functioning
3 large-capacity magazine, including, but not limited to, the body,
4 spring, follower, and floor plate or end plate, capable of converting
5 an ammunition feeding device into a large-capacity magazine *large*
6 *capacity magazine conversion kit* is punishable by a fine of not
7 more than one thousand dollars (\$1,000) or imprisonment in a
8 county jail not to exceed six months, or by both that fine and
9 imprisonment.

10 (b) *For purposes of this section, a “large capacity magazine*
11 *conversion kit” is a device or combination of parts of a fully*
12 *functioning large-capacity magazine, including, but not limited*
13 *to, the body, spring, follower, and floor plate or end plate, capable*
14 *of converting an ammunition feeding device into a large-capacity*
15 *magazine.*

16 *SEC. 4. No reimbursement is required by this act pursuant to*
17 *Section 6 of Article XIII B of the California Constitution because*
18 *the only costs that may be incurred by a local agency or school*
19 *district will be incurred because this act creates a new crime or*
20 *infraction, eliminates a crime or infraction, or changes the penalty*
21 *for a crime or infraction, within the meaning of Section 17556 of*
22 *the Government Code, or changes the definition of a crime within*
23 *the meaning of Section 6 of Article XIII B of the California*
24 *Constitution.*

25 ~~SEC. 7. Section 32390 of the Penal Code is amended to read:~~
26 ~~32390. (a) Except as provided in Article 2 (commencing with~~
27 ~~Section 32400) of this chapter and in Chapter 1 (commencing with~~
28 ~~Section 17700) of Division 2 of Title 2, and in subdivision (b),~~
29 ~~any large-capacity magazine is a nuisance and is subject to Section~~
30 ~~18010.~~

31 ~~(b) Subdivision (a) does not apply to the possession of a readily~~
32 ~~restorable disassembled large-capacity magazine or an oversize~~
33 ~~magazine body that has been permanently altered so that the~~
34 ~~magazine cannot accommodate more than 10 rounds by a person~~
35 ~~who lawfully possessed the magazine prior to January 1, 2014.~~

36 ~~SEC. 8. Section 8100 of the Welfare and Institutions Code is~~
37 ~~amended to read:~~

38 ~~8100. (a) A person shall not have in his or her possession or~~
39 ~~under his or her custody or control, or purchase or receive, or~~
40 ~~attempt to purchase or receive, any firearms whatsoever or any~~

1 other deadly weapon, if on or after January 1, 1992, he or she has
2 been admitted to a facility and is receiving inpatient treatment and,
3 in the opinion of the attending health professional who is primarily
4 responsible for the patient's treatment of a mental disorder, is a
5 danger to self or others, as specified by Section 5150, 5250, or
6 5300, even though the patient has consented to that treatment. A
7 person is not subject to this subdivision once he or she is discharged
8 from the facility.

9 (b) (1) A person shall not have in his or her possession or under
10 his or her custody or control, or purchase or receive, or attempt to
11 purchase or receive, any firearms whatsoever or any other deadly
12 weapon for a period of five years whenever, on or after January
13 1, 2014, he or she communicates to a licensed psychotherapist, as
14 defined in subdivisions (a) to (e), inclusive, of Section 1010 of the
15 Evidence Code, a serious threat of physical violence against a
16 reasonably identifiable victim or victims. The five-year period
17 shall commence from the date that the licensed psychotherapist
18 reports to the local law enforcement agency the identity of the
19 person making the communication. The prohibition provided for
20 in this subdivision shall not apply unless the licensed
21 psychotherapist notifies a local law enforcement agency of the
22 threat by that person. The person, however, may own, possess,
23 have custody or control over, or receive or purchase any firearm
24 if a superior court, pursuant to paragraph (3) and upon petition of
25 the person, has found, by a preponderance of the evidence, that
26 the person is likely to use firearms or other deadly weapons in a
27 safe and lawful manner.

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

32 (A) That he or she is prohibited from possessing, having custody
33 or control over, receiving, or purchasing any firearm or other
34 deadly weapon for a period of five years commencing from the
35 date that the licensed psychotherapist reports to the local law
36 enforcement agency the identity of the person making the
37 communication. The notice shall state the date when the prohibition
38 commences and ends.

