

AMENDED IN SENATE APRIL 1, 2013
AMENDED IN SENATE MARCH 19, 2013

SENATE BILL

No. 127

Introduced by Senator Gaines

January 22, 2013

An act to amend ~~Sections 8104 and~~ *Section* 8105 of the Welfare and Institutions Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 127, as amended, Gaines. Firearms: mentally disordered persons: ~~report to Department of Justice.~~ *persons.*

~~(1) Existing law prohibits mentally ill persons who meet specified criteria from possessing firearms or deadly weapons. Existing law requires the State Department of State Hospitals to maintain records in its possession that are necessary to identify persons who come within this prohibition and 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 electronically, within 24 hours, in a manner prescribed by the Department of Justice.~~

~~(2) Existing~~

~~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 against a reasonably identifiable victim or victims to a licensed psychotherapist. Existing law requires the licensed psychotherapist to immediately report the identity of the person to a local law enforcement agency, and requires the local law enforcement agency to immediately notify the Department of Justice.~~

This bill would instead require the licensed psychotherapist to make the report to local law enforcement electronically, within 24 hours, in a manner prescribed by the department. The bill would also require the local law enforcement agency receiving the report to notify the department electronically within 24 hours, in a manner prescribed by the department.

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

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

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

1 ~~purchase, or transfer of, explosives, destructive devices, devices~~
2 ~~as defined in Section 16250, 16530, or 16640 of the Penal Code,~~
3 ~~in subdivisions (a) to (d), inclusive, of Section 16520 of the Penal~~
4 ~~Code, or in subdivision (a) of Section 16840 of the Penal Code,~~
5 ~~short-barreled shotguns, short-barreled rifles, assault weapons,~~
6 ~~and machineguns, or to determine the eligibility of a person to~~
7 ~~acquire, carry, or possess a firearm, explosive, or destructive device~~
8 ~~by a person who is subject to a criminal investigation, a part of~~
9 ~~which involves the acquisition, carrying, or possession of a firearm~~
10 ~~by that person.~~

11 ~~SEC. 2.~~

12 *SECTION 1.* Section 8105 of the Welfare and Institutions Code
13 is amended to read:

14 8105. (a) The Department of Justice shall request each public
15 and private mental hospital, sanitarium, and institution to submit
16 to the department that information that the department deems
17 necessary to identify those persons who are within subdivision (a)
18 of Section 8100, in order to carry out its duties in relation to
19 firearms, destructive devices, and explosives.

20 (b) Upon request of the Department of Justice pursuant to
21 subdivision (a), each public and private mental hospital, sanitarium,
22 and institution shall submit to the department that information
23 which the department deems necessary to identify those persons
24 who are within subdivision (a) of Section 8100, in order to carry
25 out its duties in relation to firearms, destructive devices, and
26 explosives.

27 (c) A licensed psychotherapist shall report to a local law
28 enforcement agency electronically, within 24 hours, in a manner
29 prescribed by the Department of Justice, the identity of a person
30 subject to subdivision (b) of Section 8100. Upon receipt of the
31 report, the local law enforcement agency, on a form prescribed by
32 the Department of Justice, shall notify the department
33 electronically, within 24 hours, in a manner prescribed by the
34 department, of the person who is subject to subdivision (b) of
35 Section 8100.

36 (d) All information provided to the Department of Justice
37 pursuant to this section shall be kept confidential, separate and
38 apart from all other records maintained by the department. The
39 information provided to the Department of Justice pursuant to this
40 section shall be used only for any of the following purposes:

1 (1) By the department to determine eligibility of a person to
2 acquire, carry, or possess firearms, destructive devices, or
3 explosives.

4 (2) For the purposes of the court proceedings described in
5 subdivision (b) of Section 8100 to determine the eligibility of the
6 person who is bringing the petition pursuant to paragraph (3) of
7 subdivision (b) of Section 8100.

8 (3) To determine the eligibility of a person to acquire, carry, or
9 possess firearms, destructive devices, or explosives who is the
10 subject of a criminal investigation, if a part of the criminal
11 investigation involves the acquisition, carrying, or possession of
12 firearms, explosives, or destructive devices by that person.

13 (e) Reports shall not be required or requested under this section
14 where the same person has been previously reported pursuant to
15 Section 8103 or 8104.