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

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

32 ~~(B) The people shall bear the burden of showing by a~~
33 ~~preponderance of the evidence that the person would not be likely~~
34 ~~to use firearms in a safe and lawful manner.~~

35 ~~(C) If the court finds at the hearing that the people have not met~~
36 ~~their burden as set forth in subparagraph (B), the court shall order~~
37 ~~that the person shall not be subject to the five-year prohibition in~~
38 ~~this section on the ownership, control, receipt, possession, or~~
39 ~~purchase of firearms, and that person shall comply with the~~
40 ~~procedure described in Chapter 2 (commencing with Section~~

1 33850) of Division 11 of Title 4 of Part 6 of the Penal Code for
2 the return of any firearms. A copy of the order shall be submitted
3 to the Department of Justice. Upon receipt of the order, the
4 Department of Justice shall delete any reference to the prohibition
5 against firearms from the person's state mental health firearms
6 prohibition system information.

7 (D) Where the district attorney declines or fails to go forward
8 in the hearing, the court shall order that the person shall not be
9 subject to the five-year prohibition required by this subdivision
10 on the ownership, control, receipt, possession, or purchase of
11 firearms, and that person shall comply with the procedure described
12 in Chapter 2 (commencing with Section 33850) of Division 11 of
13 Title 4 of Part 6 of the Penal Code for the return of any firearms.
14 A copy of the order shall be submitted to the Department of Justice.
15 Upon receipt of the order, the Department of Justice shall, within
16 15 days, delete any reference to the prohibition against firearms
17 from the person's state mental health firearms prohibition system
18 information.

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

25 (e) "Discharge," for the purposes of this section, does not include
26 a leave of absence from a facility.

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

32 (e) "Deadly weapon," as used in this section and in Sections
33 8101, 8102, and 8103, means any weapon, the possession or
34 concealed carrying of which is prohibited by any provision listed
35 in Section 16590 of the Penal Code.

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

39 (g) A violation of subdivision (a) of, or paragraph (1) of
40 subdivision (b) of, this section shall be a public offense, punishable

1 by imprisonment pursuant to subdivision (h) of Section 1170 of
2 the Penal Code, or in a county jail for not more than one year, by
3 a fine not exceeding one thousand dollars (\$1,000), or by both that
4 imprisonment and fine.

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

7 (i) Any person admitted and receiving treatment prior to January
8 1, 1992, shall be governed by this section, as amended by Chapter
9 1090 of the Statutes of 1990, until discharged from the facility.

10 SEC. 9. Section 8102 of the Welfare and Institutions Code is
11 amended to read:

12 8102. (a) ~~Whenever a person, who has been detained or~~
13 ~~apprehended for examination of his or her mental condition or~~
14 ~~who is a person described in Section 8100 or 8103, is found to~~
15 ~~own, have in his or her possession or under his or her control, any~~
16 ~~firearm whatsoever, or any other deadly weapon, the firearm or~~
17 ~~other deadly weapon shall be confiscated by any law enforcement~~
18 ~~agency or peace officer, who shall retain custody of the firearm~~
19 ~~or other deadly weapon.~~

20 "Deadly weapon," as used in this section, has the meaning
21 prescribed by Section 8100.

22 (b) (1) ~~Upon confiscation of any firearm or other deadly weapon~~
23 ~~from a person who has been detained or apprehended for~~
24 ~~examination of his or her mental condition, the peace officer or~~
25 ~~law enforcement agency shall notify the person of the procedure~~
26 ~~for the return of any firearm or other deadly weapon which has~~
27 ~~been confiscated.~~

28 (2) ~~Where the person is released, the professional person in~~
29 ~~charge of the facility, or his or her designee, shall notify the person~~
30 ~~of the procedure for the return of any firearm or other deadly~~
31 ~~weapon which may have been confiscated.~~

32 (3) ~~Health facility personnel shall notify the confiscating law~~
33 ~~enforcement agency upon release of the detained person, and shall~~
34 ~~make a notation to the effect that the facility provided the required~~
35 ~~notice to the person regarding the procedure to obtain return of~~
36 ~~any confiscated firearm.~~

37 (4) ~~For purposes of this subdivision, the procedure for the return~~
38 ~~of confiscated firearms includes the procedures described in this~~
39 ~~section and the procedures described in Chapter 2 (commencing~~

1 with Section 33850) of Division 11 of Title 4 of Part 6 of the Penal
2 Code.

3 (e) Upon the release of a person as described in subdivision (b),
4 the confiscating law enforcement agency shall have 30 days to
5 initiate a petition in the superior court for a hearing to determine
6 whether the return of a firearm or other deadly weapon would be
7 likely to result in endangering the person or others, and to send a
8 notice advising the person of his or her right to a hearing on this
9 issue. The law enforcement agency may make an ex parte
10 application stating good cause for an order extending the time to
11 file a petition. Including any extension of time granted in response
12 to an ex parte request, a petition must be filed within 60 days of
13 the release of the person from a health facility.

14 (d) If the law enforcement agency does not initiate proceedings
15 within the 30-day period, or the period of time authorized by the
16 court in an ex parte order issued pursuant to subdivision (c), it
17 shall make the weapon available for return upon compliance with
18 all applicable requirements, including the requirements specified
19 in Chapter 2 (commencing with Section 33850) of Division 11 of
20 Title 4 of Part 6 of the Penal Code.

21 (e) The law enforcement agency shall inform the person that he
22 or she has 30 days to respond to the court clerk to confirm his or
23 her desire for a hearing, and that the failure to respond will result
24 in a default order forfeiting the confiscated firearm or weapon. For
25 a confiscated firearm, the period of forfeiture is 180 days pursuant
26 to Section 33875 of the Penal Code, unless the person contacts the
27 law enforcement agency to facilitate the sale or transfer of the
28 firearm to a licensed dealer pursuant to Section 33870 of the Penal
29 Code. For the purpose of this subdivision, the person's last known
30 address shall be the address provided to the law enforcement officer
31 by the person at the time of the person's detention or apprehension.

32 (f) If the person responds and requests a hearing, the court clerk
33 shall set a hearing, no later than 30 days from receipt of the request.
34 The court clerk shall notify the person and the district attorney of
35 the date, time, and place of the hearing.

36 (g) If the person does not respond within 30 days of the notice,
37 the law enforcement agency may file a petition for order of default,
38 allowing the law enforcement agency to destroy the firearm in 180
39 days from when the court enters default unless the person contacts
40 the law enforcement agency to facilitate the sale or transfer of the

1 firearm to a licensed dealer pursuant to Section 33870 of the Penal
2 Code.

3 ~~SEC. 10. Section 8103 of the Welfare and Institutions Code is~~
4 ~~amended to read:~~

5 ~~8103. (a) (1) No person who after October 1, 1955, has been~~
6 ~~adjudicated by a court of any state to be a danger to others as a~~
7 ~~result of a mental disorder or mental illness, or who has been~~
8 ~~adjudicated to be a mentally disordered sex offender, shall purchase~~
9 ~~or receive, or attempt to purchase or receive, or have in his or her~~
10 ~~possession, custody, or control any firearm or any other deadly~~
11 ~~weapon unless there has been issued to the person a certificate by~~
12 ~~the court of adjudication upon release from treatment or at a later~~
13 ~~date stating that the person may possess a firearm or any other~~
14 ~~deadly weapon without endangering others, and the person has~~
15 ~~not, subsequent to the issuance of the certificate, again been~~
16 ~~adjudicated by a court to be a danger to others as a result of a~~
17 ~~mental disorder or mental illness.~~

18 ~~(2) The court shall immediately notify the Department of Justice~~
19 ~~of the court order finding the individual to be a person described~~
20 ~~in paragraph (1). The court shall also immediately notify the~~
21 ~~Department of Justice of any certificate issued as described in~~
22 ~~paragraph (1).~~

23 ~~(b) (1) No person who has been found, pursuant to Section~~
24 ~~1026 of the Penal Code or the law of any other state or the United~~
25 ~~States, not guilty by reason of insanity of murder, mayhem, a~~
26 ~~violation of Section 207, 209, or 209.5 of the Penal Code in which~~
27 ~~the victim suffers intentionally inflicted great bodily injury,~~
28 ~~carjacking or robbery in which the victim suffers great bodily~~
29 ~~injury, a violation of Section 451 or 452 of the Penal Code~~
30 ~~involving a trailer coach, as defined in Section 635 of the Vehicle~~
31 ~~Code, or any dwelling house, a violation of paragraph (1) or (2)~~
32 ~~of subdivision (a) of Section 262 or paragraph (2) or (3) of~~
33 ~~subdivision (a) of Section 261 of the Penal Code, a violation of~~
34 ~~Section 459 of the Penal Code in the first degree, assault with~~
35 ~~intent to commit murder, a violation of Section 220 of the Penal~~
36 ~~Code in which the victim suffers great bodily injury, a violation~~
37 ~~of Section 18715, 18725, 18740, 18745, 18750, or 18755 of the~~
38 ~~Penal Code, or of a felony involving death, great bodily injury, or~~
39 ~~an act which poses a serious threat of bodily harm to another~~
40 ~~person, or a violation of the law of any other state or the United~~

1 ~~States that includes all the elements of any of the above felonies~~
2 ~~as defined under California law, shall purchase or receive, or~~
3 ~~attempt to purchase or receive, or have in his or her possession or~~
4 ~~under his or her custody or control any firearm or any other deadly~~
5 ~~weapon.~~

6 ~~(2) The court shall immediately notify the Department of Justice~~
7 ~~of the court order finding the person to be a person described in~~
8 ~~paragraph (1).~~

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

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

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

31 ~~(2) The court shall immediately notify the Department of Justice~~
32 ~~of the court order finding the person to be mentally incompetent~~
33 ~~as described in paragraph (1). The court shall also notify the~~
34 ~~Department of Justice when it finds that the person has recovered~~
35 ~~his or her competence.~~

36 ~~(e) (1) No person who has been placed under conservatorship~~
37 ~~by a court, pursuant to Section 5350 or the law of any other state~~
38 ~~or the United States, because the person is gravely disabled as a~~
39 ~~result of a mental disorder or impairment by chronic alcoholism,~~
40 ~~shall purchase or receive, or attempt to purchase or receive, or~~

1 shall have in his or her possession, custody, or control, any firearm
2 or any other deadly weapon while under the conservatorship if, at
3 the time the conservatorship was ordered or thereafter, the court
4 which imposed the conservatorship found that possession of a
5 firearm or any other deadly weapon by the person would present
6 a danger to the safety of the person or to others. Upon placing any
7 person under conservatorship, and prohibiting firearm or any other
8 deadly weapon possession by the person, the court shall notify the
9 person of this prohibition.

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

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

31 (f) (1) No person who has been (A) taken into custody as
32 provided in Section 5150 because that person is a danger to himself,
33 herself, or to others, (B) assessed within the meaning of Section
34 5151, and (C) admitted to a designated facility within the meaning
35 of Sections 5151 and 5152 because that person is a danger to
36 himself, herself, or others, shall own, possess, control, receive, or
37 purchase, or attempt to own, possess, control, receive, or purchase
38 any firearm for a period of five years after the person is released
39 from the facility. A person described in the preceding sentence,
40 however, may own, possess, control, receive, or purchase, or

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

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

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

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

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

31 (4) The Department of Justice shall provide the form upon
32 request to any person described in paragraph (1). The Department
33 of Justice shall also provide the form to the superior court in each
34 county. A person described in paragraph (1) may make a single
35 request for a hearing at any time during the five-year period. The
36 request for hearing shall be made on the form prescribed by the
37 department or in a document that includes equivalent language.

38 (5) Any person who is subject to paragraph (1) who has
39 requested a hearing from the superior court of his or her county
40 of residence for an order that he or she may own, possess, control,

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

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

37 (7) If the court finds at the hearing set forth in paragraph (5)
38 that the people have not met their burden as set forth in paragraph
39 (6), the court shall order that the person shall not be subject to the
40 five-year prohibition in this section on the ownership, control,

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

9 (8) Where the district attorney declines or fails to go forward
10 in the hearing, the court shall order that the person shall not be
11 subject to the five-year prohibition required by this subdivision
12 on the ownership, control, receipt, possession, or purchase of
13 firearms. A copy of the order shall be submitted to the Department
14 of Justice. Upon receipt of the order, the Department of Justice
15 shall, within 15 days, delete any reference to the prohibition against
16 firearms from the person's state mental health firearms prohibition
17 system information, and that person shall comply with the
18 procedure described in Chapter 2 (commencing with Section
19 33850) of Division 11 of Title 4 of Part 6 of the Penal Code for
20 the return of any firearms.

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

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

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

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

1 to this paragraph shall only be used for the purposes specified in
2 paragraph (2) of subdivision (f).

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

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

10 ~~(4) Any person who is subject to paragraph (1) may petition the~~
11 ~~superior court of his or her county of residence for an order that~~
12 ~~he or she may own, possess, control, receive, or purchase firearms.~~
13 ~~At the time the petition is filed, the clerk of the court shall set a~~
14 ~~hearing date and notify the person, the Department of Justice, and~~
15 ~~the district attorney. The people of the State of California shall be~~
16 ~~the respondent in the proceeding and shall be represented by the~~
17 ~~district attorney. Upon motion of the district attorney, or on its~~
18 ~~own motion, the superior court may transfer the petition to the~~
19 ~~county in which the person resided at the time of his or her~~
20 ~~detention, the county in which the person was detained, or the~~
21 ~~county in which the person was evaluated or treated. Within seven~~
22 ~~days after receiving notice of the petition, the Department of Justice~~
23 ~~shall file copies of the reports described in this section with the~~
24 ~~superior court. The reports shall be disclosed upon request to the~~
25 ~~person and to the district attorney. The district attorney shall be~~
26 ~~entitled to a continuance of the hearing to a date of not less than~~
27 ~~14 days after the district attorney was notified of the hearing date~~
28 ~~by the clerk of the court. The district attorney may notify the county~~
29 ~~mental health director of the petition, and the county mental health~~
30 ~~director shall provide information about the detention of the person~~
31 ~~that may be relevant to the court and shall file that information~~
32 ~~with the superior court. That information shall be disclosed to the~~
33 ~~person and to the district attorney. The court, upon motion of the~~
34 ~~person subject to paragraph (1) establishing that confidential~~
35 ~~information is likely to be discussed during the hearing that would~~
36 ~~cause harm to the person, shall conduct the hearing in camera with~~
37 ~~only the relevant parties present, unless the court finds that the~~
38 ~~public interest would be better served by conducting the hearing~~
39 ~~in public. Notwithstanding any other provision of law, any~~
40 ~~declaration, police reports, including criminal history information,~~

1 and any other material and relevant evidence that is not excluded
2 under Section 352 of the Evidence Code, shall be admissible at
3 the hearing under this section. If the court finds by a preponderance
4 of the evidence that the person would be likely to use firearms in
5 a safe and lawful manner, the court may order that the person may
6 own, control, receive, possess, or purchase firearms, and that person
7 shall comply with the procedure described in Chapter 2
8 (commencing with Section 33850) of Division 11 of Title 4 of Part
9 6 of the Penal Code for the return of any firearms. A copy of the
10 order shall be submitted to the Department of Justice. Upon receipt
11 of the order, the Department of Justice shall delete any reference
12 to the prohibition against firearms from the person's state mental
13 health firearms prohibition system information.

14 (h) (1) For all persons identified in subdivisions (f) and (g),
15 facilities shall report to the Department of Justice as specified in
16 those subdivisions, except facilities shall not report persons under
17 subdivision (g) if the same persons previously have been reported
18 under subdivision (f).

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

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

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

32 (k) For purposes of this section, "immediately" means a period
33 of time not exceeding 24 hours.

34 (l) Any notice or report required to be submitted to the
35 Department of Justice pursuant to this section shall be submitted
36 in an electronic format, in a manner prescribed by the Department
37 of Justice.

38 SEC. 11.— Section 8104 of the Welfare and Institutions Code is
39 amended to read:

1 8104. ~~The State Department of State Hospitals shall maintain~~
2 ~~in a convenient central location and shall make available to the~~
3 ~~Department of Justice those records that the State Department of~~
4 ~~State Hospitals has in its possession that are necessary to identify~~
5 ~~persons who come within Section 8100 or 8103. Upon request of~~
6 ~~the Department of Justice, the State Department of State Hospitals~~
7 ~~shall make these records available to the Department of Justice in~~
8 ~~electronic format within twenty-four hours of receiving the request.~~
9 ~~The Department of Justice shall make these requests only with~~
10 ~~respect to its duties with regard to applications for permits for, or~~
11 ~~to carry, or the possession, purchase, or transfer of, explosives as~~
12 ~~defined in Section 12000 of the Health and Safety Code, devices~~
13 ~~defined in Section 16250, 16530, or 16640 of the Penal Code, in~~
14 ~~subdivisions (a) to (d), inclusive, of Section 16520 of the Penal~~
15 ~~Code, or in subdivision (a) of Section 16840 of the Penal Code,~~
16 ~~machineguns as defined in Section 16880 of the Penal Code,~~
17 ~~short-barreled shotguns or short-barreled rifles as defined in~~
18 ~~Sections 17170 and 17180 of the Penal Code, assault weapons as~~
19 ~~defined in Section 30510 of the Penal Code, and destructive devices~~
20 ~~as defined in Section 16460 of the Penal Code, or to determine the~~
21 ~~eligibility of a person to acquire, carry, or possess a firearm,~~
22 ~~explosive, or destructive device by a person who is subject to a~~
23 ~~criminal investigation, a part of which involves the acquisition,~~
24 ~~carrying, or possession of a firearm by that person. These records~~
25 ~~shall not be furnished or made available to any person unless the~~
26 ~~department determines that disclosure of any information in the~~
27 ~~records is necessary to carry out its duties with respect to~~
28 ~~applications for permits for, or to carry, or the possession, purchase,~~
29 ~~or transfer of, explosives, destructive devices, devices as defined~~
30 ~~in Section 16250, 16530, or 16640 of the Penal Code, in~~
31 ~~subdivisions (a) to (d), inclusive, of Section 16520 of the Penal~~
32 ~~Code, or in subdivision (a) of Section 16840 of the Penal Code,~~
33 ~~short-barreled shotguns, short-barreled rifles, assault weapons,~~
34 ~~and machineguns, or to determine the eligibility of a person to~~
35 ~~acquire, carry, or possess a firearm, explosive, or destructive device~~
36 ~~by a person who is subject to a criminal investigation, a part of~~
37 ~~which involves the acquisition, carrying, or possession of a firearm~~
38 ~~by that person.~~

39 SEC. 12. ~~Section 8105 of the Welfare and Institutions Code is~~
40 ~~amended to read:~~

1 ~~8105. (a) The Department of Justice shall request each public~~
2 ~~and private mental hospital, sanitarium, and institution to submit~~
3 ~~to the department that information that the department deems~~
4 ~~necessary to identify those persons who are within subdivision (a)~~
5 ~~of Section 8100, in order to carry out its duties in relation to~~
6 ~~firearms, destructive devices, and explosives.~~

7 ~~(b) Upon request of the Department of Justice pursuant to~~
8 ~~subdivision (a), each public and private mental hospital, sanitarium,~~
9 ~~and institution shall submit to the department that information~~
10 ~~which the department deems necessary to identify those persons~~
11 ~~who are within subdivision (a) of Section 8100, in order to carry~~
12 ~~out its duties in relation to firearms, destructive devices, and~~
13 ~~explosives.~~

14 ~~(c) A licensed psychotherapist shall immediately report to a~~
15 ~~local law enforcement agency the identity of a person subject to~~
16 ~~subdivision (b) of Section 8100. Upon receipt of the report, the~~
17 ~~local law enforcement agency, in an electronic format, in a manner~~
18 ~~prescribed by the Department of Justice, shall immediately notify~~
19 ~~the department of the person who is subject to subdivision (b) of~~
20 ~~Section 8100.~~

21 ~~(d) All information provided to the Department of Justice~~
22 ~~pursuant to this section shall be kept confidential, separate and~~
23 ~~apart from all other records maintained by the department. The~~
24 ~~information provided to the Department of Justice pursuant to this~~
25 ~~section shall be used only for any of the following purposes:~~

26 ~~(1) By the department to determine eligibility of a person to~~
27 ~~acquire, carry, or possess firearms, destructive devices, or~~
28 ~~explosives.~~

29 ~~(2) For the purposes of the court proceedings described in~~
30 ~~subdivision (b) of Section 8100 to determine the eligibility of the~~
31 ~~person who is bringing the petition pursuant to paragraph (3) of~~
32 ~~subdivision (b) of Section 8100.~~

33 ~~(3) To determine the eligibility of a person to acquire, carry, or~~
34 ~~possess firearms, destructive devices, or explosives who is the~~
35 ~~subject of a criminal investigation, if a part of the criminal~~
36 ~~investigation involves the acquisition, carrying, or possession of~~
37 ~~firearms, explosives, or destructive devices by that person.~~

38 ~~(e) Reports shall not be required or requested under this section~~
39 ~~where the same person has been previously reported pursuant to~~
40 ~~Section 8103 or 8104.~~

1 ~~SEC. 13. Section 4 of this bill shall become operative only if~~
2 ~~Senate Bill 53 of the 2013–14 Regular Session is enacted and~~
3 ~~becomes operative.~~

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

13 ~~However, if the Commission on State Mandates determines that~~
14 ~~this act contains other costs mandated by the state, reimbursement~~
15 ~~to local agencies and school districts for those costs shall be made~~
16 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
17 ~~4 of Title 2 of the Government Code.~~